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U.S. GOVERNMENT
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FEDERAL REGISTER

VOLUME 34 • NUMBER 105

Tuesday, June 3, 1969 • Washington, D.C.

Pages 8685–8889

PART I

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Agricultural Research Service
Atomic Energy Commission
Civil Aeronautics Board
Civil Service Commission
Coast Guard
Consumer and Marketing Service
Emergency Preparedness Office
Federal Aviation Administration
Federal Communications Commission
Federal Highway Administration
Federal Maritime Commission
Federal Power Commission
Federal Register Administrative Committee
Federal Reserve System
Food and Drug Administration
Interagency Textile Administrative Committee
Interior Department
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Interstate Commerce Commission
Land Management Bureau
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Tariff Commission
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Latest Edition

Guide to Record Retention Requirements

[Revised as of January 1, 1969]

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The 86-page "Guide" contains over 900 digests which tell the user (1) what type records must be kept, (2) who must keep them, and (3) how long they must be kept. Each digest carries a reference to the full text of the basic law or regulation providing for such retention.

The booklet's index, numbering over 2,000 items, lists for ready reference the categories of persons, companies, and products affected by Federal record retention requirements.

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Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15 per year, payable in advance. The charge for individual copies varies in proportion to the size of the issue (15 cents for the first 80 pages and 5 cents for each additional group of 40 pages, as actually bound). Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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Title 3—THE PRESIDENT

Proclamation 3914

HELEN KELLER MEMORIAL WEEK

By the President of the United States of America

A Proclamation

Deaf-blind people are isolated from our world by formidable communications barriers. Yet, we know that pioneering social concern and the released genius of Helen Keller united to penetrate those barriers and produce a person who symbolized the vast potential resource of severely handicapped human beings. Miss Keller became an American ambassador-at-large to the world because she was unexcelled in interpreting the Nation's philosophy of respect for the unique inherent qualities of each individual.

Her recognition of this philosophy was never more eloquently expressed than when she said: "What I am, my country has made me. She has fostered the spirit which has made my education possible." At the same time, Helen Keller was deeply aware that she was miraculously fortunate to have been discovered by persons who were able to give her the priceless gift of language, which was what she needed to light up her extraordinary mind.

As the years passed, Miss Keller became increasingly concerned with those persons who were deprived of sight and hearing. Her later years were dedicated almost entirely to providing the deaf-blind with the kind of opportunities which had yielded such great benefit for her.

It is, therefore, fitting that we designate, as a memorial to Helen Keller, one week during which we may give special thought to the needs of our countrymen who are handicapped by the loss of sight and hearing. The minds of these people are forever imprisoned unless we muster every available resource to reach and rehabilitate them. Attaining this goal requires not only the use of such special techniques as lip reading, manual alphabet, and braille materials but the concern and commitment of all of us to let these people know they are a vital part of our society.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, in consonance with Senate Joint Resolution 99, do hereby designate the week beginning June 1, 1969, as Helen Keller Memorial Week.

I invite appropriate officers of the Federal, State, and local governments, the heads of voluntary and private groups, and all Americans everywhere to join in this observance. I urge them to find suitable means for expressing determination to cultivate a public understanding and sentiment in behalf of deaf-blind people and to devise a dynamic pattern for continuing their education, welfare and rehabilitation.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of May, in the year of our Lord nineteen hundred sixty-nine, and of the Independence of the United States of America the one hundred ninety-third.

Richard Nixon

[F.R. Doc. 69-6573; Filed, May 29, 1969; 4:10 p.m.]

Proclamation 3915

D-DAY TWENTY-FIFTH ANNIVERSARY DAY

By the President of the United States of America

A Proclamation

Twenty-five years ago on June 6, Allied Forces under the leadership of Dwight David Eisenhower, made a successful landing on the beaches of Normandy. What happened on that day—and in the days and months immediately following—is now part of the acts of valor which have been the inspiration and often the salvation of Western civilization. The Sixth of June was transformed on that day from a date on the calendar to a historical landmark in the history of freedom.

The valiant leader and many of the valiant men who made victory possible by their efforts on that day are now gone. Their triumph, however, remains, for it was a triumph of the human spirit. Our Nation and nations of free men everywhere are forever grateful for the sacrifices made in Normandy. Twenty-five years have not diminished but have, rather, enhanced the profound importance of that day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim June 6, 1969, as D-Day Twenty-Fifth Anniversary Day; and I invite the people of this Nation to observe that day with appropriate ceremonies designed to commemorate the brave men living and dead who did so much to open this path to victory and peace.

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

Richard Nixon

[F.R. Doc. 69-6627; Filed, June 2, 1969; 11:29 a.m.]

Executive Order 11472

ESTABLISHING THE ENVIRONMENTAL QUALITY COUNCIL AND THE CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

PART I. ENVIRONMENTAL QUALITY COUNCIL

SECTION 101. *Establishment of the Council.* (a) There is hereby established the Environmental Quality Council (hereinafter referred to as "the Council").

(b) The President of the United States shall preside over meetings of the Council. The Vice President shall preside in the absence of the President.

(c) The Council shall be composed of the following members:

The Vice President of the United States

Secretary of Agriculture

Secretary of Commerce

Secretary of Health, Education and Welfare

Secretary of Housing and Urban Development

Secretary of the Interior

Secretary of Transportation

and such other heads of departments and agencies and others as the President may from time to time direct.

(d) Each member of the Council may designate an alternate, who shall serve as a member of the Council whenever the regular member is unable to attend any meeting of the Council.

(e) When matters which affect the interest of Federal agencies the heads of which are not members of the Council are to be considered by the Council, the President or his representative may invite such agency heads or their alternates to participate in the deliberations of the Council.

(f) The Director of the Bureau of the Budget, the Chairman of the Council of Economic Advisers, and the Executive Secretary of the Council for Urban Affairs or their representatives may participate in the deliberations of the Environmental Quality Council as observers.

(g) The Science Adviser to the President shall be the Executive Secretary of the Council and shall assist the President in directing the affairs of the Council.

SEC. 102. *Functions of the Council.* (a) The Council shall advise and assist the President with respect to environmental quality matters and shall perform such other related duties as the President may from time to time prescribe. In addition thereto, the Council is directed to:

(1) Recommend measures to ensure that Federal policies and programs, including those for development and conservation of natural resources, take adequate account of environmental effects.

(2) Review the adequacy of existing systems for monitoring and predicting environmental changes so as to achieve effective coverage and efficient use of facilities and other resources.

(3) Foster cooperation between the Federal Government, State and local governments, and private organizations in environmental programs.

(4) Seek advancement of scientific knowledge of changes in the environment and encourage the development of technology to prevent or minimize adverse effects that endanger man's health and well-being.

(5) Stimulate public and private participation in programs and activities to protect against pollution of the Nation's air, water, and land and its living resources.

(6) Encourage timely public disclosure by all levels of government and by private parties of plans that would affect the quality of environment.

(7) Assure assessment of new and changing technologies for their potential effects on the environment.

(8) Facilitate coordination among departments and agencies of the Federal Government in protecting and improving the environment.

(b) The Council shall review plans and actions of Federal agencies affecting outdoor recreation and natural beauty. The Council may conduct studies and make recommendations to the President on matters of policy in the fields of outdoor recreation and natural beauty. In carrying out the foregoing provisions of this subsection, the Council shall, as far as may be practical, advise Federal agencies with respect to the effect of their respective plans and programs on recreation and natural beauty, and may suggest to such agencies ways to accomplish the purposes of this order. For the purposes of this order, plans and programs may include, but are not limited to, those for or affecting: (1) Development, restoration, and preservation of the beauty of the countryside, urban and suburban areas, water resources, wild rivers, scenic roads, parkways and highways, (2) the protection and appropriate management of scenic or primitive areas, natural wonders, historic sites, and recreation areas, (3) the management of Federal land and water resources, including fish and wildlife, to enhance natural beauty and recreational opportunities consistent with other essential uses, (4) cooperation with the States and their local subdivisions and private organizations and individuals in areas of mutual interest, (5) interstate arrangements, including Federal participation where authorized and necessary, and (6) leadership in a nationwide recreation and beautification effort.

(c) The Council shall assist the President in preparing periodic reports to the Congress on the subjects of this order.

SEC. 103. *Coordination.* The Secretary of the Interior may make available to the Council for coordination of outdoor recreation the authorities and resources available to him under the Act of May 28, 1963, 77 Stat. 49; to the extent permitted by law, he may make such authorities and resources available to the Council also for promoting such coordination of other matters assigned to the Council by this order.

SEC. 104. *Assistance for the Council.* In compliance with provisions of applicable law, and as necessary to serve the purposes of this order, (1) the Office of Science and Technology shall provide or arrange for necessary administrative and staff services, support, and facilities for the Council, and (2) each department and agency which has membership on the Council under Section 101(c) hereof shall furnish the Council such information and other assistance as may be available.

PART II. CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

SEC. 201. *Establishment of the Committee.* There is hereby established the Citizens' Advisory Committee on Environmental Quality (hereinafter referred to as the "Committee"). The Committee shall be composed of a chairman and not more than 14 other members appointed by the President. Appointments to membership on the Committee shall be for staggered terms, except that the chairman of the Committee shall serve until his successor is appointed.

SEC. 202. *Functions of the Committee.* The Committee shall advise the President and the Council on matters assigned to the Council by the provisions of this order.

SEC. 203. *Expenses.* Members of the Committee shall receive no compensation from the United States by reason of their services under this order but shall be entitled to receive travel and expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701–5708) for persons in the Government service employed intermittently.

SEC. 204. *Continuity.* Persons who on the date of this order are members of the Citizens' Advisory Committee on Recreation and Natural Beauty established by Executive Order No. 11278 of May 4, 1966, as amended, shall, until the expirations of their respective terms and without further action by the President, be members of the Committee established by the provisions of this Part in lieu of an equal number of the members provided for in section 201 of this order.

PART III. GENERAL PROVISIONS

SEC. 301. *Construction.* Nothing in this order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

SEC. 302. *Prior bodies and orders.* The President's Council on Recreation and Natural Beauty and the Citizens' Advisory Committee on Recreation and Natural Beauty are hereby terminated and the following are revoked:

(1) Executive Order No. 11278 of May 4, 1966.

(2) Executive Order No. 11359A of June 29, 1967.

(3) Executive Order No. 11402 of March 29, 1968.

Richard Nixon

THE WHITE HOUSE,
May 29, 1969.

[F.R. Doc. 69-6572; Filed, May 29, 1969; 4:10 p.m.]

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

1969 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes and supplements of the Code of Federal Regulations issued to date during 1969. New units issued during the month are announced on the inside cover of the daily FEDERAL REGISTER as they become available.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

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		Price
3	1936–1938 Compilation	$6.00
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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3184 is amended to show that five positions of regional operations commissioners in the Office of the Assistant Secretary for Mortgage Credit and Federal Housing Commissioner are no longer excepted under Schedule A. Effective on publication in the FEDERAL REGISTER, paragraph (b) is revoked in its entirety.

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

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

[F.R. Doc. 69-6484; Filed, June 2, 1969; 8:47 a.m.]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that two positions of Confidential Assistant for Special Projects to the Assistant Secretary for Planning and Evaluation are excepted under Schedule C and to reflect the change in the Assistant Secretary's title from Assistant Secretary for Program Coordination to Assistant Secretary for Planning and Evaluation. Effective on publication in the FEDERAL REGISTER, the headnote is amended and subparagraph (2) is added to paragraph (k) of § 213.3316 as set out below.

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(k) *Office of the Assistant Secretary for Planning and Evaluation.* * * *

(2) Two Confidential Assistants for Special Projects to the Assistant Secretary.

* * * * *

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

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

[F.R. Doc. 69-6483; Filed, June 2, 1969; 8:47 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Administrative Instructions Prescribing Commuted Travel Time Allowances

Pursuant to the authority conferred upon the Director of the Animal Health Division by § 97.1 of the regulations concerning overtime services relating to imports and exports, effective July 31, 1966 (9 CFR 97.1), administrative instructions (9 CFR 97.2) effective July 30, 1963, as amended May 18, 1964 (29 F.R. 6318), December 7, 1964 (29 F.R. 16316), April 12, 1965 (30 F.R. 4609), June 18, 1965 (30 F.R. 7893), June 7, 1966 (31 F.R. 8020), October 11, 1966 (31 F.R. 13114), November 1, 1966 (31 F.R. 13939), November 23, 1966 (31 F.R. 14826), February 14, 1967 (32 F.R. 20843), April 15, 1967 (32 F.R. 6021), August 26, 1967 (32 F.R. 12441), September 29, 1967 (32 F.R. 13650), February 9, 1968 (33 F.R. 2756),

March 7, 1968 (33 F.R. 4248), July 13, 1968 (33 F.R. 10085), July 31, 1968 (33 F.R. 10839), August 15, 1968 (33 F.R. 11587), September 25, 1968 (33 F.R. 14399), November 8, 1968 (33 F.R. 16382), December 14, 1968 (33 F.R. 18573), and February 1, 1969 (34 F.R. 1586), prescribing the commuted travel time that shall be included in each period of overtime or holiday duty, are hereby amended by adding to or deleting from the respective "lists" therein as follows:

WITHIN METROPOLITAN AREAS

ONE HOUR

Add: San Luis, Ariz.

TWO HOURS

Add: Milwaukee, Wis.

OUTSIDE METROPOLITAN AREAS

TWO HOURS

Add: San Luis, Ariz. (served from Yuma, Ariz.).

THREE HOURS

Add: Green Bay, Wis. (served from Clintonville, Wis.).
Add: Kenosha-Racine, Wis. (served from Milwaukee, Wis.).
Add: Manitowic, Wis. (served from Clintonville, Wis.).

FOUR HOURS

Add: Sheboygan, Wis. (served from Milwaukee, Wis.).

These commuted travel time periods have been established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal Health Division.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making these instructions effective less than 30 days after publication in the FEDERAL REGISTER.

(64 Stat. 561; 7 U.S.C. 2260)

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

Done at Hyattsville, Md., this 28th day of May 1969.

E. E. SAULMON,
Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 69-6517; Filed, June 2, 1969; 8:50 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z]

PART 226—TRUTH IN LENDING

Interpretations

§ 226.202 Security interest—confession of judgment—cognovit notes.

(a) Under § 226.2(z) "security interest" is defined to include confessed liens whether or not recorded and, in general, to include any interest in property which secures payment or performance of an obligation. In certain transactions involving a security interest, under § 226.9 the customer has a right of rescission.

(b) In some of the States, confession of judgment clauses or cognovit provisions are lawful and make it possible for the holder of an obligation containing such clause or provision to record a lien on property of the obligor simply by recordation entry of judgment; the obligor is afforded no opportunity to enter a defense against such action prior to entry of the judgment.

(c) Since confession of judgment clauses and cognovit provisions in such States have the effect of depriving the obligor of the right to be notified of a pending action and to enter a defense in a judicial proceeding before judgment may be entered or recorded against him, such clauses and provisions in those States are security interests under § 226.2(z) and for the purposes of §§ 226.7(a)(7), 226.8(b)(5), and 226.9. This is the case even if the judgment cannot be entered until after a default by the obligor.

(d) Confession of judgment clauses and cognovit provisions which, by their terms, exclude a lien on all real property which is used or is expected to be used as the principal residence of the customer, would not bring a transaction under the provisions of § 226.9.

§ 226.203 Open end credit distinguished from other credit.

(a) The fundamental qualification for "open end credit" under § 226.2(r) is that consumer credit be extended on an account pursuant to a plan under which (1) the creditor may permit the customer to make purchases or obtain loans from time to time directly or indirectly from the creditor, as the plan may provide; (2) the customer has the privilege of paying the balance in full or in installments; and (3) a finance charge may be computed by the creditor from time to time on an outstanding unpaid balance. Under an open end credit account plan, it is contemplated that there will or may be repetitive transactions on a revolving basis.

(b) In certain cases, a form of contract or note relating to a single transaction provides that the finance charge will be computed from time to time by application of a rate to the unpaid balance and stipulates required minimum periodic payments. However, the obligor has the privilege of making larger and more frequent payments than stipulated or paying the obligation in full at any time without penalty. The question arises as to whether the creditor should make disclosures in such circumstances under § 226.7 for open end credit accounts or under § 226.8 for credit other than open end.

(c) Although the terms of such a contract or note meet the second and third requirements for such a plan, they do not meet the first of such requirements nor the basic qualification that consumer credit be extended on an account pursuant to a plan. Therefore, disclosures in this case are required to be made under § 226.8.

(Interprets and applies 15 U.S.C. 1602)

§ 226.301 Agricultural purposes—when exempt from the regulation.

(a) Under § 226.3(a), the regulation does not apply to "Extensions of credit to organizations, including governments, or for business or commercial purposes, other than agricultural purposes." The definition of "organization" in § 226.2(s) includes a corporation, trust, estate, partnership, cooperative, or association as well as governmental entities. The question arises as to whether the regulation applies to extensions of credit to organizations, including governments, for agricultural purposes.

(b) Extensions of credit to organizations, including governments, for agricultural purposes are exempt from the regulation.

(Interprets and applies 15 U.S.C. 1603)

§ 226.502 Annual percentage rate on single add-on rate transactions.

(a) The application of a single add-on rate to transactions of varying maturities, when converted to an annual percentage rate determined by the actuarial method, results in minor variations. Such annual percentage rate variations on maturities up to 60 months are so insignificant that separate computations are unwarranted.

(b) The question arises as to whether a creditor may disclose a single annual percentage rate on all such transactions based upon the highest rate which will arise from the application of the same single add-on rate to each of such transactions.

(c) When the same add-on rate is applied to all transactions within a range of maturities up to 60 months, and provided that all payments on each transaction are equal in amount and due at equal intervals of time within the limits provided by § 226.5(d), a single annual percentage rate may be disclosed, in

which case it shall be the highest annual percentage rate that may be applicable to any such transactions.

(Interprets and applies 15 U.S.C. 1606)

§ 226.805 Series of sales as distinguished from refinancing, consolidating, or increasing.

(a) The question arises as to the distinction between the provisions of § 226.8(h), series of sales, and the provisions of § 226.8(j), refinancing, consolidating, or increasing.

(b) Section 226.8(h) is applicable only when a credit sale is made pursuant to an agreement which provides for the addition of a current (or new) sale to an existing outstanding balance. In such cases, and provided that all of the requirements of § 226.8(h) (1) and (2) are met, the disclosures may be made at any time not later than the date the first payment for that sale is due.

(c) If there is no agreement, or if the agreement does not meet all of the requirements of § 226.8(h), the disclosures required in connection with any subsequent sale, which is added to a previously outstanding balance shall be made under the provisions of § 226.8(j). For example, the fact that an agreement provides a method of computing an unearned portion of the finance charge in the event of prepayment, but does not otherwise meet the requirements of § 226.8(h), will not qualify transactions made pursuant to that agreement for disclosure under the terms of § 226.8(h).

(Interprets and applies 15 U.S.C. 1638)

§ 226.806 Deposit balances applied toward satisfaction of customer's obligation.

(a) Section 226.8(e)(2) provides that required deposit balances must be deducted under § 226.8(c)(6) and excluded under § 226.8(d)(1) in determining the amount financed. Subdivision (ii) of § 226.8(e)(2) provides an exception in the case of Morris Plan type transactions in which payments in the transaction are made and accumulated in a deposit account which is then wholly applied to satisfy the obligation.

(b) Unless the deposit balance account is created for the sole purpose of accumulating payments and then being applied toward satisfaction of the customer's obligation in the transaction, such deposit balance does not fall within the exception provided in subdivision (ii).

(c) In any case in which a deposit balance qualifies for this exception, each deposit made into the account shall be considered the same as a payment on the obligation for the purpose of computations and disclosures.

(Interprets and applies 15 U.S.C. 1638 and 15 U.S.C. 1639)

§ 226.901 Waiver of security interests—effect on the right of rescission.

(a) Section 226.9(a) provides for a right of rescission "in the case of any (consumer) credit transaction in which a security interest is or will be retained or acquired in any real property which is used or is expected to be used as the principal residence of the customer." Under § 226.2(z) security interests include mechanic's and materialmen's liens. If a creditor effectively waives his right to retain, or to acquire such a lien, he has not retained or acquired such security interest. The question arises, however, of whether waiver of a creditor's lien rights is effective to remove a transaction from the scope of rescission when lien rights which are not waived arise in favor of subcontractors, workmen, or others who are not creditors in the transaction.

(b) The fact that the creditor waives his lien rights does not, in itself, determine whether or not the transaction is rescindable. If all security interests are effectively waived, the transaction is not rescindable. On the other hand, if as a result of the transaction, a security interest is or will be retained or acquired by a subcontractor, workman, or other person, the transaction is rescindable. In the latter case the creditor would be responsible for delivering the rescission notice as well as other applicable disclosures, delaying performance as provided under § 226.9(c), and identifying himself as the creditor on the rescission notice. The subcontractors, workmen, and others would not be responsible for delivering rescission notices to the customer.

(Interprets and applies 15 U.S.C. 1635)

§ 226.902 "Customers" and joint owners of property under the right of rescission.

(a) Section 226.9(f) provides that, for the purposes of the right of rescission, "customer" shall include two or more customers where joint ownership is involved. The question arises of whether this means that all joint owners of record, regardless of whether or not they are parties to the transaction, are customers for this purpose, and whether each of such owners of record (1) must receive disclosures and a notice of the right of rescission, (2) may exercise the right of rescission, and (3) must join in signing a waiver if one is appropriately taken by the creditor.

(b) Under § 226.9(f) where there are joint owners, the right to receive disclosures and notice of the right of rescission, the right to rescind, and the need to sign a waiver of such right, apply only to those joint owners who are parties to the transaction.

(Interprets and applies 15 U.S.C. 1635)

§ 226.403 Disclosure of cost of property insurance when not obtainable from or through the creditor.

(a) In many cases a creditor requires insurance against loss or damage to property or liability arising out of its use but such insurance is not obtainable from or through him. The question arises under § 226.4(a)(6) as to whether such a creditor must make any disclosures to avoid having to include the insurance premium in the finance charge.

(b) Irrespective of whether such insurance may be obtained from or through the creditor, if the creditor requires property insurance and wishes to exclude the cost from the finance charge, he is required to state clearly and conspicuously to the customer that he may choose the person through which the insurance is to be obtained. However, if the insurance is not obtainable from or through the creditor, he is not required to disclose the cost of that insurance, unless, of course, the premiums are included in the "amount financed," in which case it would have to be disclosed under § 226.8 (c)(4) or (d)(1), as the case may be.

(Interprets and applies 15 U.S.C. 1605)

Dated at Washington, D.C., the 26th day of May 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-6457; Filed, June 2, 1969; 8:45 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 2]

MISCELLANEOUS AMENDMENTS TO CHAPTER

Pursuant to the recommendations of the Administrative Conference of the United States to update the citations of authority appearing in the Code of Federal Regulations, Chapter I of Title 13 of the Code of Federal Regulations is hereby amended, as follows:

PART 101—ADMINISTRATION

1. The "Authority" hearing appearing under Part 101 is hereby amended by substituting the citations "sec. 308(c), 72 Stat. 694, as amended, 15 U.S.C. 687 (c); sec. 5, 72 Stat. 385, 15 U.S.C. 634" for "Public Law 85-536, sec. 5, 72 Stat. 385."

PART 103—APPEARANCES AND COMPENSATION OF PERSONS APPEARING BEFORE SBA

2. The "Authority" heading appearing under Part 103 is hereby amended by substituting the citations "sec. 13, 72 Stat. 394, 15 U.S.C. 642; sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6)" for "Public Law 85-536, sec. 5, 72 Stat. 385."

PART 104—PROCEEDINGS TO SUSPEND OR REVOKE PRIVILEGE OF ANY AGENT TO APPEAR BEFORE SBA

3. The "Authority" heading appearing under Part 104 is hereby amended by substituting the citation "sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6)" for "Public Law 85-536, sec. 5, 72 Stat. 385."

PART 106—LEASE GUARANTEE

4. The "Authority" heading appearing under Part 106 is hereby amended by substituting the citations "sec. 316 (a), 79 Stat. 482, as amended, 15 U.S.C. 692; sec. 308(c), 72 Stat. 694, as amended, 15 U.S.C. 687(c)" for "Title IV of the Small Business Investment Act of 1958, 72 Stat. 689 (1965)."

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

5. The "Authority" heading appearing under Part 107 is hereby amended by substituting the citations "sec. 308 (c), 72 Stat. 694, as amended, 15 U.S.C. 687(c); sec. 312, 78 Stat. 147, 15 U.S.C. 687d; sec. 315, 80 Stat. 1364, 15 U.S.C. 687g" for "sec. 308, 72 Stat. 694, as amended, 15 U.S.C. 687."

PART 108—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

6. The "Authority" heading appearing under Part 108 is hereby amended by substituting the citations "72 Stat. 696, 15 U.S.C. 695; 72 Stat. 697, as amended, 15 U.S.C. 696; sec. 602, 78 Stat. 252, 42 U.S.C. 2000d–1; E.O. 10925, 26 F.R. 1977 (1961); E.O. 11114, 28 F.R. 6485 (1963); sec. 308(c), 72 Stat. 694, as amended, 15 U.S.C. 687(c)" for "sec. 5, Public Law 85–536, secs. 201, 308, Public Law 85–699."

PART 109—ADJUDICATIVE PROCEEDINGS; SMALL BUSINESS INVESTMENT COMPANIES

7. The "Authority" heading appearing under Part 109 is hereby amended by substituting the citations "sec. 309, 75 Stat. 753, as amended, 15 U.S.C. 687a; sec. 308(c), 72 Stat. 694, as amended, 15 U.S.C. 687(c)" for "sec. 308, Public Law 85–699 and sec. 309, Public Law 87–341."

PART 110—INVESTIGATIONS; SMALL BUSINESS INVESTMENT COMPANIES

8. The "Authority" heading appearing under Part 110 is hereby amended by substituting the citations "sec. 310, 75 Stat. 755, as amended, 15 U.S.C. 687b; sec. 308(c), 72 Stat. 694, as amended, 15 U.S.C. 687(c)" for "sec. 308, Public Law 85–699 and sec. 310, Public Law 87–341."

PART 113—NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS OF SBA—EFFECTUATION OF POLICIES OF FEDERAL GOVERNMENT AND SBA ADMINISTRATOR

9. The "Authority" heading appearing under Part 113 is hereby amended substituting the citations "sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6); sec. 308(c), 72 Stat. 694, as amended, 15 U.S.C. 687 (c)" for "Public Law 85–536, secs. 4, 5, 72 Stat. 384, 385; Public Law 85–699, secs. 201, 308, 72 Stat. 690, 694."

PART 120—LOAN POLICY

10. The "Authority" heading appearing under Part 120 is hereby amended substituting the citations "72 Stat. 387, as amended, 15 U.S.C. 636; sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6)" for "Public Law 85–536, sec. 5, 72 Stat. 385, 15 U.S.C. 634."

PART 121—SMALL BUSINESS SIZE STANDARDS

11. The "Authority" heading appearing under Part 121 is hereby amended substituting the citations "sec. 3, 72 Stat. 384, 15 U.S.C. 632; sec. 8, 72 Stat. 389, as amended, 15 U.S.C. 637(b)(6); sec. 103, 72 Stat. 690, as amended, 15 U.S.C. 662 (5); sec. 213(a), 76 Stat. 1111, 50 U.S.C. App. 20171; sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6)" for "Public Law 85–536, sec. 5(b)(6), 72 Stat. 385; sec. 121.3–13 issued under Public Law 87–846, sec. 213 (a), 72 Stat. 384."

PART 122—BUSINESS LOANS

12. The "Authority" heading appearing under Part 122 is hereby amended substituting the citations "sec. 7, 72 Stat. 387, as amended, 15 U.S.C. 636; sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)" for "Public Law 85–536, sec. 7, 72 Stat. 384 (1958) as amended; 15 U.S.C. sec. 636."

PART 123—DISASTER LOANS

13. The "Authority" heading appearing under Part 123 is hereby amended substituting the citations "sec. 7, 72 Stat. 387, as amended, 15 U.S.C. 636; sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6)" for "sec. 5, Public Law 85–536, sec. 201 and sec. 308, Public Law 85–699."

PART 124—PROCUREMENT AND TECHNICAL ASSISTANCE

14. The "Authority" heading appearing under Part 124 is hereby amended substituting the citations "sec. 8, 72 Stat. 389, as amended, 15 U.S.C. 637; sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6)" for "Public Law 85–536, sec. 5, 72 Stat. 385."

PART 125—RESEARCH AND DEVELOPMENT ASSISTANCE

15. The "Authority" heading appearing under Part 125 is hereby amended substituting the citations "sec. 9, 72 Stat. 391, 15 U.S.C. 638; sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6)" for "Public Law 85–536, sec. 5, 72 Stat. 385."

PART 126—DEFENSE PRODUCTION POOLS

16. The "Authority" heading appearing under Part 126 is hereby amended substituting the citations "sec. 11, 72 Stat. 394, 15 U.S.C. 640; 64 Stat. 798, as amended, 50 U.S.C. App. 2061, et seq.; E.O. 10493, 18 F.R. 6583 (1953); sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6)" for "Public Law 85–536, sec. 5, 72 Stat. 385."

PART 127—JOINT SET-ASIDES

17. The "Authority" heading appearing under Part 127 is hereby amended substituting the citations "sec. 15, 72 Stat. 395, 15 U.S.C. 644; sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6)" for "Section 15 of the Small Business Act, 72 Stat. 385."

PART 128—GRANTS FOR SMALL BUSINESS RESEARCH

18. The "Authority" heading appearing under Part 128 is hereby amended substituting the citations "sec. 7, 72 Stat. 387, as amended, 15 U.S.C. 636(d); sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6)" for "Public Law 85–536, sec. 5, 72 Stat. 385."

Effective date. This amendment will become effective upon publication in the FEDERAL REGISTER.

Dated: May 23, 1969.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 69-6461; Filed, June 2, 1969; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 69-EA-69; Amdt. 39-772]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper Aircraft PA-31 type airplanes.

A review of the flight characteristics of the PA-31 type airplane establishes a basis for finding noncompliance with the stall recovery characteristics required by Part 23 (formerly Part 3 of the Civil Air Regulations) of the Federal Aviation Regulations.

Since this condition exists in all aircraft of like design, an airworthiness directive is being issued to require the installation of stall strips on the leading edge of the wings or an equivalent modification. In view of a situation existing which requires expeditious adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to

me by the Administrator, 14 CFR 11.85 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PIPER. Applies to type PA-31 and PA-31-300 airplanes, Serial Nos. 31-2, 31-4, 31-6 through 31-345, 31-347 through 31-357, 31-359 through 31-366, 31-368 through 31-373, 31-375 through 31-378, 31-380 through 31-384, 31-386 through 31-406, 31-408 through 31-422, 31-426 through 31-428, 31-430, 31-431, 31-433, 31-434, 31-436, 31-437, 31-439, 31-444, and 31-445; certificated in all categories.

Compliance required within the next 50 hours' time in service after the effective date of this AD, unless already accomplished.

(a) To improve the stall characteristics by the installation of stall strips on the leading edge of the wing, comply with Piper Service Bulletin No. 294, dated May 16, 1969, or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(b) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is effective June 5, 1969.

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

Issued in Jamaica, N.Y., on May 22, 1969.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 69-6475; Filed, June 2, 1969; 8:46 a.m.]

[Docket No. 9626; Amdt. 71-5]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Vertical Extent of Federal Airways

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the definition of the vertical extent of Federal airways in § 71.5(c)(1) to reflect the present structure of the airways.

Prior to 1961, all airways extended upward from 700 feet above the surface. Amendment 60-21 to the Civil Air Regulations (26 F.R. 570) stated that the FAA would raise the floors of all controlled airspace, where possible, to 1,200 feet or more above the surface. Thus, a pilot would need only to maintain an altitude of less than 1,200 feet above the surface to remain clear of designated airways. Standardizing the floor of designated airways at 1,200 feet above the surface would also reduce the complexity of charting. Since all airways have been redescribed in accordance with this policy as extending upward from 1,200 feet, or higher, above the surface, no Federal airway exists which would be affected by this amendment. Therefore, action is taken herein to amend § 71.5(c)(1) so that, unless otherwise specified in the description of an airway, each airway will include that airspace extending upward from 1,200 feet above the surface.

Since this amendment is minor in nature and does not impose any additional burden upon the public, notice and public procedure hereon are unnecessary, and it may be made effective in less than 30 days.

In consideration of the foregoing, § 71.5(c)(1) of the Federal Aviation Regulations is amended, effective June 3, 1969, by striking the words "from 700 feet above the surface of the earth to," and substituting therefor "from 1,200 feet above the surface of the earth to".

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on May 27, 1969.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 69-6466; Filed, June 2, 1969; 8:45 a.m.]

[Airspace Docket No. 69-CE-24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the control zone and transition area at Mitchell, S. Dak.

U.S. Standard for Terminal Instrument Procedures (TERPS) became effective November 18, 1967, and was issued only after extensive consideration and discussion with government agencies concerned and affected industry groups. TERPS updates the criteria for the establishment of instrument approach procedures in order to meet the safety requirements of modern day aviation and to make more efficient use of the airspace possible. As a result, the criteria for designation of controlled airspace for the protection of these procedures were modified to conform to TERPS. The new criteria requires minor alteration of the Mitchell, S. Dak., control zone and transition area. Action is taken herein to reflect these changes.

Since changes in most, if not all, existing airspace designations are required in order to achieve the increased safety and efficient use of the airspace that TERPS is designed to accomplish and since these changes are minor in nature, notice and public procedure hereon have been determined to be both unnecessary and impracticable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., July 24, 1969, as hereinafter set forth:

(1) In § 71.171 (34 F.R. 4557), the following control zone is amended to read:

MITCHELL, S. DAK.

Within a 5-mile radius of Mitchell Municipal Airport (latitude 43°46'25" N., longitude 98°02'30" W.); within 3 miles each side of the Mitchell VOR 149° radial, extending from the 5-mile radius zone to 7½ miles southeast of the VOR; and within 3 miles each side of the Mitchell VOR 300° radial, extending from the 5-mile radius zone to 7½ miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(2) In § 71.181 (34 F.R. 4637), the following transition area is amended to read:

MITCHELL, S. DAK.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Mitchell Municipal Airport (latitude 43°-46'25" N., longitude 98°02'30" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the Mitchell VOR 149° radial, extending from the VOR to 18½ miles southeast of the VOR; and within 4½ miles northeast and 9½ miles southwest of the Mitchell VOR 300° radial, extending from the VOR to 18½ miles northwest of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on May 8, 1969.

BROWNING ADAMS,
Acting Director, Central Region.

[F.R. Doc. 69-6467; Filed, June 2, 1969; 8:45 a.m.]

[Airspace Docket No. 69-SO-48]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Memphis, Tenn., control zone and transition area.

The Memphis control zone is described in § 71.171 (34 F.R. 4557) and the transition area is described in § 71.181 (34 F.R. 4637 and 7122). In the descriptions, reference is made to the Memphis Metropolitan Airport. Since the name of this airport was changed to Memphis International Airport, effective April 22, 1969, it is necessary to alter the descriptions to reflect this change.

Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the descriptions accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (34 F.R. 4557), the Memphis, Tenn., control zone is amended as follows: "* * * Memphis Metropolitan Airport * * *" is deleted and "* * * Memphis International Airport * * *" is substituted therefor wherever it appears.

In § 71.181 (34 F.R. 4637), the Memphis, Tenn., transition area (34 F.R. 7122) is amended as follows: "* * *

Memphis Metropolitan Airport * * *" is deleted and "* * * Memphis International Airport * * *" is substituted therefor wherever it appears in the description.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on May 19, 1969.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 69-6468; Filed, June 2, 1969; 8:45 a.m.]

[Airspace Docket No. 69-CE-27]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the transition area at Seymour, Ind.

U.S. Standard for Terminal Instrument Procedures (TERPS) became effective November 18, 1967, and was issued only after extensive consideration and discussion with government agencies concerned and affected industry groups. TERPS updates the criteria for the establishment of instrument approach procedures in order to meet the safety requirements of modern day aviation and to make more efficient use of the airspace possible. As a result, the criteria for designation of controlled airspace for the protection of these procedures were modified to conform to TERPS. The new criteria requires minor alteration of the Seymour, Ind., transition area. Action is taken herein to reflect this change.

Since changes in most, if not all, existing airspace designations are required in order to achieve the increased safety and efficient use of the airspace that TERPS is designed to accomplish and since these changes are minor in nature, notice and public procedure hereon have been determined to be both unnecessary and impracticable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., July 24, 1969, as hereinafter set forth:

In § 71.181 (34 F.R. 4637), the following transition area is amended to read:

SEYMOUR, IND.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Freeman Municipal Airport (latitude 38°55'35" N., longitude 85°54'25" W.); and within 3 miles each side of the 161° bearing from Freeman Municipal Airport extending from the 6½-mile radius to 8 miles south of the airport.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on May 7, 1969.

BROWNING ADAMS,
Acting Director, Central Region.

[F.R. Doc. 69-6469; Filed, June 2, 1969; 8:45 a.m.]

[Airspace Docket No. 69-WE-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Areas

On April 19, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 6698) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Grand Canyon and Peach Springs, Ariz., transition areas.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted without change.

Effective date. These amendments shall be effective 0901 G.m.t., July 24, 1969.

Issued in Los Angeles, Calif., on May 22, 1969.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.181 (34 F.R. 4637) the Grand Canyon, Ariz. (Grand Canyon National Park Airport), transition area is amended by deleting the period at the end of text and adding the following "* * * and that airspace within 5 miles each side of a direct line between the Grand Canyon, Ariz., VOR and Boulder City, Nev., VORTAC extending from the Grand Canyon VOR to 21 miles west of the VOR."

In § 71.181 (34 F.R. 4637) the Peach Springs, Ariz., transition area is amended by adding "* * * That airspace extending upward from 9,000 feet MSL bounded on the north by a line 5 miles north of and parallel to a direct line between the Grand Canyon, Ariz., VOR and the Boulder City, Nev., VORTAC, on the south by the north edge of V-210 and on the southwest by the northeast edge of V-105E."

[F.R. Doc. 69-6470; Filed, June 2, 1969; 8:46 a.m.]

[Airspace Docket No. 69-SO-29]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On March 29, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 5953), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Centerville, Tenn., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the notice, the geographic coordinate (lat. 35°50'00" N., long. 87°27'00" W.) for Centerville Municipal Airport was obtained from Coast and Geodetic Survey. It is necessary to amend the description by appropriately inserting the geographic coordinate for the airport.

Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 24, 1969, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the following transition area is added:

CENTERVILLE, TENN.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Centerville Municipal Airport (lat. 35°50'00" N., long. 87°27'00" W.); within 2 miles each side of the Graham, Tenn., VOR 177° radial, extending from the 5-mile radius area to 8 miles south of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on May 21, 1969.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 69-6471; Filed, June 2, 1969; 8:46 a.m.]

[Airspace Docket No. 69-EA-40]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Extension of Federal Airway and Revocation of Federal Airway

The purpose of these amendments to Part 71 of the Federal Aviation Regulations is to renumber VOR Federal airway No. 427 as VOR Federal airway No. 59.

At present V-427 extends only from Newcomerstown, Ohio, to Briggs, Ohio. These amendments will extend V-59 from Newcomerstown to Briggs and revoke V-427. This will reduce the number of VOR airways, simplify flight planning and reduce the air traffic control workload.

Since these amendments are editorial in nature and do not designate additional controlled airspace, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 24, 1969, as hereinafter set forth.

Section 71.123 (34 F.R. 4509) is amended as follows:

1. In V-59, all after "12 AGL Parkersburg, W. Va.;" is deleted and "12 AGL Newcomerstown, Ohio; 12 AGL Briggs, Ohio." is substituted therefor.

2. V-427 is revoked.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on May 27, 1969.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 69-6472; Filed, June 2, 1969; 8:46 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 2—DELEGATIONS OF AUTHORITY

Chairman and Vice Chairman, Board of Veterans Appeals

In Part 2, § 2.66 is revised to read as follows:

§ 2.66 Chairman and Vice Chairman, Board of Veterans Appeals, in addition to authority vested by law, Veterans Administration regulations and manuals, delegated authority to authorize assumption of appellate jurisdiction of adjudicative determination which has not become final; to authorize administrative action on adjudicative determination which has become final by appellate decision or failure to timely appeal; and to authorize central office investigations of matters before the Board.

This delegation of authority is identical to § 19.2 of this chapter.

By direction of the Administrator.

[SEAL] A. H. MONK,
Acting Deputy Administrator.

[F.R. Doc. 69-6491; Filed, June 2, 1969; 8:47 a.m.]

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

EFFECTIVE DATES; DIFFERENCE OF OPINION

In § 3.400, paragraph (h) is amended to read as follows:

§ 3.400 General.

* * * * *

(h) *Difference of opinion (§ 3.105).* (1) As to decisions not final prior to receipt of an application for reconsideration or to reopen, or prior to reconsideration on Veterans Administration initiative, the date from which benefits would have been payable if the former decision had been favorable.

(2) As to decisions which have become final (by appellate decision or failure to timely initiate and perfect an appeal) prior to receipt of an application for reconsideration or to reopen, the date of receipt of such application or the date entitlement arose, whichever is later.

(3) As to decisions which have become final (by appellate decision or failure to timely initiate and perfect an appeal) and reconsideration is undertaken solely on Veterans Administration initiative, the date of Central Office approval authorizing a favorable decision or the date of the favorable Board of Veterans Appeals decision.

(4) Where the initial determination for the purpose of death benefits is favorable, the commencing date will be determined without regard to the fact that the action may reverse, on a difference of opinion, an unfavorable decision for disability purposes by an adjudicative agency other than the Board of Veterans Appeals, which was in effect at the date of the veteran's death.

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

This VA regulation is effective December 1, 1962.

By direction of the Administrator.

Approved: May 21, 1969.

[SEAL] A. H. MONK,
Acting Deputy Administrator.

[F.R. Doc. 69-6493; Filed, June 2, 1969; 8:48 a.m.]

PART 19—BOARD OF VETERANS APPEALS

Appeals

1. In Part 19, §§ 19.1 and 19.2 are revised to read as follows:

§ 19.1 General appellate jurisdiction.

All questions on claims involving benefits under the laws administered by the Veterans Administration are subject to review on appeal to the Administrator of Veterans Affairs, decisions in such cases to be made by the Board of Veterans Appeals. (38 U.S.C. 4004(a)) In its decisions, the Board is bound by the regulations of the Veterans Administration, instructions of the Administrator and precedent opinions of the chief law officer. The statutory jurisdiction vests responsibility in the Board to apply and exercise all the adjudicative criteria and authority in such controlling media properly for application by the department having original adjudicative responsibility for claims for benefits.

§ 19.2 Delegation of authority to Chairman and Vice Chairman, Board of Veterans Appeals.

In addition to the authority vested in the Chairman and Vice Chairman, Board of Veterans Appeals, by law, Veterans Administration regulations and manuals, authority is delegated to each as follows:

(a) To authorize assumption of appellate jurisdiction of an adjudicative determination which has not become final.

(b) To authorize administrative action on an adjudicative determination which has become final by appellate decision or failure to timely appeal.

(c) To authorize Central Office investigations of matters before the Board.

2. Sections 19.148, 19.149, 19.150, and 19.151 are revised to read as follows:

§ 19.148 Rule 48; when accorded.

Reconsideration of an appellate decision otherwise final under Rule 4 (§ 19.104) may be accorded by the Board of Veterans Appeals:

(a) Upon allegation of error of fact or law by a claimant or his representative or on the Board's own motion (38 U.S.C. 4003);

(b) Upon discovery of additional service department records (38 U.S.C. 4003, 4004(b)); or

(c) On administrative review, when authorized by the Chairman or Vice Chairman under authority delegated in § 19.2(b).

§ 19.149 Rule 49; requirements in application.

Application for reconsideration shall set forth clearly and specifically the alleged error(s) of fact or law in the decision of the Board or other basis for requesting reconsideration.

§ 19.150 Rule 50; evidence considered.

Reconsideration of an appellate decision shall be based on evidence of record at the time the decision was entered but this shall not preclude the Board from securing any needed expert medical or legal opinion.

§ 19.151 Rule 51; time limit for filing of requests.

A hearing for the purpose of securing reconsideration shall be requested within 1 year from the date of the mailing of notice of the original decision. A brief for that purpose may be filed at any time.

3. A new center title is added and § 19.153 is revised to read as follows:

MISCELLANEOUS

§ 19.153 Rule 53; finality of decisions of the agency of original jurisdiction where appeal not timely initiated and perfected.

An action or determination on a claim by the agency of original jurisdiction shall become final if an appeal is not initiated and perfected as prescribed in Rule 18 (§ 19.118), and the claim cannot thereafter be reopened or allowed, except as may be otherwise provided by Veterans Administration regulations in Title 38, Code of Federal Regulations. (38 U.S.C. 4005(c))

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective the date of approval.

By direction of the Administrator.

Approved: May 21, 1969.

[SEAL] A. H. MONK,
Acting Deputy Administrator.

[F.R. Doc. 69-6492; Filed, June 2, 1969; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 17858; RM 1000]

PART 87—AVIATION SERVICES

Use of High Frequency Channels for Flight Test Purposes and in Support of Offshore Drilling Operations; Correction

In the Matter of Amendment of Parts 2 and 87 of the Commission's rules to

permit use of high frequency (HF) channels for flight test purposes and in support of offshore drilling operations.

In the appendix to the report and order in the above-entitled matter, FCC 68-678, released June 26, 1968, and published in the FEDERAL REGISTER on July 3, 1968, 33 F.R. 9661, correction of an error in the ninth listed frequency in the table in § 87.331(c) is necessary. The frequency in parenthesis is corrected to "(8945)" from "(8943)".

Released: May 27, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-6513; Filed, June 2, 1969; 8:49 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Octadecylamine

A statement of policy on the use of octadecylamine in steam lines of food and drug establishments, § 3.506, was published in the FEDERAL REGISTER of November 30, 1957. More recently, however, a food additive regulation has been promulgated prescribing the conditions under which certain boiler water additives, including octadecylamine, may be safely used in the preparation of steam that will contact food (21 CFR 121.1088). The Commissioner of Food and Drugs concludes that § 3.50 should be revised to delete references to food uses.

Accordingly, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 701(a), 52 Stat. 1051, 1055, 21 U.S.C. 352, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), § 3.506 is revised to read as follows:

§ 3.506 Use of octadecylamine in steam lines of drug establishments.

The Food and Drug Administration will not object to the use of octadecylamine in steam lines where the steam may be used for autoclaving surgical instruments and gauze if the octadecylamine in the steam is not more than 2.4 parts per million.

(Sec. 502, 52 Stat. 1051; 21 U.S.C. 352)

Dated: May 21, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-6458; Filed, June 2, 1969; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-369]

HANDLING OF ORANGES GROWN IN INTERIOR DISTRICT IN FLORIDA

Notice of Hearing With Respect to Proposed Marketing Agreement and Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Auditorium, Florida Citrus Mutual Building, Lakeland, Fla., beginning at 10 a.m., local time, June 24, 1969, with respect to a proposed marketing agreement and order regulating the handling of oranges grown in the Interior District in Florida. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the provisions of the proposed marketing agreement and order, hereinafter set forth, and to any appropriate modifications thereof.

The proposed marketing agreement and order, the provisions of which are as follows, was submitted with a request for a hearing by R. V. Phillips, John T. Lesley, and Tom Brandon on behalf of Florida Citrus Exchange, Adams Packing Co., Alturas Packing Co., Battaglia Fruit Co., Carter Fruit Co., Florida Orange Packers, Haines City Citrus Growers Association, Herman J. Heidrich & Sons, Heller Brothers Packing Co., Holly Hill Fruit Products, Lake Hamilton Cooperative, Lake Region Packing Association, Lake Wales Citrus Growers Association, Lakeland Packing Co., Newberne Groves, People Packing Co., South Lake Apopka Citrus Growers Association, Spada Fruit Sales, and Waverly Growers Cooperative (the sections identified with asterisks (***) apply only to the proposed marketing agreement and not to the proposed order):

DEFINITIONS

Section 1 Secretary.

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

Sec. 2 Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agriculutre Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Sec. 3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

Sec. 4 Oranges.

"Oranges" means all varieties of Citrus sinensis, Osbeck, grown in the Interior District of Florida but not oranges of the so-called kid glove type such as Temple, Murcott Honey, and King oranges.

Sec. 5 Early and Midseason Type oranges.

"Early and Midseason Type oranges" means all oranges except late type oranges.

Sec. 6 Late Type oranges.

"Late Type oranges" means Valencia oranges, and Lue Gim Gong and similar late maturing oranges of the Valencia type.

Sec. 7 Producer.

"Producer" is synonymous with "grower" and means any person who is engaged in the production for market of oranges grown in the Interior District in Florida and who has a proprietary interest in the oranges so produced.

Sec. 8 Handler or shipper.

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier transporting oranges owned by another person) who, as owner, agent, or otherwise, handles oranges in fresh form, or causes oranges to be so handled.

Sec. 9 Handle or ship.

"Handle" or "ship" means to sell or transport oranges, or in any other way to place oranges in the current of the commerce between the regulation area and any point outside thereof in the continental United States, Canada, or Mexico, or causes oranges to be sold, transported, or placed in such commerce.

Sec. 10 Standard packed box.

"Standard packed box" means a unit of measure equivalent to one and three-fifths (1⅗) U.S. bushels of oranges, whether in bulk or in any container.

Sec. 11 Week or full week.

"Week" or "full week" means a 7-day period beginning with Monday.

Sec. 12 Fiscal period.

"Fiscal period" means the period of time from August 1 of any year until July 31, of the following year, both dates inclusive: *Provided,* That the initial fiscal period shall begin on the effective date of this part.

Sec. 13 Committee.

"Committee" means the Interior Orange Marketing Committee.

Sec. 14 Regulation area.

"Regulation area" means that portion of the State of Florida which is bounded by the Suwannee River, the Georgia border, the Atlantic Ocean, and the Gulf of Mexico.

Sec. 15 Interior district or district.

"Interior district" or "district" means the production area, comprised of the following areas in the State of Florida: The counties of Hillsborough, Pinellas, Manatee, Citrus, Sumter, Hernando, Pasco, Lake, Orange, Osceola, Seminole, Alachua, Putnam, St. Johns, Flagler, Marion, Levy, Duval, Nassau, Baker, Union, Bradford, Columbia, Clay, Gilchrist, Suwannee, Polk, Hardee, Sarasota, Monroe, Highlands, Okeechobee, Glades, De Soto, Charlotte, Lee, Hendry, Collier, Dade, Broward, and County Commissioner's Districts One, Two and Three of Volusia County and shall include the portions of the counties of Brevard, Indian River, Martin, and Palm Beach except as particularly described as follows: Beginning at a point on the shore of the Atlantic Ocean where the line between Flagler and Volusia Counties intersects said shore, thence follow the line between said two counties to the southwest corner of sec. 23, T. 14 S., R. 31 E.; thence continue south to the southwest corner of sec. 35, T. 14 S., R. 31 E.; thence east to the northwest corner of T. 18 S., R. 32 E.; thence south to the southwest corner of T. 17 S., R. 32 E.; thence east to the northwest corner of T. 18 S., R. 33 E.; thence south to the St. Johns River; thence along the main channel of the St. Johns River and through Lake Harney, Lake Poinsett, Lake Winder, Lake Washington, Sawgrass Lake, and Lake Helen Blazes to the range line between Rs. 35 E. and 36 E.; thence south to the south line of Brevard County; thence east to the line between Rs. 36 E. and 37 E.; thence south to the southwest corner of St. Lucie County; thence east to the line between Rs. 39 E. and 40 E.; thence south to the south line of Martin County, thence east to the line between Rs. 40 E. and 41 E.; thence south to the West Palm Beach Canal (also known as the Okeechobee Canal); thence follow said canal eastward to the mouth thereof; thence east to the shore of the Atlantic Ocean; thence northerly along the shore of the Atlantic Ocean to the point of beginning.

ADMINISTRATIVE BODY

Sec. 20 Establishment and membership.

There is hereby established an Interior Orange Marketing Committee. The membership shall consist of those members and alternates of the Growers Administrative Committee and Shippers Advisory Committee selected under Order No. 905 (Part 905 of this chapter), whose principal place of business is in the Interior district: *Provided*, That in the event of the membership of such committees is not selected as aforesaid, the Secretary may select the members and alternate members of the Interior Orange Marketing Committee until such time as a method for the selection of the membership of such committee is prescribed in the provisions of this part.

Sec. 21 Inability of members to serve.

An alternate for a member of the committee shall act in the place and stead of such member (a) in his absence, or (b) in the event of his removal, resignation, disqualification, or death, and until a successor for his unexpired term has been selected.

Sec. 22 Powers of the Interior Orange Marketing Committee.

The committee, in addition to the power to administer the terms and provisions of this part, as provided in this part, shall have the power (a) to make, only to the extent specifically permitted by the provisions contained in this part, administrative rules and regulations; (b) to receive, investigate, and report to the Secretary complaints of violations of this part; and (c) to recommend to the Secretary amendments to this part.

Sec. 23 Duties of the Interior Orange Marketing Committee.

It shall be the duty of the committee: (a) To select a chairman from its membership, and to select such other officers and adopt such rules and regulations for the conduct of its business as it may deem advisable; (b) to keep minutes, books, and records which will clearly reflect all of its acts and transactions, which minutes, books, and records shall at all times be subject to the examination of the Secretary; (c) to act as intermediary between the Secretary and producers and handlers; (d) to furnish the Secretary with such available information as he may request; (e) to appoint such employees as it may deem necessary and to determine the salaries and define the duties of such employees; (f) to cause its books to be audited by one or more certified or registered public accountants at least once for each fiscal period, and at such other times as it deems necessary or as the Secretary may request, and to file with the Secretary copies of all audit reports; (g) to prepare and issue a monthly statement of financial operations of the committee; and (h) to make such determinations as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this part.

Sec. 24 Compensation and expenses of committee members.

The members and alternate members of the committee shall serve without compensation but may be reimbursed for expenses necessarily incurred by them in attending committee meetings and in the performance of their duties under this part.

Sec. 25 Procedure of committee.

(a) Except as provided in paragraphs (b) and (c) of this section, a majority of the members shall constitute a quorum and any decision or action shall require concurrence by a majority of the committee.

(b) For any recommendation for regulations to be valid, not less than 60 percent of the committee shall concur, except as provided in paragraph (c) of this section.

(c) Not less than 80 percent of the committee shall concur to make a recommendation for regulations for any week following three or more weeks of continuous regulations. The requirement of this paragraph shall not apply to recommendations to amend an existing regulation.

(d) The vote of each member cast for or against any recommendation made pursuant to this part, shall be duly recorded. Each member must vote in person.

(e) In the event any member of the committee and his alternate are not present at any meeting of the committee, any alternate present who is not acting for any other member may be designated by the chairman of the committee to serve in the place and stead of the absent member.

(f) The committee shall give to the Secretary the same notice of meetings of the committee as is given to the members thereof.

Sec. 26 Funds.

(a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes herein specified and shall be accounted for in the manner provided in this part.

(b) The Secretary may, at any time, require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee such member shall account for all receipts and disbursements and deliver all property and funds, together with all books and records in his possession, to his successor in office, and shall execute such assignment and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds and claims vested in such member pursuant to this part.

EXPENSES AND ASSESSMENTS

Sec. 30 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and are likely to be incurred by the committee for its maintenance and functioning during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments upon handlers as provided in section 31.

Sec. 31 Assessments.

(a) Each handler who first handles oranges shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by such committee for its maintenance and functioning during each fiscal period. Each such handler's share of such expenses shall be that proportion thereof which the total quantity of oranges shipped by each handler as the first handler thereof during the applicable fiscal period is of the total quantity of oranges so shipped by all handlers during the same fiscal period. The Secretary shall fix the rate of assessment per standard packed box of fruit to be paid by each such handler. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) At any time during or after the fiscal period, the Secretary may increase the rate of assessment so that the sum of money collected pursuant to the provisions of this section shall be adequate to cover the said expenses. Such increase shall be applicable to all fruit shipped during the given fiscal period. In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

Sec. 32 Handler's accounts.

If, at the end of a fiscal period the assessments collected are in excess of expenses incurred, the committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not exceed approximately one-half one fiscal period's expenses. Such reserve funds may be used (1) to cover any expenses authorized by this part and (2) to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period unless he demands payment of the sum due him, in which case such sum shall be paid to him. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

Sec. 40 Marketing policy.

(a) Prior to the first recommendation for regulation during any marketing season, the committee shall submit to the Secretary its marketing policy for such

season. Such marketing policy shall contain the following information: (1) The estimated available crop of oranges, including estimated quality; (2) the estimated utilization of the crop that will be marketed in domestic, export, and by-product channels, together with quantities otherwise to be disposed of; (3) a schedule of estimated weekly shipments of oranges during the ensuing season; (4) the available supplies of competitive deciduous fruits in all producing areas of the United States; (5) level and trend in consumer income; (6) estimated supplies of competitive citrus commodities; and (7) any other pertinent factors bearing on the marketing of oranges. In the event that it becomes advisable substantially to modify such marketing policy, the committee shall submit to the Secretary a revised marketing policy.

(b) All meetings of the committee held for the purpose of formulating such marketing policies shall be open to growers and handlers.

(c) The committee shall transmit a copy of each marketing policy report or revision thereof of the Secretary and to each grower and handler who files a request therefor. Copies of all such reports shall be maintained in the office of the committee where they shall be available for examination by growers.

Sec. 41 Recommendation for volume regulation.

(a) The committee may, during any week, recommend to the Secretary the total quantity of oranges which it deems advisable to be handled during the next succeeding week: *Provided*, That such volume regulations shall not be recommended for more than an aggregate of 12 weeks during any fiscal period.

(b) In making its recommendations the committee shall give due consideration to the following factors:

(1) Market prices for oranges;

(2) Supply of oranges on track at, and en route to, the principal markets;

(3) Supply, maturity, and condition of oranges in the production area;

(4) Market prices and supplies of citrus fruit from competitive producing areas, and supplies of other competitive fruits;

(5) Trend and level of consumer income; and

(6) Other relevant factors.

(c) At any time during a week for which the Secretary, pursuant to section 42, has fixed the quantity of oranges which may be handled, the committee may recommend to the Secretary that such quantity be increased for such week. Each such recommendation, together with the committee's reason for such recommendation, shall be submitted promptly to the Secretary.

Sec. 42 Issuance of volume regulations.

Whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of oranges which may be handled during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided*, That such regulations during each fiscal period shall not in the aggregate exceed 12 weeks. The quantity so fixed for any week may be increased by the Secretary at any time during such week. Such regulations may, as authorized by the act, be made effective irrespective of whether the season average price of oranges is in excess of the parity price specified therefor in the act. The Secretary may upon the recommendation of the committee, or upon other available information, terminate or suspend any regulation at any time.

Sec. 43 Prorate bases.

(a) Each person who desires to handle oranges shall submit to the committee, at such time and in such manner as may be designated by the committee and upon forms made available by it, a written application for a prorate base or bases and for allotments as provided in this section and sections 44 and 45.

(b) Such application shall be substantiated in such manner and shall be supported by such information as the committee may require.

(c) The committee shall determine the accuracy of the information submitted pursuant to this section. Whenever the committee finds that there is an error, omission, or inaccuracy in any such information, it shall correct the same and shall give the person who submitted the information a reasonable opportunity to discuss with the committee the factors considered in making the correction.

(d) Each week during the marketing season when volume regulation is likely to be recommended for the following week, the committee shall compute a prorate base or bases for each handler who has made application in accordance with the provisions of this section.

(e) The prorate base for each handler of early and midseason type oranges shall be computed as follows: Add together the handler's shipments of early and midseason type oranges in the current season and his shipments of such oranges in the immediately preceding seasons, if any, within the representative period, in which he shipped such oranges and divide the total by a divisor computed by adding together the number of elapsed weeks of the current season and 32 weeks for each of such immediately preceding seasons within the representative period in which the handler shipped such oranges. For purposes of this subparagraph, "representative period" means the three previous seasons together with the current season; the term "season" means the 32-week period beginning with the first full week in September, and the term "current season" means the period beginning with the first full week in September of the current fiscal period through the fourth full week preceding the week of regulation: *Provided*, That when official shipping records of all handlers are available to the committee the term "current season" shall extend through the third full week preceding the week of regulations.

(f) The prorate base for each handler of late type oranges shall be computed as follows: Add together the handler's shipments of late type oranges in the current season and his shipments of such oranges in the immediately preceding seasons, if any, within the representative period, in which he shipped such oranges and divide the total by a divisor computed by adding together the number of weeks elapsed in the current season and 21 weeks for each of such immediately preceding seasons within the representative period in which the handler shipped such oranges. For purposes of this subparagraph "representative period" means the three previous seasons together with the current season; the term "season" means the 21-week period beginning with the first full week in February; and the term "current season" means the period beginning with the first full week in February of the current fiscal period through the fourth full week preceding the week of regulation: *Provided*, That when official shipping records are available to the committee the term "current season" shall extend through the third full week preceding the week of regulation.

Sec. 44 Allotments.

(a) Whenever the Secretary has fixed the quantity of oranges which may be handled during any week, the committee shall calculate the quantity of oranges which may be handled during such week by each person who has applied for and received a prorate base.

(b) The allotment of each handler shall be computed as follows:

(1) The quantity of early and midseason oranges to be allocated for the week as determined pursuant to section 45 shall be multiplied by a percentage obtained by dividing the prorate base of the handler computed pursuant to section 43(e) by the aggregate total of the prorate bases of all handlers so computed.

(2) The quantity of late type oranges to be allocated for the week as determined pursuant to section 45 shall be multiplied by a percentage obtained by dividing the prorate base of the handler computed pursuant to section 43(f) by the aggregate total of the prorate bases of all handlers so computed.

(3) The total of the quantities computed for the handler in accordance with subparagraphs (1) and (2) hereof shall be the allotment of such handler. Such allotment may be used to ship oranges during the week without regard to type. The committee shall give reasonable notice to each person of the allotment computed for him pursuant to this section.

Sec. 45 Allocating fixed quantity.

In recognition of the differences in maturity as between early and midseason type oranges and late type oranges the total quantity of oranges fixed by the Secretary which may be handled during any week shall be allocated between the two types of oranges.

(a) Such allocation shall reflect the respective proportions of both types of oranges that were shipped during a specified week or weeks in each of the previous three fiscal periods, as prescribed in rules and regulations formulated in

accordance with paragraph (b) of this section, subject to adjustment to reflect as nearly as may be the respective proportions as estimated by the committee of the two types of oranges shipped by all handlers in the second week preceding the one for which the Secretary has fixed such total quantity of oranges: *Provided*, That during that portion of a fiscal period that begins with the first full week in January, the allocation to either type of oranges of the quantity that may be handled during any week thereof shall represent not less than 5 percent of the total quantity of oranges fixed by the Secretary for such week.

(b) Such rules and regulations shall include tabulations of the respective proportions of weekly shipments during the preceding three fiscal periods that represent early and midseason type oranges and late type oranges, showing the weekly differences in the proportions.

Sec. 46 Overshipment.

During any week for which the Secretary has fixed the total quantity of oranges which may be handled, any person who has received an allotment may handle, in addition to the total allotment available to him, an amount of oranges equivalent to 10 percent of such allotment of 500 boxes, whichever is greater: *Provided*, That handlers may overship the entire 500 boxes or any portion of it during the period when regulations continue in effect for two or more successive weekly periods until such accumulative overshipments total but do not exceed 500 boxes: *Provided however*, That the Secretary, on the basis of a recommendation of the committee or other available information, may increase the quantity from 500 boxes to 1,000 boxes. The quantity of oranges so handled in excess of the total allotment which such person has available for use during such week (but not exceeding an amount equivalent to the excess shipments permitted under this section) shall be deducted from such person's allotment for the next week. If such person's allotment for such week is in an amount less than the excess shipments permitted under this section, the remaining quantity shall be deducted from succeeding weekly allotments issued to such person until such excess has been entirely offset: *And provided further*, That any time there is no volume regulation in effect it shall be deemed to cancel all requirements to undership allotment because of previous overshipments pursuant to this part.

Sec. 47 Undershipments.

If any person handles during any week a quantity of oranges, covered by a regulation issued pursuant to section 42, in an amount less than the total allotment available to him for such week, he may handle, during the next week succeeding week, a quantity of oranges, in addition to that permitted by the allotment available to him for such week, equivalent to such undershipment or 25 percent of the allotment issued to him for the week during which the undershipment was made, whichever is the lesser: *Provided*, That the committee, with the approval of the Secretary, may increase or decrease such percentage.

Sec. 48 Allotment loans or transfers.

(a) A person to whom allotments have been issued may lend or transfer such allotments to other persons to whom allotments have also been issued. Each party to any such loan or transfer agreement shall, prior to completion of the agreement, notify the committee of the proposed loan or transfer and the date of repayment, if any, and obtain the committee's approval of the agreement.

(b) The committee shall confirm all such transactions immediately after the completion thereof by memorandum addressed to the parties concerned, which memorandum shall be deemed to satisfy the requirements of paragraph (a) of this section as to an approval of the loan or transfer agreement.

Sec. 49 Inspection and certification.

Whenever the handling of oranges is regulated pursuant to section 42, each handler who handles any oranges shall, prior to the handling of any lot of oranges, cause such lot to be inspected by the Federal or Federal-State Inspection Service, and certified by it as meeting all applicable requirements of such regulation: *Provided*, That such inspection and certification shall not be required if the particular lot of fruit previously had been so inspected and certified.

Sec. 50 Reports and records.

(a) Upon request of the committee, made with approval of the Secretary, each handler shall furnish to the committee in such manner and at such time as it may prescribe, reports of overshipments and undershipments and such other reports and information as may be necessary for the committee to perform its duties under this part. Each handler shall maintain for such period of time as the committee shall prescribe, with the approval of the Secretary, such records of oranges handled as may be necessary to verify reports submitted pursuant to this section.

(b) Whenever a handler ships oranges from the Interior district which were not grown in that district, he shall make a notation on the copy of the manifest of such shipments to be furnished to the Federal-State Inspection Service clearly indicating that the oranges contained in the shipment were not grown in the Interior district.

(c) Prior to shipping each lot of oranges, the handler shall provide the Federal-State Inspection Service a written statement as to the destination thereof. Such statement may be in the form of a notation on the manifest covering such lot, and the destination may be stated as a point or points outside the regulation area.

MISCELLANEOUS PROVISIONS

Sec. 55 Fruit not subject to regulation.

Except as otherwise provided in this section, any person may, without regard to the provisions of sections 42 through 49 and the regulations issued thereunder, ship oranges for the following purposes:

(a) To a charitable institution for consumption by such institution;

(b) To a relief agency for distribution by such agency;

(c) To a commercial processor for conversion by such processor into canned or frozen products or into a beverage base;

(d) By parcel post; and

(e) In such minimum quantities, types of shipments, or for such purposes as the committee with the approval of the Secretary may specify. No assessment shall be levied on fruit so shipped. The committee shall, with the approval of the Secretary, prescribe such rules, regulations, or safeguards as it may deem necessary to prevent oranges handled under the provisions of this section from entering channels of trade for other than the purposes authorized by this section. Such rules and regulations, and safeguards may include the requirements that handlers shall file applications with the committee for authorization to handle oranges pursuant to this section, and that such application be accompanied by a certification by the intended purchaser or receiver that the oranges will not be used for any purpose not authorized by this section.

Sec. 56 Compliance.

Except as provided in this part, no person shall handle oranges during any week in which a regulation issued by the Secretary pursuant to section 42 is in effect, unless such oranges are, or have been, handled pursuant to an allotment therefor, or unless such person is otherwise permitted to handle such oranges under the provisions of this part; and no person shall handle oranges except in conformity with the provisions of this part and the regulations issued under this part.

Sec. 57 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

Sec. 58 Effective time.

The provisions of this part shall become effective at such time as the Secretary may declare above his signature to this part, and shall continue in force until terminated in one of the ways specified in section 59.

Sec. 59 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least 1 day's notice by means of

a press release or in any other manner which he may determine.

(b) The Secretary shall terminate the provisions of this part at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers, who, during the preceding fiscal period, have been engaged in the production for market of fruit: *Provided*, That such majority have, during such period, produced for market more than 50 percent of the volume of such fruit produced for market, but such termination shall be effective only if announced on or before July 31 of the then current fiscal period.

(c) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

Sec. 60 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the then functioning members of the committee shall continue as joint trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of or under control of such administrative committee, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees (1) shall continue in such capacity until discharged by the Secretary; (2) shall, from time to time, account for all receipts and disbursements or deliver all property on hand, together with all books and records of the committee and of the joint trustees, to such person as the Secretary may direct; and (3) shall, upon the request of the Secretary, excute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds property, and claims vested in the committee, or the joint trustees pursuant to this part.

(c) Any funds collected pursuant to section 31, over and above the amounts necessary to meet outstanding obligations and expenses necessarily incurred during the operation of this part and during the liquidation period, shall be returned to handlers to the extent practicable after the termination of this part. The refund to each handler shall be represented by the excess of the amount paid by him over and above his pro rata share of the expenses.

(d) Any person to whom funds, property, or claims have been transferred or delivered by the committee, or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of said committee and upon the said joint trustees.

Sec. 61 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

Sec. 62 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any agency or division in the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

Sec. 63 Derogation.

Nothing contained in this part is, or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

Sec. 64 Personal liability.

No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way, whatsoever, to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee.

If any provision of this part is declared invalid, or the applicability thereof to any person, circumstances, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected.

Sec. 66 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.***

Sec. 67 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.***

Sec. 68 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of oranges in the same manner as is provided for in this agreement.***

Copies of this notice of hearing may be obtained from Minard F. Miller, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Post Office Box 9, Lakeland, Fla. 33802.

Dated: May 28, 1969.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 69-6520; Filed, June 2, 1969; 8:50 a.m.]

[7 CFR Parts 1001–1004, 1015, 1016]

[Docket No. AO-14-A46, etc.]

MILK IN MASSACHUSETTS-RHODE ISLAND-NEW HAMPSHIRE AND CERTAIN OTHER MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR Part	Marketing area	Docket No.
1001	Massachusetts-Rhode Island-New Hampshire.	AO-14-A46.
1002	New York-New Jersey	AO-71-A58.
1003	Washington, D.C.	AO-253-A22.
1004	Delaware Valley	AO-160-A42.
1015	Connecticut	AO-305-A23.
1016	Upper Chesapeake Bay	AO-312-A19.

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 Conference Room of the Market Administrator's Office, 205 East 42d Street, New York, N.Y., beginning at 10 a.m., on June 9, 1969, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in each of the marketing areas specified as follows: Massachusetts-Rhode Island-New Hampshire, New York-New Jersey, Washington, D.C., Delaware Valley, Connecticut, and Upper Chesapeake Bay.

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 agreements and to the orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by New York-New England Dairy Cooperative Coordinating Committee representing Cabot Farmers' Cooperative Creamery Co., Inc.; Concord Dairy; Consolidated Milk Producers' Association; Connecticut Valley Dairy, Inc.; Dairymen's League Co-operative Association, Inc.; Granite City Cooperative Creamery Association, Inc.; Maine Dairymen's Association; Massachusetts Cooperative Milk Producers Federation, Inc.; Milton Cooperative Dairy Corp.; New England Milk Producers Association, Inc.; Northeast Dairy Cooperative Federation, Inc.; Northern Farms Cooperative, Inc.; Producers Dairy Company of Brockton; Producers Dairy, Inc., of Nashua; Richmond Cooperative Association, Inc.; St. Albans Cooperative Creamery, Inc.; United Farmers of New England, Inc.; United Milk Producers Cooperative Association of New Jersey, Inc.; and White River Valley Dairies, Inc.:

Proposal No. 1. Amend the Massachusetts-Rhode Island-New Hampshire,

New York-New Jersey, Delaware Valley, and Connecticut orders for purpose of maintaining interregional Class I price relationships by flooring Class I prices at their current relationship with the effective Class I price in the Chicago Regional order as follows:

A. In § 1001.60(d); add the words ": *Provided*, That such price shall not be less than the Chicago Regional Order No. 30 Class I price for the month plus $1.38."

B. In § 1002.40(a); add the words ": *Provided*, That such price shall not be less than the Chicago Regional Order No. 30 Class I price for the month plus $1.20."

C. In § 1004.50(a); add the words ": *Provided*, That such price shall not be less than the Chicago Regional Order No. 30 Class I price for the month plus $1.64."

D. In § 1015.60(d); add the words ": *Provided*, That such price shall not be less than the Chicago Regional Order No. 30 Class I price for the month plus $1.78."

Proposal No. 2. Amend the six subject orders as necessary to provide identical butterfat differentials to all class (where applicable) and blended prices (base and excess prices during certain specified months for Orders 3, 4, and 16). Such adjustment for each one-tenth of 1 percent butterfat content variation from 3.5 percent shall be computed at 0.115 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the U.S. Department of Agriculture for the month, and rounded to the nearest one-tenth cent.

Proposed by Pennmarva Dairymen's Cooperative Federation, Inc.:

Proposal No. 3. Amend the Delaware Valley, Upper Chesapeake Bay and Washington, D.C., orders for purpose of maintaining interregional Class I price relationships by providing a bracketing system whereby an increase in the Minnesota-Wisconsin price series of 15 to 25 cents over $4.33 (3.5 percent butterfat basis) will result in a Class I price increase of 20 cents and a further increase in such Minnesota-Wisconsin series price of at least 10 cents but not in excess of 20 cents will result in an additional 20-cent increase in such Class I price.

Proposal No. 4. For the Delaware Valley, Upper Chesapeake Bay and Washington, D.C., orders, adopt the butterfat differential provisions as set forth in Proposal 2 of this notice except that with respect to differentials applicable to producer blend prices in the three orders, the rounding technique used in computing such butterfat differentials shall be to the nearest even one-tenth cent.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 5. Amend § 1002.90 of the New York-New Jersey order to provide a maximum allowable rate of assessment for administrative expense of 4 cents in lieu of the 2 cents per hundredweight presently specified.

Proposal No. 6. Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrators of the respective orders at 230 Congress Street, Room 403, Boston, Mass. 02110; 205 East 42d Street, New York, N.Y. 10017; Post Office Box 306, Alexandria, Va. 22313; One Decker Square, Room 646, Bala Cynwyd, Pa. 19004; 1049 Asylum Avenue, Hartford, Conn. 06105; Post Office Box 6848, Towson Station, Baltimore, Md. 21204; or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on May 28, 1969.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 69-6519; Filed, June 2, 1969; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 69-CE-29]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the Rapid City, S. Dak. (Municipal Airport), Rapid City, S. Dak. (Ellsworth Air Force Base), control zones and the Rapid City, S. Dak., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace in the Rapid City, S. Dak., terminal area, two new instrument approach procedures, predicated on the ILS system at Rapid City, have been developed for the Rapid City Municipal Airport. In addition, the criteria for the designation of control zones and transition areas have changed. Accordingly, it is necessary to alter the Rapid City (Municipal Airport) and Rapid City (Ellsworth Air Force Base) control zones and the Rapid City transition area to adequately protect aircraft executing the new approach procedures and to comply with the new control zone and transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 (34 F.R. 4557) the following control zones are amended to to read:

RAPID CITY, S. DAK. (ELLSWORTH AFB)

Within a 5-mile radius of Ellsworth AFB (latitude 44°08'40" N., longitude 103°06'10" W.); and within 2½ miles each side of the Ellsworth AFB TACAN 322° radial, extending from the 5-mile radius zone to 7 miles northwest of the TACAN, excluding the portion which overlies the Rapid City, S. Dak. (Municipal Airport) control zone.

RAPID CITY, S. DAK. (MUNICIPAL AIRPORT)

Within a 5-mile radius of Rapid City Municipal Airport (latitude 44°02'30" N., longitude 103°03'25" W.); within 3 miles each side of the Rapid City VOR 155° and 335° radials, extending from the 5-mile radius zone to 8 miles southeast of the VOR; and within 3 miles each side of the Ellsworth AFB TACAN 129° radial, extending from the Rapid City, S. Dak. (Ellsworth AFB), 5-mile radius zone to 8 miles southeast of the TACAN, excluding the portion north of a line between the INTs of the 5-mile radius zone and the Rapid City, S. Dak. (Ellsworth AFB), 5-mile radius zone.

(2) In § 71.181 (34 F.R. 4637), the following transition area is amended to read:

RAPID CITY, S. DAK.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of Ellsworth AFB TACAN; and within 4½ miles southwest and 10½ miles northeast of the Rapid City VOR 155° radial, extending from the 14-mile radius area to 19 miles southeast of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 53-mile radius of Ellsworth AFB (latitude 44°08'40" N., longitude 103°06'10" W.).

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 9, 1969.

BROWNING ADAMS,
Acting Director, Central Region.

[F.R. Doc. 69-6473; Filed, June 2, 1969; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-CE-18]

FEDERAL AIRWAYS

Proposed Alteration, Extension and Designation

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would realign and extend VOR Federal airway Nos. 72, 88, 175, 178, 179, 234, and 335, and designate a new airway from Maples, Mo., to Troy, Ill.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Administration is considering the following airspace actions that will permit more efficient utilization of the airspace in the St. Louis, Mo., terminal area:

1. Realign and extend V-72 segment from Maples, Mo., with a 1,200-foot AGL floor direct to Farmington, Mo., direct to Centralia, Ill., direct to Bible Grove, Ill., to the intersection of the Bible Grove 015° T (012° M) and Vandalia, Ill., 075° T (071° M) radials.

2. Realign V-88 segment from Vichy, Mo., with a 1,200-foot AGL floor to the intersection of the Vichy 091° T (085° M) and St. Louis, Mo., 171° T (166° M) radials.

3. Realign and extend V-175 segment from Malden, Mo., with a 1,200-foot AGL floor direct to Vichy direct to Hallsville, Mo., including a 1,200-foot AGL west alternate via the intersection of the Vichy 321° T (315° M) and Hallsville 183° T (177° M) radials.

4. Extend V-178 segment from Vichy with a 1,200-foot AGL floor direct to Farmington, Mo.

5. Extend V-179 segment from Centralia with a 1,200-foot AGL floor to Vandalia, Ill., via the intersection of the Centralia 010° T (006° M) and Vandalia 162° T (158° M) radials; to Capital, Ill.

6. Extend V-234 segment from Hutchinson, Kans., with a 1,200-foot AGL floor direct to Emporia, Kans., direct to Butler, Mo., direct to Vichy, to Centralia via the intersection of the Vichy 091° T (085° M) and Centralia 253° T (249° M) radials.

7. Realign V-335 segment from St. Louis, Mo., with a 1,200-foot AGL floor to Marion, Ill., via the intersection of the St. Louis 171° T (166° M) and Marion 290° T (286° M) radials.

8. Designate a new airway from Maples with a 1,200-foot AGL floor to Troy, Ill.

The airway structure in the St. Louis terminal area has remained essentially unchanged for the past 8 years. During this time there has been a 20 percent annual increase in IFR air traffic in the area. This increase in IFR air traffic has resulted in a requirement to revise procedures for controlling the increased traffic and the procedural changes have resulted in the proposed alteration of the low altitude airway structure in the St. Louis area as described above.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 27, 1969.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 69-6474; Filed, June 2, 1969; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-EA-50]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot transition area over Buehl Field, Langhorne, Pa.

A new VOR instrument approach procedure has been authorized for Buehl Field, Langhorne, Pa. We will require designation of a part time Langhorne, Pa., 700-foot floor transition area to provide airspace protection for aircraft executing the procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federation Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Langhorne, Pa., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Langhorne, Pa. transition area described as follows:

LANGHORNE, PA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 40°11'15" N., 74°54'00" W., of Buehl Field, Langhorne, Pa., excluding the portion which coincides with the North Philadelphia, Pa., transition area. This transition area shall be effective from sunrise to sunset, daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 16, 1969.

GEORGE M. GARY,
Director, Eastern Region.

[F.R. Doc. 69-6476; Filed, June 2, 1969; 8:46 a.m.]

Federal Highway Administration

[49 CFR Part 371]

[Docket No. 1-11; Notice 3]

MOTOR VEHICLE SAFETY STANDARDS

Rear Underride Protection; Extension of Time To File Comments

On March 19, 1969, the Federal Highway Administration published in the FEDERAL REGISTER (34 F.R. 5383) a notice of a proposed motor vehicle safety standard on Rear Underride Protection. It was requested that interested persons submit comments by the close of business on June 2, 1969.

Upon consideration of a petition that the comment period be extended to permit the completion of tests and submission of comments based thereon, the time to file comments is extended to the close of business on August 1, 1969.

Issued on May 29, 1969.

F. C. TURNER,
Federal Highway Administrator.

[F.R. Doc. 69-6546; Filed, June 2, 1969; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 50]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Siting of Commercial Fuel Reprocessing Plants and Related Waste Management Facilities; Statement of Proposed Policy

The Atomic Energy Commission has under consideration the adoption of a statement of policy concerning the siting of commercial fuel reprocessing plants and related waste management facilities. This notice sets forth the essential elements of that policy which would be incorporated in the Commission regulation "Licensing of Production and Utilization Facilities," 10 CFR Part 50, as an appendix.

The proposed statement of policy deals principally with (1) The question as to whether the safety problems and characteristics associated with operation or with the decommissioned status of a commercial fuel reprocessing plant require, from the standpoint of the public health and safety, that these plants be located on land owned and controlled by the Federal Government; and (2) The question of ultimate disposal of high-level radioactive fission product wastes generated at these plants.

In considering these questions the Commission has endeavored to formulate a policy which, while fully responsive to considerations of the public health and safety, would present minimum impediment to the growth of economic nuclear power.

The Commission believes that ultimate disposal of high-level radioactive fission product wastes must be accomplished by the Federal Government on federally owned land. Considerations of public health and safety dictate not only that these wastes must be permanently isolated from man's biological environment but also that there must not be a proliferation of repositories for such wastes.

The Commission has also concluded that inventories of such wastes in liquid form must be limited to the quantity produced in the prior 5 years and that such wastes should be transferred in an AEC-approved solid form to a Federal repository as soon as practicable but in no event later than 10 years following generation in the reprocessing plant. The decay characteristics of reprocessing wastes are such that the major portion of the high-heat-emitting fission products will have decayed within 5 years. Beyond this point, the rate of change of heat output with time is minimal in terms of the thermal considerations associated with the solidification of the wastes and with their interim storage. The permissive 10-year waste retention would encompass the time period when the utilization efficiency of the Federal waste repository can change significantly as a function of waste age and during which the reprocessor can most beneficially utilize interim on-site storage to optimize his waste management system.

The Commission intends to develop and publish standards identifying the solid form or forms which the Commission will consider acceptable for transfer to the Federal repository. In general, the characteristics of the solid waste must be such as to provide, when considered with the other aspects of the shipping and handling system, reasonable assurance that no significant release of radioactivity to the environment can occur in the event of an accident during shipment.

Implementation of this policy relating to high-level radioactive wastes will eliminate the need for concern regarding the location and ownership of the reprocessing facility site to the extent that this concern relates to the proliferation of locations where storage of such wastes, for indefinite periods, would otherwise occur. With proper design and engineered safety systems, limited interim storage of high-level liquid waste is acceptable as a process step. Indefinite storage of high-level liquid waste in surface or near-surface facilities is not deemed an acceptable waste management practice.

The Commission is currently developing requirements and bases for operation of federally owned repositories for high-level waste disposal consistent with the need for such facilities by commercial fuel reprocessing plants. Estimated charges for waste disposal at a Federal repository are also being developed and, when available, will be published as information for industry.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following statement of policy is contemplated. All interested persons who desire to submit written comments or suggestions in connection with the proposed statement should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments on the proposed statement may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

A new Appendix D is added to 10 CFR Part 50 to read as follows:

APPENDIX D

POLICY RELATING TO THE SITING OF COMMERCIAL FUEL REPROCESSING PLANTS AND RELATED WASTE MANAGEMENT FACILITIES

1. Public health and safety considerations relating to commercial fuel reprocessing plants do not require that such facilities be located on land owned and controlled by the Federal Government. Such plants, including the facilities for the temporary storage of high-level liquid radioactive wastes, may be located on privately owned property. (For the purpose of this statement of policy, "high-level liquid radioactive wastes" means those aqueous wastes resulting from the operation of the first cycle solvent extraction system and the concentrated wastes from subsequent extraction cycles in a facility for reprocessing irradiated reactor fuels.)

2. A commercial fuel reprocessing plant's inventory of high-level liquid radioactive wastes will be limited in volume to the quantity produced in the prior 5 years. High-level liquid radioactive wastes in excess of this authorized inventory must be converted to an AEC-approved solid form. All high-level radioactive wastes must be transferred in the approved solid form to a Federal repository as soon as practicable, but in no event later than 10 years following separation of fission products from the irradiated fuel. Upon receipt the Federal repository will assume physical responsibility for these radioactive waste materials although industry will pay the Federal Government a charge which together with interest on unexpended balances will be designed to defray all costs of ultimate disposal and perpetual surveillance. Before retirement of the commercial reprocessing plant from operational status and before termination of licensing pursuant to § 50.82, transfer of all such wastes to a Federal repository must be completed. Federal repositories, which will be limited in number, will be designated later by the Commission.

3. Ultimate disposal of high-level radioactive fission product waste material will not be permitted on any land other than that owned and controlled by the Federal Government.

4. Commercial fuel reprocessing plants must be designed to facilitate decontamination and to facilitate removal of all significant radioactive wastes from the onsite interim storage facilities during decommissioning.

5. Applicants proposing to operate commercial fuel reprocessing plants, in submitting information concerning financial qualifications, as required by § 50.33(f), must include information enabling the Commission to determine whether the applicant is financially qualified, among other things, to provide for the removal and disposal of radioactive wastes, during operation and upon decommissioning of the facility, in accordance with the Commission's regulations, including the requirements set out in this appendix.

6. Radioactive hulls and other irradiated and contaminated fuel structural hardware may be disposed of by one of the following methods:

(a) Disposal in the same manner as high-level wastes; or

(b) Disposal at a licensed waste burial facility located on land owned by the Federal Government or by a State government as required by § 20.302 of this chapter.

7. Other solid wastes resulting from operation of commercial fuel reprocessing plants, such as ion exchange beds, asphalted sludges, vermiculited sludges, and contaminated laboratory items, clothing, tools, and equipment must be disposed of in accordance with Commission regulations for disposal of such materials in Part 20 of this chapter (e.g., disposal at a licensed waste burial facility located on land owned by the Federal Government or by a State government).

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 14th day of May 1969.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

[F.R. Doc. 69-6481; Filed, June 2, 1969; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

COMMODITY CREDIT CORPORATION

Designation of Special Series Certificate of Interest Under Securities Exchange Act of 1934

Notice is hereby given that I have today designated for exemption under authority of paragraph 12 of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)) all special issues of certificates of interest of the Commodity Credit Corporation denominated "Special Series Certificate of Interest".

This designation, which is made by virtue of the authority vested in me by Treasury Department Order No. 190, Revision 6, may be revoked, modified, or amended at any time with respect to certificates not issued prior to such time.

Dated: May 27, 1969.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 69-6497; Filed, June 2, 1969; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 5795; Survey Group 80]

WISCONSIN

Notice of Filing of Plat of Survey

1. The plat of survey of the following described lands, accepted April 9, 1969, will be officially filed in this office effective at 10 a.m. on July 1, 1969:

FOURTH PRINCIPAL MERIDIAN, WISCONSIN

T. 31 N., R. 28 E.,
Sec. 24, lots 5, 6, and 7;
Sec. 25, lots 2, 3, and 4;
Sec. 26, lot 2.

The lands described aggregate 243.34 acres.

2. This plat represents a dependent resurvey of a portion of the subdivision lines and an extension survey in secs. 24, 25, and 26. The new lottings and areas are the result of lands omitted from the original survey. They encompass the area between the original meander lines, which are recognized now as fixed boundary lines, and the present meander lines of Lake Michigan.

3. The character of the land area is gently rolling upland, and ranges up to 20 feet above the lake. The land is in all respects similar to the adjoining lands which were included in the original survey in 1835. The soil is mostly rich humus loam, with a rocky to boulder base, and a number of rock outcrops. This type of soil is found to be typical of the adjoining upland. The land coming under this survey is mostly covered with second-growth timber. The remains of old stumps indicate that these trees were at least 100 years old when they were cut. The stability of Lake Michigan, as evidenced by the rugged shore line, the elevation of the public land area above the lake, the age of the remains of tree stumps and timber growth, and the area's general characteristics afford positive evidence that the area was land in place on May 29, 1848, the day Wisconsin was admitted into the Union. It therefore has the status of public land and is well over 50 percent upland in character within the interpretation of the Swampland Act of September 28, 1850.

4. For a period of 90 days from July 1, 1969, the lands will be subject only to applications under the Act of February 27, 1925 (43 Stat. 1013; 43 U.S.C. 994).

5. All inquiries relating to these lands should be sent to the Manager, Eastern States Land Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Md. 20910.

DORIS A. KOIVULA,
Manager.

MAY 26, 1969.

[F.R. Doc. 69-6522; Filed, June 2, 1969; 8:50 a.m.]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 25, 1969, at page 2582, there was published a list of the properties included in the National Register of Historic Places.

Further notice is hereby given that certain amendments or revisions, in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following correction is to be made:

PENNSYLVANIA

Lycoming County

Williamsport, *Lycoming County Courthouse*, Destroyed.

The following properties have been added to the National Register since May 6, 1969;

ALABAMA

Mobile County

Mobile, *Fort Condé-Charlotte*, within an area bounded roughly by Emanuel, Theater, Royal, and Church Streets, and extending slightly north of Church Street.

DISTRICT OF COLUMBIA

Washington

Christ Church, 620 G Street SE.

MARYLAND

Anne Arundel County

Davidsonville vicinity, *All Hallows' Church*, intersection of Md. 2, All Hallows' Church Road, and South River Club Road.

Galesville vicinity, *Cedar Park*, 4.4 miles south of intersection of Md. 214 and 468 and 1.5 miles north of intersection of Md. 255 and 468.

Owensville vicinity, *Evergreen*, Sudley Road, 2 miles southeast of Md. 255.

Harwood vicinity, *Larkin's Hill Farm*, off Md. 2 on Mill Swamp Road.

Harwood vicinity, *Larkin's Hundred*, on Mill Swamp Road, 1 mile east of Md. 2 and 0.9 mile west of Md. 468.

Harwood vicinity, *Mary's Mount*, 0.5 mile east of Md. 2 and south of Mill Swamp Road.

Harwood vicinity, *Obligation*, west side of Md. 2, 0.2 mile south of intersection of Md. 2 and Mill Swamp Road.

South River vicinity, *The South River Club*, South River Club Road, 1 mile east of Md. 2 and 0.4 mile west of Md. 468.

MICHIGAN

Kent County

Grand Rapids, *Grand Rapids City Hall*, 35 Lyon Street NW.

MISSOURI

Cole County

Jefferson City, *Cole County Historical Society Building*, 109 Madison Street.

Jefferson City, *Governor's Mansion*, 100 Madison Street.

Cooper County

Boonville, *Lyric Theater*, northeast corner Main (Fifth) and Vine Streets.

Crawford County

Leasburg vicinity, *Scotia Iron Furnace Stack*, 6.3 miles southeast of Leasburg on County Route H.

Franklin County

Moselle vicinity, *Moselle Iron Furnace Stack*, 1 mile southeast of Moselle.

Gasconade County

Hermann, *Old Stone Hill, Inc.*, 401 12th Street.

Howard County

Glasgow, *Glasgow Public Library*, northwest corner, Market and Fourth Streets.

Iron County

Ironton, *St. Paul's Episcopal Church*, northwest corner, Knob and Reynolds Streets.

Jackson County

Kansas City, *Wornall House*, 146 West 61st Street.

Linn County

Laciede, *Pershing (General John J.) Boyhod Home*, State and Worlow Streets.

Monroe County

Florida vicinity, *Twain (Mark) Birthplace Cabin*, Mark Twain State Park, 0.25 mile south of Florida on Mo. 107.

Pemiscot County

Caruthersville vicinity, *Murphy Mound Archeological Site*, both sides of County Route D, 1.5 miles south of intersection of County Routes D and U.

Ste. Genevieve County

Ste. Genevieve, *Guibourd (Jacques Dubreuil) House*, northwest corner, Fourth and Merchant Streets.

St. Mary's vicinity, *The Kreilich Archeological Site*.

VIRGINIA

Alexandria (independent city)

The Lyceum, 201 South Washington Street.

ERNEST ALLEN CONNALLY,
Chief, Office of Archeology and Historic Preservation.

[F.R. Doc. 69-6536; Filed, June 2, 1969; 8:50 a.m.]

Office of the Secretary

MONSE UNIT OF COLVILLE INDIAN IRRIGATION PROJECT, WASH.

Notice of Satisfaction of All Federal Irrigation Charges, Release of Liens for Such Charges, and Termination of Federal Responsibility

Whereas, Public Utility District No. 1, Douglas County, State of Washington, is the licensee under the Wells Hydroelectric Project, Federal Power Project No. 2149, Washington, on the Columbia River in Douglas, Chelan, and Okanogan Counties, Wash.; and

Whereas, the Monse Unit of the Colville Irrigation Project, Colville Indian Reservation, included allotted and tribal lands of the reservation all of which have been purchased by Public Utility District No. 1 for the Wells Project as a result of which Indian title to such lands has been extinguished, the lands being no longer held in trust by the United States; and

Whereas, all reimbursable irrigation charges against the lands within the Monse Unit of the Colville Indian Irrigation Project owing to the United States for construction, operation and maintenance have been fully satisfied or paid; and

Whereas, the use of the former Indian lands by the Wells Project involves the inundation of much of the land, necessitates the destruction of irrigation facilities, and is inconsistent with the continued operation of the Monse Unit of the Colville Irrigation Project;

Now, therefore, notice is hereby given that as a result of the acquisition of all Monse Unit lands for the Wells Project, and of the satisfaction of all charges owing against them to the United States, all liens to secure such payment to the United States are hereby released and in view of the physical impossibility of the continued operation of the Monse Unit, the administrative obligation and responsibility of the United States to operate and maintain the Monse Unit of the Colville Indian Reservation have been terminated.

RUSSELL E. TRAIN,
Under Secretary of the Interior.

MAY 27, 1969.

[F.R. Doc. 69-6478; Filed, June 2, 1969; 8:46 a.m.]

E. A. VAUGHEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of March 15, 1969.

Dated: May 21, 1969.

E. A. VAUGHEY.

[F.R. Doc. 69-6464; Filed June 2, 1969; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the lists (34 F.R. 2330, 5084, 6125, and 7251) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act (34 Stat. 1260, as amended by Public Law 90-201) and which use humane methods of slaughter and incidental handling of livestock are hereby amended as follows:

The reference to swine with respect to Beeville Packing Co., establishment 377, is deleted. The references to sheep and goats with respect to Carteret Abattoir, Inc., establishment 639, are deleted. The reference to calves with respect to Granite State Packing Co., establishment 785, is deleted. The reference to H.A.S. Sweetmeat, Inc., establishment 7025, and the reference to swine with respect to such establishment are deleted.

The following table lists species at additional establishments and additional species at previously listed establishments that have been reported as being slaughtered and handled humanely.

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Momence Pork Packers Co.	282					(*)		
Virgin Islands Packing Plant	482	(*)		(*)	(*)	(*)		
Sioux Beef Co.	857-0	(*)						
Johnsville Packing Co.	2402	(*)						
J. G. Forte, Inc.	5364		(*)	(*)				
O. K. Meat Packing Co., Inc.	6001	(*)	(*)	(*)		(*)		
Star Meat Co.	6760					(*)		
Jimmy Dean Meat Co.	7012					(*)		
Coleman Sausage Co.	7401					(*)		
New establishments reported: 9.								
D. E. Nebergal Meat Co.	3-DE		(*)					
Hygrade Food Products Corp.	12-FW		(*)					
Loeb & Gottfried, Inc.	658		(*)					
Greensboro Packing Co., Inc.	1825					(*)		
Ridley Packing Co.	2265	(*)	(*)					
Zweigart Packing Corp	2863			(*)				
Interstate Packing Co	7056					(*)		
Species added: 8.								

Done at Washington, D.C., on May 27, 1969.

R. K. SOMERS,
Deputy Administrator, Consumer Protection.

[F.R. Doc. 69-6482; Filed, June 2, 1969; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-238]

OCEANIC STEAMSHIP CO.

Notice of Application

Notice is hereby given that The Oceanic Steamship Co. has filed an application, dated May 15, 1969, requesting written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, to permit its parent, Matson Navigation Co., who operates the unsubsidized passenger ship "SS Lurline", to carry one-way coastwise passengers from Los Angeles and San Francisco, Calif., to San Diego, Calif., on a Caribbean cruise and a South American cruise commencing November 5, 1969, and January 10, 1970, respectively, and on the November 5, 1969, cruise to carry one-way intercoastal passengers from San Francisco, Los Angeles and San Diego, Calif., to San Juan, Puerto Rico, and St. Thomas, Virgin Islands, and one-way intercoastal passengers from St. Thomas, Virgin Islands and San Juan, Puerto Rico, to Los Angeles and San Francisco, Calif.

Interested parties may inspect this application in the Office of Government Aid, Maritime Administration, Room 4077,

GAO Building, 441 G Street NW., Washington, D.C.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on June 12, 1969, file same with the Secretary, Maritime Subsidy Board/Maritime Administration in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

Notwithstanding anything in § 201.78 of the rules of practice and procedure (46 CFR Part 201), petitions for leave to intervene received after the close of business on June 12, 1969, will not be considered in this proceeding.

If no petitions for leave to intervene are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for June 19, 1969, at 10 a.m. in Room 4519, General Accounting Office Building, 441 G Street NW., Washington, D.C. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal service or (b) would be prejudicial to the objects and policy of the Act.

Dated: May 29, 1969.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 69-6571; Filed, June 2, 1969; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

RESIDENCE

Notice of Interim Policies and Requirements

Notice is hereby given that the regulations set forth below prescribe interim policies and requirements relating to the use of a residence requirement as a condition for approval of a State plan under sections 2, 402, 1002, 1402, or 1602 of the Social Security Act (42 U.S.C. 302, 602, 1202, 1352, 1382). These regulations are effective upon publication in the FEDERAL REGISTER. They are responsive to the decision of the U.S. Supreme Court in the case of Shapiro v. Thompson, April 21, 1969.

Interested persons who wish to submit comments, suggestions, or objections thereto may present their views in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

The regulations are issued under the authority contained in sections 2, 402, 1002, 1402, and 1602 of the Social Security Act, 49 Stat. 620, 627, 645, 64 Stat. 555, and 76 Stat. 198, respectively, and section 1102 of the Social Security Act, 49 Stat. 647; 42 U.S.C. 302, 602, 1202, 1352, 1382, and 42 U.S.C. 1302.

Dated: May 19, 1969.

JOSEPH H. MEYERS,
For Administrator, Social and Rehabilitation Service.

Approved: May 29, 1969.

ROBERT H. FINCH,
Secretary.

RESIDENCE

SEC. 202.3 *Condition of plan approval; prohibition against exclusion of residents.* (a) A State plan for OAA, AFDC, AB, APTD, or AABD, to be approved under section 2, 402, 1002, 1402, or 1602, as the case may be, of the Social Security Act (42 U.S.C. 302, 602, 1202, 1352, 1382) may not impose, as a condition of eligibility for such aid or assistance, any residence requirement which excludes any individual who resides in the State.

(b) A State plan which conditions eligibility upon residence in the State may not exclude from eligibility any individual who resides in the State under the following definition:

> A resident of a State is one who is living in the State voluntarily and not for a temporary purpose, that is, with no intention of presently removing therefrom. A child is "residing in the State" if he is making his home in the State. Temporary absence from the State, with subsequent returns to the State, or intent to return when the purposes of the absence have been accomplished, shall not interrupt continuity of residence.

Residence as defined for eligibility purposes under a State plan may not depend upon the reason for which the individual entered the State, except insofar as it may bear upon whether he is there for a "temporary purpose."

(c) A State must determine eligibility for aid or assistance with respect to a person's status as a resident of that State in accordance with the general Federal policies on acceptance of applications and determination of eligibility, including the requirement that prompt action will be taken on each application.

(d) Any State which has imposed, as a condition of eligibility, a requirement which is inconsistent with the provisions in paragraph (a) or (b) of this section must provide effective methods for giving notice of its present requirement to former or potential applicants for OAA, AFDC, AB, APTD, or AABD and to other interested persons. The methods which the State agency proposes to meet this notice requirement must be submitted to and be approved by the Regional Commissioner, SRS, DHEW. In addition, where the records of the State agency permit identification of persons whose applications have been denied at any time within the past year by reason of such an inconsistent requirement, the State agency must give prompt written notification to such persons concerning the change in that requirement. Such notification must be given within 90 days of publication of these regulations and must clearly explain the rights which such persons have under these regulations.

[F.R. Doc. 69-6547; Filed, June 2, 1969; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 69-56]

BUNGE CORP.

Notice of Qualification as U.S. Citizen

This is to give notice that pursuant to 19 CFR 3.21 (§ 3.21, Customs Regulations), issued under the provisions of section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883-1), the Bunge Corp. of 1 Chase Manhattan Plaza, New York, N.Y., incorporated under the laws of the State of New York, did on May 4, 1969, file with the Commandant of the U.S. Coast Guard, in duplicate, an oath for qualification of a corporation as a citizen of the United States following the form of oath prescribed in Form 1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States (list of names, home addresses, and citizenship attached to the oath);

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States, or in a territory, district, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States, its territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, U.S. Coast Guard, having found this oath to be in compliance with the law and regulations, on May 26, 1969, issued to the Bunge Corp. a certificate of compliance on form 1262, as provided in 19 CFR 3.21(i) (§ 3.21(i), Customs Regulations). The certificate

and any authorization granted thereunder will expire 3 years from the date thereof unless their first occurs a change in the corporate status requiring a report under 19 CFR 3.21(h) (§ 3.21(h), Customs Regulations).

Dated: May 26, 1969.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 69-6511; Filed, June 2, 1969; 8:49 a.m.]

[CGFR 69-52]

KANSAS CITY, MO., AND OMAHA, NEBR.

Revocation of Designations as Ports of Documentation

Notice of the proposed revocation of the designations of Kansas City, Mo., and Omaha, Nebr., as ports of documentation and the transfer of the documentation records to the office of the Commander, 2d Coast Guard District, St. Louis, Mo., was published in the FEDERAL REGISTER of April 5, 1969 (34 F.R. 6209), as CGFR 69-8.

By virtue of the authority contained in sec. 1, 63 Stat. 545, sec. 2, 23 Stat. 118, sec. 1, 43 Stat. 947, sec. 6(b), 80 Stat. 937; 14 U.S.C. 633, 46 U.S.C. 2, 46 U.S.C. 18, 49 U.S.C. 1655(b); 49 CFR 1.4(a)(2), the following action is hereby taken effective June 30, 1969:

(a) The designations of Kansas City, Mo., and Omaha, Nebr., as ports of documentation are revoked;

(b) The documentation records at Kansas City, Mo., and Omaha, Nebr., are transferred to the office of the Commander, 2d Coast Guard District, 1520 Market Street, Federal Building, St. Louis, Mo. 63103; and

(c) St. Louis is designated as home port of all vessels now having Kansas City and Omaha as home port.

Vessels marked with the name of Kansas City or Omaha as home port shall be deemed to be properly marked within the meaning of section 4178 of the Revised Statutes, as amended (46 U.S.C. 46), and the regulations issued thereunder, for a period of 2 years from the effective date of this order.

Dated: May 26, 1969.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 69-6512; Filed, June 2, 1969; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21040]

ALLEGHENY AIRLINES, INC.

Notice of Application for Amendment of Certificate of Public Convenience and Necessity

MAY 26, 1969.

Notice is hereby given that the Civil Aeronautics Board on May 23, 1969, received an application, Docket 21040, from Allegheny Airlines, Inc., for amendment of its certificate of public convenience and necessity for route 97 to authorize it to engage in nonstop service between Baltimore, Md., and Norfolk, Va. The applicant requests that its application be processed under the expedited procedures set forth in Subpart M of Part 302 (14 CFR Part 302).

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69-6502; Filed, June 2, 1969; 8:48 a.m.]

[Docket No. 20928]

AMERICAN AIRLINES, INC., ET AL.

Notice of Prehearing Conference

Passenger fare revisions proposed by American Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 11, 1969, at 10 a.m., e.d.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Thomas P. Sheehan.

Evidence requests, proposed procedural dates, statements of issues, and statements of position shall be filed with the Examiner and on all other parties on or before June 5, 1969.

Dated at Washington, D.C., May 27, 1969.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 69-6503; Filed, June 2, 1969; 8:48 a.m.]

[Docket No. 19958]

AVION, INC., ET AL.

Enforcement Proceeding; Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding now assigned to be held on June 5, 1969, is hereby postponed indefinitely.

Dated at Washington, D.C., May 27, 1969.

[SEAL] EDWARD T. STODOLA,
Hearing Examiner.

[F.R. Doc. 69-6504; Filed, June 2, 1969; 8:49 a.m.]

[Docket No. 20648; Order 69-5-128]

EASTERN AIR LINES, INC.

Order Setting Application for Hearing

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of May 1969.

On January 10, 1969, Eastern Air Lines, Inc. (Eastern), filed an application for authority to suspend service temporarily at Reading, Pa., and submitted for approval an agreement[1] between it and Suburban Air Lines (Suburban), division of Reading Aviation Service, Inc., under which Suburban would replace Eastern in the Reading-Washington, D.C. market.

The Reading Airport Authority, General Airlines, Inc., and the Air Line Pilots Association, International, filed answers in opposition to Eastern's application. Eastern and Suburban filed replies to these answers together with motions for leave to file the replies.

Upon consideration of the pleadings and all the relevant facts, we have decided to set the matter for hearing. The hearing shall be limited to the question of whether the Eastern-Suburban agreement should be approved and Eastern's authority at Reading temporarily suspended.

The issues presented appear largely to involve questions of policy and law which can and should be argued on brief. The areas of factual controversy appear to be limited and therefore we think it should be possible to accelerate the hearing process. To this end the hearing examiner assigned to this proceeding will request each party to submit a statement of facts upon which the party in question intends to rely in support of its position. Such statements of fact will be circulated among all parties prior to the prehearing conference. At the prehearing conference the parties will be requested to stipulate as many of these facts as possible. We expect all parties to cooperate with this procedure which we believe will result in accelerating the hearing and decisional process.

Accordingly, it is ordered, That:

1. The application of Eastern Air Lines, Inc., in Docket 20648 and CAB Agreement No. 20756, be and they hereby are set for hearing;

2. The motions of Eastern Air Lines, Inc., and Suburban Air Lines, division of Reading Aviation Service, Inc., for leave to file replies, be and they hereby are granted;

3. Motions to consolidate applications, motions or petitions, seeking modification or reconsideration of this order, be filed no later than 20 days after the date of service of this order, and that answers to such pleadings be filed no later than 10 days thereafter;

4. This proceeding shall be set down for hearing before an examiner of the Board at a time and place hereafter designated; and

5. A copy of this order be served upon Eastern Air Lines, Inc., Reading Aviation Service, Inc., General Airlines, Inc., the Air Line Pilots Association, International, and the Reading Airport Authority who are hereby made parties to this proceeding.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69-6506; Filed, June 2, 1969; 8:49 a.m.]

[1] On Feb. 19, 1969, Eastern filed a minor amendment to the agreement.

[Docket No. 20781; Order 69-5-122]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority on May 26, 1969.

By Order 69-5-46, dated May 12, 1969, action was deferred, with a view toward eventual approval (subject to condition), on certain resolutions adopted by Joint Conferences 1-2 and 1-2-3 of the International Air Transport Association (IATA). The resolutions include amendments relating to round-trip fares on North and Mid Atlantic routes, which the Board has approved through March 31, 1970, and set for investigation in Order 69-4-138. The resolutions would preclude use of domestic round-trip discounts in countries where they are now offered in the construction of through international round-trip fares, and would amend 14-21-day excursion fares so as to clarify that children's discounts will apply with respect to weekend surcharges.

In deferring action on the agreements, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period, and the tentative conclusions in Order 69-5-46 will herein be made final.

Accordingly, it is ordered, That:

1. Agreement CAB 20939 is approved: *Provided*, Such approval shall be limited through March 31, 1970: *Provided further*, That this agreement shall be incorporated into the investigation in this docket, instituted by Order 69-4-138; and

2. Agreements CAB 20948 and CAB 20954 are approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69-6507; Filed, June 2, 1969; 8:49 a.m.]

[Docket No. 19922, etc.]

STANDARD AIRWAYS, INC., ET AL.

Notice of Prehearing Conference

Applications of Standard Airways, Inc., Loeb, Rhodes & Co., Wertheim & Co., Louis E. Silver et al., and Harold J. Caldwell et al., for approval of control and interlocking relationships.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 16, 1969, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Edward T. Stodola.

Dated at Washington, D.C., May 27, 1969.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 69-6505; Filed, June 2, 1969; 8:49 a.m.]

[Docket No. 20976]

PAN AMERICAN WORLD AIRWAYS, INC.

Notice of Postponement of Prehearing Conference

Increased freight rates between Miami and San Juan and from Seattle/Portland to Fairbanks proposed by Pan American World Airways, Inc.

Pan American World Airways, Inc., has requested special tariff permission to cancel the proposed freight rate increases which were ordered investigated in this docket. Under this circumstance the prehearing conference scheduled to be held on June 4, 1969, will be postponed indefinitely.

Dated at Washington, D.C., June 2, 1969.

[SEAL] THOMAS P. SHEEHAN,
Hearing Examiner.

[F.R. Doc. 69-6623; Filed, June 2, 1969; 11:03 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Director, Office of Program Planning, Office of the Secretary.

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

[F.R. Doc. 69-6485; Filed, June 2, 1969; 8:47 a.m.]

DEPARTMENT OF DEFENSE

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Director of Economic Utilization Policy" to "Director of Small Business & Economic Utilization Policy."

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

[F.R. Doc. 69-6486; Filed, June 2, 1969; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under the authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Interdepartmental Affairs, Office of the Assistant Secretary for Planning and Evaluation.

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

[F.R. Doc. 69-6487; Filed, June 2, 1969; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 212.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Special Assistant to the Secretary" to "Assistant to the Under Secretary for Environmental Planning."

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

[F.R. Doc. 69-6488; Filed, June 2, 1969; 8:47 a.m.]

POST OFFICE DEPARTMENT

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Deputy Assistant Postmaster General for Field Operations" to "Deputy Assistant Postmaster General for Field Services".

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

[F.R. Doc. 69-6489; Filed, June 2, 1969; 8:47 a.m.]

DEPARTMENT OF THE TREASURY

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Director, Office of Tax Analysis" to "Deputy Assistant Secretary and Director, Office of Tax Analysis."

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

[F.R. Doc. 69-6490; Filed, June 2, 1969; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18554; FCC 69-549]

AIRSIGNAL INTERNATIONAL, INC.

Memorandum Opinion and Order Designating Request for Hearing on Stated Issues

In re applications of Airsignal International, Inc., Docket No. 18554, for authorization to become a Commission licensee in the domestic public land mobile radio services.

1. The Commission has for consideration (a) applications of Airsignal International, Inc. (ASI), for licenses for facilities in the Domestic Public Land Mobile Radio Services (DPLMRS), (b) petitions seeking to deny and/or dismiss certain of these applications[1] alleging inter alia that a grant of a license to ASI would be contrary to the provisions of section 310 of the Communications Act, as amended and (c) appropriate responsive pleadings.

2. Briefly, the following are the salient facts. ASI, a newly organized corporation, is part of a corporate family reorganization to permit more efficient operation of the radio common carrier stations under one corporate licensee and to facilitate ASI's expansion in DPLMRS. More specifically, the family structure consists of the parent corporation, International Utilities Corp. (IU), a Maryland corporation with its principal offices and residence in Toronto, Canada; ASI and General Waterworks Corp. (GWC), both domestic wholly owned subsidiary corporations of IU; and numerous corporate licensees in DPLMRS, which in turn are wholly owned subsidiaries of GWC.[2] As presently constituted, IU has four alien officers, nine out of the 15 directors are aliens, four out of six executive committee members are aliens, and aliens own 42 percent of all classes of issued IU stock as well as 67 percent of issued IU common stock. The IU stockholders elect the board of directors, and the board then designates two or more of its own members to function as an executive committee.

3. Petitioners contend that since IU is the owner of all of the ASI stock, IU's alien characteristics serve as a bar to ASI's becoming a Commission licensee in view of the provisions of section 310 (a)(4) and (a)(5) of the Act.[3] They urge essentially that IU's sole stockholder status of ASI stock constitutes more than one-fifth of the capital stock which is owned of record or voted by aliens allegedly prohibited by (a)(4); that while aliens own less than a majority of all issued stock, they do own more than the 25 percent statutory amount ((a)(5)); that although there is no information to indicate whether the foreign owned voting stock is voted as a block, or whether substantial portions are owned by individual foreigners or foreign corporation, the alien interests are known to be of a sizeable percentage and as such have it within their power to exercise effective working control over the corporation; that the alien majority of the board of directors and executive committees establishes this fact; that the control is manifested in the board's expressed authorization to exercise all powers of the corporation (subject to stockholders right to overrule), to sell, lease, or otherwise dispose of property and appoint, remove or suspend any officers, agents, or factors; that further control stems from the authorization vested in the executive committee[4] to exercise all of the powers of the board; that clearly therefore, the day-to-day operation of IU is in the control of foreigners who are obligated to carry out the will of the stockholders in the course of this day-to-day operation; that in light of all of these factors, the Commission must look beyond the "nationality" of the parent corporation and find ASI ineligible to hold a radio station license because of this alien domination and control exercised by IU; that this affiliation becomes more significant when considered in light of ASI's extended interest in preempting the available RCC paging frequencies in 26 major markets with the possibility of establishing an alien dominated network in the small RCC businessmen's paging market.[5] Additionally, petitioners contend that the financial relationship between ASI and IU raises a question of the "real party in interest."[6]

4. ASI, in opposition asserts that, since no officer or director of ASI is, nor has one ever been, an alien, it is fully qualified to become a licensee under section 310(a)(4); that likewise since IU is a domestic corporation organized under the laws of Maryland, section 310(a)(5) is no bar to ASI's qualifications as a Commission licensee; that only "out of an abundance of caution" IU and ASI have passed several resolutions[7] limiting the

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[1] Petitions were filed by the following existing licensees or competing applicants against ASI's applications for facilities on the recently allocated 150-162 Mc/s "guardband" frequencies: American Radio-Telephone Service, Inc., Central Mobile Radio Phone Service, and Cleveland Mobile Telephone, Inc. (Jointly v. Baltimore, Toledo, and Cleveland applications); Radio Broadcasting Co., and Radio Dispatch Co. (v. Wilmington application); Mobile Communications Service (v. Portland, Oreg. application); All City Telephone Answering Service, Inc. (v. Milwaukee application); Instant Communications, Inc. (v. Detroit application); Howard Hicks, Tel-Car Corp. and Abe Schonfeld (v. Fort Lauderdale and Miami); General Communications System (v. Wichita); Answer, Inc. (v. San Antonio); Dee Wefmore doing business as West Side Answering Service, and Peacock Radio Service (v. Tampa); Answer Iowa, Inc. (v. Des Moines); Answering, Inc. (v. Oklahoma City); Redco Corp., Roy M. Teel and Lowry McKee doing business as Mobilefone (v. Tulsa). No protests or petitions to deny alleging alien control have been filed against the assignment applications.

[2] ASI seeks the assignment of 11 of these licenses.

[3] Section 310 of the Act in pertinent part reads as follows: (a) The station license required hereby shall not be granted to or held by—(4) any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country; (5) any corporation directly or indirectly controlled by any other corporation of which any officer or more than one fourth of the directors are aliens, or of which more than one fourth of the capital stock is owned of record or voted after June 1, 1935, by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or the revocation of such license.

[4] The board of directors is authorized to designate two or more of its members to constitute the executive committee.

[5] ASI has filed 11 assignment applications for existing facilities licensed to the subsidiary corporations of GWC; applications for guardband facilities in 26 major cities for 36 locations requesting 46 frequencies; and an application for assignment of license from J. J. Frehe-Hayes and Calvin H. Rich, doing business as Alexander Telephone Answering Service, Memphis, Tenn., to ASI for one way signaling on 152.60 Mc/s band.

[6] ASI's initial financial statement indicated a capitalization of $100,000 (its sole assets in cash) and a $1 million line of credit from IU. This has been changed by the filing of an amended financial statement to indicate that ASI now has available the entire $1 million with the $900,000 made available to it as a contribution of capital from IU in the form of paid surplus evidenced by a demand note.

[7] On Dec. 6, 1968, the following resolutions were passed: (a) Certificate of resolution of the Executive Committee of the Board of Directors of International Utilities Corp.; (b) Airsignal International, Inc., Action by Written Consent of Sole Stockholder; (c) Airsignal International, Inc., Action by Unanimous Written Consent of Directors; (d) Certificate of Amendment of Certificate of Incorporation; (e) Airsignal Stock Certificate Evidencing Voting Right by U.S. Citizen Only.

voting of ASI stock to U.S. citizens, and ASI has had the appropriate legend affixed to the stock certificate; that the citizens voting ASI stock are IU designees and not representatives of the alien directors and/or alien stockholders of IU; that there is no privity between the alien directors and stockholders of IU and the American citizens who will vote ASI stock; that the privity is between the American citizens voting the stock and IU, the domestic corporation; that the situation now is no different from the one presented in February 1968, and for which the Commission found that an authorization for the transfer of control request from GWC to IU would be in the public interest; that in both instances the ultimate ownership and control vests in IU; [8] that all parties concerned are aware of the provisions of section 310 of the Act and propose to operate within the authorized framework thereof.

5. Although we appreciate ASI's efforts to accommodate the requirements of section 310 of the Act, we believe nevertheless that certain significant questions have been raised in the petitions concerning ASI's legal qualifications and for which no satisfactory answers have been advanced. For example, although ASI and IU have by resolutions attempted to limit the voting of ASI stock by U.S. citizens only, no specific explanation is offered as to how this is to be accomplished. IU's stockholders vote for the board of directors—alien or nonalien—and they in turn together with their executive committee designees conduct the business of the corporation in the best interest of the stockholders. Thus, even assuming that the minority members in each instance are U.S. citizens, are they not duty bound to carry out the interest of the entire board to the best interest of the corporation? This question is especially pertinent when the funds of the IU stockholders are extended for the ASI operation, and ASI has no assets to pledge other than the potential of its future operation. There is the additional collateral question as to whether IU, under its charter and bylaws, is at liberty to sanction the proposed form of limited voting by its authorized operating bodies.

6. Of further paramount concern is the extent to which ASI with its foreign association, capital, and possible alien domination, proposes to penetrate the American DPLMRS market. In this regard, the present posture differs from the one presented to the Commission in 1968, for at that time the transfer of control concerned a small number of existing facilities licensed to independent corporations with established managerial and operational formats, and for which the status quo was to be maintained. Now, on the other hand, ASI seeks a direct assignment of these existing licenses together with authorizations for new facilities in 26 cities with a total population of approximately 16,100,000 persons, for which no precedent exists for the managerial operation. The relationship between ASI and IU and the possible domination and control of the latter over the former is therefore of substantial significance.

7. The new corporate family structure as outlined in paragraph 2, supra, poses the following additional problem for consideration. Although IU has no direct interest in any landline telephone company or landline holding company, just as it has no direct interest in any of the land mobile radio telephone service, GWC, its other wholly owned subsidiary, has significant interests in each. GWC for example, has numerous subsidiaries engaged in rendering telephone answering services throughout the country. In addition, it holds an interest in approximately 4 percent of the common stock of Continental Telephone Corp., a holding company with major or controlling interests in numerous domestic telephone companies.[9] In many cases, the provisions of land mobile radiotelephone service is an important supplementary service to the telephone answering business and, accordingly many telephone answering services obtain licenses in DPLMRS, rendering a common carrier service, in addition to their telephone answering business. Moreover, many telephone answering services enter into dispatch arrangements with RCC's for the dispatching of the carrier mobile units. IU as the parent corporation, appears to be aligning the two services in the hands of each of its completely held subsidiaries—ASI for the land mobile service and GWC for the telephone answering or landline service. It is conceivable under these circumstances, that the alien dominated IU could create a major monopoly in DPLMRS. Further, GWC's interest in a wireline carrier must be evaluated for its relationship as to ASI's eligibility to use frequencies assigned pursuant to § 21.501(c) of the rules.[10] We therefore believe that GWC's present and proposed landline holdings and interest in telephone answering services, and the relationship thereof with the land mobile services which ASI seeks, is a further relevant area of inquiry.

8. On the facts presented in the petitions and opposing pleadings, we are unable to make the necessary public interest finding with respect to ASI's legal qualifications to be a Commission licensee. Thus, we have no choice but to designate the matter for hearing on appropriate issues. In view of the fact that the question presented goes to the basic qualification of ASI, to be a licensee, and is applicable to all of the applications filed by ASI, opposed or otherwise, we feel that a resolution thereof prior to consideration of the individual applications in other respects will serve ultimately to simplify such subsequent proceedings and elimate duplication.[11] However, the issuance of licenses on the guardband frequencies in the 26 markets here involved is being held in abeyance pending such determination. We will therefore require that the hearing process be conducted as expeditiously as possible and the Examiner is directed to issue his initial decision as promptly as possible after the conclusion of the hearing and his examination of proposed findings and conclusions. Further, pursuant to § 0.365 of the rules, any review of the initial decision shall be by the Commission and not the Review Board.

Accordingly, it is ordered, That pursuant to section 309(d) of the Communications Act of 1934, as amended, the request for authorization by Airsignal International, Inc., to become a Commission licensee in the Domestic Public Land Mobile Radio Services is designated for hearing, at the Commission's office in Washington, D.C., on a date to be hereafter specified on the following issues:

1. To determine the nature and extent of alien control of IU.

2. To determine the nature and extent of control by IU of ASI and GWC.

3. To determine the effect of the resolution of the board of directors of IU to restrict and/or limit the voting of ASI stock to members of its board of directors and executive committee who are U.S. citizens; whether such act is in fact permissible under the corporate charter and bylaws as well as under corporate law generally; and whether the disclaimer by the majority of the members of the board of directors to participate in the voting of ASI stock is in keeping with the fiduciary relationship which exists between the board of directors in its entirety and the stockholders—alien and nonalien—who elect them.

4. To determine the present and proposed policy of ASI with respect to its penetration into the land mobile radiotelephone service, and the nature and extent of the areas proposed to be served.

5. To determine the present and proposed policy of GWC with respect to its pentration into the telephone answering service, and the nature and extent of the areas proposed to be served.

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[8] On Feb. 14, 1968, the Commission found that a transfer of control from GWC to IU would serve the public interest, convenience, and necessity. As a result thereof, IU became the holder of all of GWC's stock with GWC remaining the holder of all of the stock of each of the subject corporate licensees in DPLMRS.

[9] Since landline and miscellaneous common carrier frequencies are separately allocated, because GWC held stock in landline message telephone operations when it sought to acquire control of MCC stations, the licenses were granted subject to the following condition: "The licensee herein is hereby required to promptly report to the Commission any and all future acquisitions of interest, direct or indirect, in domestic public landline message telephone operations; and, with any application for renewal of the subject station licenses, the transferee shall include a detailed current showing of its interest, direct or indirect, in domestic public landline message telephone operations."

[10] ITT Mobile Telephone, Inc., F.C.C. 63-1064, released Nov. 20, 1963.

[11] On Apr. 30, 1969, a "Petition to Declare (sic) Airsignal International Inc. Ineligible for Radio Station Authorizations" was filed on behalf of 24 existing radio common carrier licensees. In view of the Commission action herein, this petition together with any responsive pleadings, will be dismissed as moot.

6. To determine (a) the nature and extent of GWC holdings in wireline carriers, and (b) the present policy and proposed future plans of GWC with respect to any acquisition of wireline holdings.

7. To determine whether the alignment of the two services in the hands of the two completely held subsidiaries as established pursuant to Issues 4 and 5, will afford IU an opportunity to create a major monopoly in DPLMRS; and whether the same may not constitute a domination of the radio spectrum by a foreign or alien controlled corporation.

8. To determine whether a grant of the authorization to ASI to become a Commission licensee would be consistent with the provisions of section 310(a)(5) of the Communications Act, as amended.

9. To determine whether in the final analysis, on the basis of all of the above, the public interest would be served by permitting ASI to become a Commission licensee in the land mobile radiotelephone service.

It is further ordered, That the examiner shall conduct the hearing expeditiously and issue an initial decision as promptly as possible in accordance with paragraph 8 herein.

It is further ordered, That pursuant to § 0.365 of the rules, any review of the initial decision shall be by the Commission and not the Review Board.

It is further ordered, That interested parties may avail themselves of the opportunity to be heard by filing with the Commission, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within twenty (20) days of the release date hereof, a written notice stating an intention to appear on the date set for the hearing and present evidence on the issues specified in this memorandum opinion and order.

It is further ordered, That the "Petition to Delcare [sic] Airsignal International Inc. Ineligible for Radio Station Authorizations" filed on April 30, 1969 on behalf of existing radio common carrier persons and companies is hereby dismissed as moot.

Adopted: May 21, 1969.

Released: May 27, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[12]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-6514; Filed, June 2, 1969; 8:49 a.m.]

[Docket No. 18555; FCC 69-567]

LOUISIANA TELEVISION BROADCASTING CORP. (WBRZ (TV))

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of Louisiana Television Broadcasting Corp. (WBRZ(TV)), Baton Rouge, La., Docket No. 18555, File No. BPCT-4173; for construction permit to change facilities.

[12] Commissioner Wadsworth absent.

1. The Commission has before it for consideration a (a) "Petition for Reconsideration," filed March 3, 1969, by Southwestern Louisiana Communications, Inc. (Southwestern), licensee of Television Broadcast Station KLNI-TV, channel 15, Lafayette, La., requesting reconsideration of the action of the Chief, Broadcast Bureau, granting the application (BPCT-4173) of Louisiana Television Broadcasting Corp. (Louisiana), licensee of Television Broadcast Station WBRZ(TV), channel 2, Baton Rouge, La., for authority to relocate its transmitter from a point near Baton Rouge, approximately 55 miles from Lafayette and 51 miles from New Iberia, to a point 10 miles south, approximately 50 miles from Lafayette and 45 miles from New Iberia, and to increase antenna height from 893 feet above average terrain to 1,685 feet above average terrain; (b) an "Opposition to the Petition for Reconsideration," filed April 1, 1969, by Louisiana; and a (c) "Reply to the Opposition to the Petition for Reconsideration," filed April 18, 1969, by Southwestern.[1]

2. Southwestern claims standing pursuant to section 405 of the Communications Act of 1934, as amended, and in support alleges that Station WBRZ(TV) is now in direct competition with Station KLNI-TV for audience and revenues, that both stations are affiliates of the same network and the resulting change of facilities proposed by Louisiana will bring a stronger signal into KLNI-TV's service area, resulting in an adverse impact upon KLNI-TV's viewing audience, and that as a result, Southwestern will suffer economic injury and would otherwise be adversely affected. We find that Southwestern has standing. Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470, 60 S. Ct. 693, 9 RR 2008 (1940).

3. Louisiana's application was granted on January 27, 1969, and public notice of the action of the Chief, Broadcast Bureau, was given on January 30, 1969. Southwestern filed the petition for reconsideration on March 3, 1969, which is within the 30-day period specified by section 405 of the Act. Therefore, the petition was timely filed. However, § 1.106(b) of the Commission's rules provides, in part, that a person who is not a party to the proceeding and who files a petition for reconsideration "* * * shall show good reason why it was not possible for him to participate in the earlier stages of the proceeding." Southwestern, while acknowledging that a pregrant informal objection could have been filed, makes no showing as to why one was not filed. Therefore, the petition is defective, Springfield Television Broadcasting Corporation v. Federal Communications Commission, 117 U.S. App. D.C. 214, 328 F. 2d 186 (1964); Valley Telecasting Company v. Federal Communications Commission, 118 U.S. App. D.C. 410, 316 F. 2d 914 (1964). However, in view of the substantial public interest question raised by Southwestern, we shall, on our own motion, waive the provisions of section 1.106 of the rules and consider the petition.

4. Southwestern petitions the Commission to set aside the action of the Chief, Broadcast Bureau, and designate the application for a hearing on a UHF impact issue. In support of its request, Southwestern states that its Station KLNI-TV, channel 15, Lafayette, La., which is authorized to identify as a "Lafayette-New Iberia, La." station, commenced operation in September of 1968, is affiliated with the NBC television network, but has not obtained a network rate because it has not yet developed sufficient audience. Louisiana's Station WBRZ(TV), channel 2, Baton Rouge, La., is also affiliated with the NBC television network and has a secondary affiliation with the ABC television network. It is alleged that the proposed change of facilities will increase the population in the overlap area between the two stations' predicted Grade A contours from approximately 5,375 people to 82,668 people, a 15-fold increase; that the present predicted Grade A contour of WBRZ(TV) overlaps approximately 2,562 people in KLNI-TV's City Grade contour area, but that the proposed facilities will overlap approximately 74,013 people, a 29-fold increase; and that WBRZ (TV)'s Grade B contour which does not presently cover all of the City Grade or Grade A contour area of KLNI-TV, will do so under the proposed change of facilities.[2] It is alleged further, that WBRZ(TV) which presently provides a predicted Grade B signal over New Iberia, La., will under the proposed change of facilities, provide a predicted Grade A signal over the entire city. Southwestern also states that it has lost $156,886 in the period from September 16, 1968, to the end of the year, and that Louisiana, on the other hand, is making a significant profit.[3]

5. Louisiana states that Southwestern has failed to show good cause why it did

[1] A "Motion for Stay" was filed by Southwestern on Mar. 7, 1969, but a subsequent letter filed with the Commission on Mar. 12, 1969, by Louisiana, agreeing not to proceed with construction of the station until the petition for reconsideration is acted upon by the Commission, makes the motion moot, and it is, therefore, dismissed.

[2] Southwestern alleges that approximately 274,243 people fall within Station KLNI-TV's predicted Grade A contour. In terms City Grade area but under the proposed change of facilities, Southwestern states that presently Station WBRZ(TV) provides a nal will be provided to 40 percent of KLNI-TV's total Grade A area, but under the proposed change of facilities, a predicted Grade A signal will be provided to 41.1 percent of KLNI-TV's Grade A area. In addition, WBRZ (TV) presently provides a predicted Grade A signal over only 3.3 percent of KLNI-TV's City Grade area, but under the proposed change of facilities a predicted Grade A signal will be provided to 40 percent of KLNI-TV's City Grade area. The population and area figures cited above and in paragraph 4 are not disputed by Louisiana and, therefore, for purposes of this case, are accepted by us as accurate.

[3] Southwestern states that Louisiana's Station WBRZ(TV) had profits of $229,814 for the 7-month period of Apr. 1-Oct. 31, 1968. This figure is not disputed by Louisiana.

not participate earlier in the proceeding; that no allegations of fact have been made sufficient to warrant reconsideration by the Commission; that the competitive situation between KLNI–TV and WBRZ(TV) will remain substantially unchanged; and that reconsideration will cause Station WBRZ(TV) economic injury, since a contract to build a tower had already been entered into and the tower had been partially completed before the petition for reconsideration was filed.

6. With respect to the question of UHF impact, we note that there are two VHF stations currently in operation in Lafayette, and that, in addition, a number of VHF stations provide a Grade B or better signals to KLNI–TV's service area. Among the stations which provide Grade B service to Lafayette are Station KALB–TV, channel 5, Alexandria, La.; Station KPIC–TV, channel 7, Lake Charles, La.; and Station WBRZ(TV), all of which are affiliated with NBC. WBRZ(TV) asserts that the proposed change of facilities will not increase the contour over Lafayette. However, despite the assertion, it is undisputed that the action here contested permitted an increase in signal intensity over Lafayette, despite the fact that the city remains within the predicted Grade B contour. Moreover, as a result of the grant, WBRZ(TV)'s signal over New Iberia will be increased from Grade B to Grade A. KLNI–TV, which is a recent affiliate of NBC, must rely upon Lafayette and New Iberia for its audience and advertising revenues.

7. The Commission's concern with the development of UHF television broadcasting is too well known to require further discussion here.[1] We believe that Southwestern has alleged sufficient facts to raise a substantial question as to whether Louisiana's proposal will jeopardize the financial prospects of KLNI–TV by fragmenting the Lafayette-New Iberia audience and preventing KLNI–TV from obtaining a network rate from NBC. We think that under these circumstances, it is necessary to explore in a hearing whether the proposed change in facilities would have an adverse impact upon the development of UHF television broadcasting in the Lafayette-New Iberia area. Therefore, we will designate the application for a hearing on appropriate issues. The burden of proceeding with the introduction of evidence will be placed on Louisiana, and the burden of proof will be placed on Southwestern.

8. *Accordingly, it is ordered*, That, the petition for reconsideration filed by Southwestern Louisiana Communications, Inc., is granted; That, the action of the Chief, Broadcast Bureau in granting the application (BPCT–4173) of Louisiana Television Broadcasting Corp., is set aside; and That, the application is designated for hearing, at a time and place specified in a subsequent order, on the following issues:

(1) To determine whether a grant of the application would impair the ability of authorized and prospective UHF television broadcast stations in the area to compete effectively, or would jeopardize, in whole or part, the continuation of existing UHF television service.

(2) To determine, in light of the evidence adduced under the above issue, whether a grant of the application would serve the public interest, convenience and necessity.

9. *It is further ordered*, That, Southwestern Louisiana Communications, Inc., on the Commission's own motion, is made a party to this proceeding.

10. *It is further ordered*, That, as to issue "1" the burden of proceeding with the introduction of evidence is placed upon Louisiana Television Broadcasting Corp. and the burden of proof is placed on Southwestern Louisiana Communications, Inc.

11. *It is further ordered*, That, to avail themselves of the opportunity to be heard, Louisiana Television Broadcasting Corp. and Southwestern Louisiana Communications, Inc., pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (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.

12. *It is further ordered*, That, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, Louisiana Television Broadcasting Corp., shall give notice of the hearing within the time and in the manner prescribed in that rule, and shall advise the Commission of the publication of the notice as required by § 1.594(g) of the rules.

Adopted: May 21, 1969.

Released: May 27, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 69-6515; Filed, June 2, 1969; 8:49 a.m.]

[1] Triangle Publications, Inc., 29 FCC 315, 17 RR 624 (1960), affirmed sub nom. Triangle Publications, Inc., v. Federal Communications Commission, 110 U.S. App. D.C. 214, 219 F. 2d 324, 21 RR 2039 (1961; Selma Television, Incorporated, FCC 65–216, 4 RR 2d 714 (1965); Gala Broadcasting Company, FCC 68–512, 13 RR 2d 103 (1968).

[2] Commissioner Bartley dissenting; Commissioner Wadsworth absent.

FEDERAL MARITIME COMMISSION

INDO CHINA STEAM NAVIGATION CO., LTD. (DOMINION FAR EAST LINE)

Order of Revocation

Certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P–55 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C–1,002.

Whereas, the Indo China Steam Navigation Co., Ltd. (Dominion Far East Line), 3 Lombard Street, London E.C.3, United Kingdom, has ceased to operate the passenger vessel "Eastern ueen" subject to sections 2 and 3 of Public Law 89–777; and

Whereas, the Indo China Steam Navigation Co., Ltd. (Dominion Far East Line) has returned Certificate (Performance) No. P–55 and Certificate (Casualty) No. C–1,002 for revocation:

It is ordered, That Certificate (Performance) No. P–55 and Certificate (Casualty) No. C–1,002 be and are hereby revoked effective May 26, 1969.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on certificant.

By the Commission.

THOMAS LISI, *Secretary.*

[F.R. Doc. 69-6499; Filed, June 2, 1969; 8:48 a.m.]

SOUTH ATLANTIC MARINE TERMINAL CONFERENCE AND NORFOLK MARINE TERMINAL ASSOCIATION

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202, or may inspect agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Ernest E. Ball, Chairman, Norfolk Marine Terminal Association, Post Office Box 419, Norfolk, Va. 23501,
and
Mr. Harry C. Jackson, Chairman, South Atlantic Marine Terminal Conference, Post Office Box 3037, Wilmington, N.C. 28401.

Agreement No. T–2299 between the South Atlantic Marine Terminal Conference (SAMTC) and the Norfolk Marine Terminal Association (NMTA) provides for the formation of a joint conference whereby the members of SAMTC and NMTA may confer, discuss and make recommendations on rates, charges,

practices and matters of concern to the marine terminal industry. The agreement does not confer ratemaking power upon the members nor shall any action taken pursuant to the agreement be binding upon the members. The agreement does not preclude either association from taking any action without the concurrence of the other, provided, however, that with respect to recommendations which have been made pursuant to Agreement No. T–2299, the association taking such action shall promptly notify the other association.

Dated: May 27, 1969.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 69–6500; Filed, June 2, 1969; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI69–717]

BERT FIELDS, JR.

Order Amending Order Providing for Hearings on and Suspension of Proposed Changes in Rates To Permit Substitute Rate Filing

MAY 23, 1969.

On March 24, 1969, Bert Fields, Jr. (Fields), previously filed with the Commission a proposed change in rate from 13 cents to 14 cents per Mcf, designated as Supplement No. 2 to Fields' FPC Gas Rate Schedule No. 12, which pertains to Fields' jurisdictional sales of natural gas from Basin Dakota Field, Rio Arriba County, N. Mex. (San Juan Basin Area) to El Paso Natural Gas Co. The Commission by order issued April 23, 1969, in Docket No. RI69–717, suspended for 5 months Fields' rate filing until September 24, 1969, and thereafter until made effective in the manner prescribed by the Natural Gas Act.

On April 29, 1969, Fields submitted an amended notice of change in rate, designated as Supplement No. 1 to Supplement No. 2 to Fields' FPC Gas Rate Schedule No. 12, amending the supplement to the aforementioned rate schedule to provide for a rate increase to 15 cents instead of the 14 cents per Mcf rate filed on March 24, 1969. Fields did not include as part of his previously filed 14-cent rate the 1 cent per Mcf minimum guarantee for liquids contained in the contract. Fields was thus advised that if he wanted to collect under the minimum guarantee provision he could do so provided he filed a notice of change in rate. Such notification is consistent with the Commission's order issued December 7, 1967, in Docket No RI64–491 et al., Union Texas Petroleum, a Division of Allied Chemical Corporation (Operator), et al. The proposed substitute rate filing is set forth in Appendix A hereof.

Fields' proposed 15 cents per Mcf rate exceeds the area ceiling for increased rates in the San Juan Basin Area as announced in the Commission's statement of general policy No. 61–1, as amended, as did the previously suspended rate in said docket. Consistent with prior Commission action on similar rate filings, we conclude that it would be in the public interest to accept Fields' revised notice of change in rate subject to the suspension proceeding in Docket No. RI69–717, with the suspension period of such substitute rate filing to terminate concurrently with the suspension period (Sept. 24, 1969) of the original rate filing in said docket.

The Commission orders:

(A) The suspension order issued April 23, 1969, in Docket No. RI69–717, is amended only so far as to permit the 15 cents per Mcf rate provided in Supplement No. 1 to Supplement No. 2 to Fields' FPC Gas Rate Schedule No. 12 to be filed to supersede the 14 cents per Mcf rate contained in Supplement No. 2 to the aforementioned rate schedule, subject to the suspension proceeding in Docket No. RI69–717. The suspension period for such substitute filing shall terminate concurrently with the suspension period (Sept. 24, 1969) presently in effect in said docket.

(B) In all other respects, the order issued by the Commission on April 23, 1969, in Docket No. RI69–717, shall remain unchanged and in full force and effect.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69–717	Bert Fields, Jr., 1181 First National Bank Bldg., Dallas, Tex. 75202.	12	1 to 2	El Paso Natural Gas Co. (Basin Dakota Field, Rio Arriba County, N. Mex.) (San Juan Basin Area).	$600	4–29–69	.....	[1] 9–24–69	14.0	[2] [3] [4] 15.0	RI69–717.

[1] Expiration date of suspension proceeding pending in Docket No. RI69–717.
[2] Respondent filing for 1 cent per Mcf minimum guarantee for liquids omitted from previous rate filing.
[3] Pressure base is 15.025 p.s.i.a.
[4] Includes 1 cent per Mcf minimum guarantee for liquids.

[F.R. Doc. 69–6412; Filed, June 2, 1969; 8:45 a.m.]

[Dockets Nos. RI69–761, RI61–36]

KERR-McGEE CORP.

Order Accepting Rate Decreases Subject to Refund, Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund

MAY 23, 1969.

On April 23, 1969, Kerr-McGee Corp. (Kerr-McGee)[1] tendered for filing proposed changes in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

[1] Address is: Kerr-McGee Building, Oklahoma City, Okla. 73102.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
					Decrease						
RI61-36	Kerr-McGee Corp., Kerr-McGee Bldg., Oklahoma City, Okla. 73102.	11	14	Phillips Petroleum Co. (West Panhandle and Texas-Hugoton Fields, Moore and Sherman Counties, Tex.) (RR. District No. 10).	$3,106	4-23-69	[1] 1-1-67	(Accepted, subject to proceeding in RI61-36.)	[2] [4] 12.59699	[2] [4] [5] 12.27901	RI61-36.
					222		[1] 1-1-67	do	[2] [6] 11.69773	[2] [6] [7] 11.41321	RI61-36.
					4,570		[1] 1-1-67	do	[2] [7] 11.64373	[2] [7] 11.35921	RI61-36.
					1,572		[1] 1-1-68	do	[2] [4] 12.59699	[2] [4] [5] 12.25637	RI61-36.
					271		[1] 1-1-68	do	[2] [6] 11.69773	[2] [6] 11.39295	RI61-36.
					3,885		[1] 1-1-68	do	[7] 11.64373	[2] [7] 11.33895	RI61-36.
					59		[1] 10-1-68	do	[2] [4] 12.59699	[2] [4] [5] 12.05391	RI61-36.
					173		[1] 10-1-68	do	[2] [6] 11.69773	[2] [6] 11.21180	RI61-36.
					593		[1] 10-1-69	do	[2] [7] 11.64373	[2] [7] 11.15780	RI61-36.
					62		[1] 11-3-68	do	[2] [4] 12.59699	[2] [4] [5] 12.47497	RI61-36.
					11		[1] 11-3-68	do	[2] [6] 11.69773	[2] [6] 11.63289	RI61-36.
					32		[1] 11-3-68	do	[2] [7] 11.64373	[2] [7] [8] 11.57889	RI61-36.
					Increase						
RI69-761					$1,386		[10] 5-24-69	[11] 5-25-69	[2] [4] 12.59699	[2] [4] [5] [12] 13.52738	RI61-36.
					3,878		[10] 5-24-69	[11] 5-25-69	[2] [6] 11.69773	[2] [6] [12] 12.58007	RI61-36.
					15,000		[10] 5-24-69	[11] 5-25-69	[2] [7] 11.64373	[2] [7] [12] 12.52607	RI61-36.

[1] The stated effective date is the effective date proposed by Respondent.
[2] All rates include tax reimbursement and are subject to downward B.t.u. adjustment.
[3] Rate for sweet gas ultimately delivered by buyer to Michigan-Wisconsin Pipe Line Co.
[4] Pressure base is 14.65 p.s.i.a.
[5] Rate for sour gas ultimately delivered by buyer to Michigan-Wisconsin Pipe Line Co.
[6] Rate for sour gas ultimately delivered by buyer to El Paso Natural Gas Co. (no sweet gas is resold by buyer to El Paso).
[8] Decreased rates include increase in base rate from 4.75 cents to 5 cents for sweet gas and 4.25 cents to 4.5 cents for sour gas.
[9] Decreases reflect revenue-sharing adjustments based on decreases in rate to El Paso Natural Gas Co. (one of Phillips' resale customers) for successive periods beginning Jan. 1, 1967, Jan. 1, 1968, and Oct. 1, 1968, respectively.
[10] The stated effective date is the first day after expiration of the statutory notice.
[11] The suspension period is limited to 1 day.
[12] Proposed increased rates reflect increases in Kerr-McGee's base rates from 4.75 cents to 5 cents for sweet gas and 4.25 cents to 4.5 cents for sour gas and revenue-sharing adjustments based upon increases by El Paso which became effective on Mar. 7, 1969, subject to refund in Docket No. RP69-6.

Kerr-McGee requests a retroactive effective date of March 7, 1969, for its proposed rate increases. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Kerr-McGee's rate increases and such request is denied.

Kerr-McGee by its notice of change in rate proposes to reduce its present rates, which are effective subject to refund in Docket No. RI61-36, for successive periods beginning January 1, 1967, January 1, 1968, and October 1, 1968, through March 7, 1969, respectively. Kerr-McGee further proposes to increase its present rates as of March 7, 1969. The proposed decreases amount to $14,556 for the periods involved and the proposed increases amount to $20,264 annually in excess of the present effective rates. The sales are in the West Panhandle and Hugoton Fields, Moore and Sherman Counties, Tex. (Railroad District No. 10). Phillips gathers and processes the gas involved and resells the residue gas to El Paso Natural Gas Co. (El Paso) and Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin) at resale rates which are in effect subject to refund. Kerr-McGee's proposed decreased and increased rate filings are set forth herein.

The rates under Kerr-McGee's contract with Phillips are based on a spiral escalation provision relating to El Paso's rates. Phillips' resale contracts, as amended, with El Paso and Michigan Wisconsin provide for periodic escalations only and Kerr-McGee's rates are not related to or dependent upon any resale rate of Phillips. The proposed rate reductions reflect the prices Kerr-McGee is contractually entitled to collect as a result of Commission orders issued April 3, 1967, February 2, 1968, and November 3, 1968, in Docket No. RP67-9, approving decreases in El Paso's general rates for the aforementioned pricing periods. The proposed increases are based on an increase by El Paso in its general rates which became effective on March 7, 1969, subject to refund in Docket No. RP69-6.

Since the justness and reasonableness of Kerr-McGee's rates in Docket No. RI-61-36 has not yet been determined, Kerr-McGee's proposed rate reductions should be accepted for filing subject to further refund in Docket No. RI61-36 as of the proposed effective dates. Kerr-McGee should also be required to refund all amounts plus applicable interest, collected in excess of its proposed reduced rates for the periods involved.

Kerr-McGee's three proposed increased rates and charges exceed the applicable area price level for increased rates in Texas Railroad District No. 10 as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56) and should be suspended for only 1 day from May 24, 1969, the expiration date of the statutory notice, in view of the fact that Phillips' resale rates are in effect subject to refund.

The proposed increased rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists for accepting for filing Kerr-McGee's rate reductions contained in Supplement No. 14 to Kerr-McGee's FPC Gas Rate Schedule No. 11 to be effective on the dates shown in the "Proposed Effective Date" column in the above tabulation, subject to further fund in Docket No. RI61-36.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges, and that Supplement No. 14 to Kerr-McGee's FPC Gas Rate Schedule No. 11 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) The rate reductions contained in Supplement No. 14 to Kerr-McGee's FPC Gas Rate Schedule No. 11 are accepted for filing and permitted to become effective on the dates shown in the "Proposed Effective Date" column in the above tabulation, subject to further refund in Docket No. RI61-36.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Chap. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 14 to Kerr-McGee's FPC Gas Rate Schedule No. 11.

(C) Pending a hearing and decision thereon, the increased rates contained in Supplement No. 14 to Kerr-McGee's FCC Gas Rate Schedule No. 11 are suspended and their use deferred until May 25, 1969, and thereafter until made effective in the manner prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Kerr-McGee, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Kerr-McGee shall execute and file in Docket No. RI69-761, with the Secretary of the Commission, its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule

involved. Unless Kerr-McGee is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(D) Until otherwise ordered by the Commission, neither the supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(E) Kerr-McGee shall compute the difference between the rates collected subject to refund in Docket No. RI61–36 and the decreased rates filed herein for the various periods involved, with applicable interest to the date of this order, and shall within 30 days of the date of issuance of this order submit a refund report to the Commission setting out the amount of refunds (showing separately the principal and applicable interest) the basis used for such determination, and the periods covered.

(F) A copy of the refund report required by paragraph (E) above shall be served on Phillips within 30 days of the date of this order. Within 10 days from the receipt of such refund report, Phillips shall file with the Commission its written concurrence or disagreement with the refund report (and if it disagrees, the reason therefor) and shall serve a copy thereof on Kerr-McGee. If Phillips concurs with the refund report, Kerr-McGee shall refund the monies, with applicable interest, computed in accordance with paragraph (E) above, within 10 days of receipt of Phillips' concurrence, and, promptly, thereafter, shall file evidence of payment to Phillips. If Phillips does not concur, Kerr-McGee shall retain such monies pending further action by the Commission.

(G) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before July 7, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69–6413; Filed, June 2, 1969; 8:45 a.m.]

[Dockets Nos. RI68–226, RI69–441]

MARATHON OIL CO.

Order Amending Orders Providing for Hearings on and Suspension of Proposed Changes in Rates To Permit Substitute Rate Filings

MAY 23, 1969.

On October 20, 1969, Marathon Oil Co., (Marathon) filed with the Commission proposed rate changes, from 17.7 cents to 17.8 cents and 17.775 cents,[1] which pertain to Marathon's jurisdictional sales of natural gas in the Aneth Area of Utah to El Paso Natural Gas Co. The Commission by order issued November 17, 1967, suspended for 1 day Marathon's rate filings in Docket No. RI68–226 until November 21, 1967. The rates were made effective subject to refund on November 21, 1967.

On December 9, 1968, Marathon Oil Co., filed with the Commission a proposed rate increase from 17.775 cents to 18.775 cents per Mcf[2] for a sale in the Chinle Wash Field, San Juan County, Utah (Aneth Area). The Commission by order issued December 31, 1968, in Docket No. RI69–441, suspended for 5 months Marathon's rate filing until June 9, 1969, and thereafter until made effective in the manner prescribed by the Natural Gas Act.

On April 23, 1969, Marathon submitted three superseding notices of change in rates[3] amending the supplements to the rate schedules previously submitted to reflect a correction in the computation of tax reimbursement for the Utah State tax. Marathon states that it has not collected the rate previously filed for in Docket No. RI69–441, but has collected the correct rate filed for herein which is lower. The proposed substitute rate filings are set forth in Appendix A hereof.

Marathon's proposed rates exceed the highest filed rate in the Aneth Area (no formal ceiling for the Aneth Area has been announced by the Commission), as did the previously suspended rates in said dockets. Since Marathon's revised filings include tax reimbursement, we conclude that it would be in the public interest to accept the substitute rate filings subject to the suspension proceedings in Dockets Nos. RI68–226 and RI69–441, with the suspension periods of such substitute rate filings to terminate concurrently with the suspension periods November 21, 1967 (Docket No. RI68–226), and June 9, 1969 (Docket No. RI69–441) of the original rate filings in said dockets.

The Commission orders:

(A) The suspension order issued November 17, 1967, in Docket No. RI68–226, and the suspension order issued December 31, 1968, in Docket No. RI69–441, be amended to reflect the increased rates set forth in Appendix A hereof in lieu of the increased rates shown in the aforementioned orders, subject to the suspension proceedings in Dockets Nos. RI68–226 and RI69–441. The suspension periods for such substitute filings shall terminate concurrently with the suspension periods November 21, 1967 (Docket No. RI68–226), and June 9, 1969 (Docket No. RI69–441) of the original rate filings in said dockets.

(B) In all other respects, the orders issued by the Commission on November 17, 1967, in Docket No. RI68–226, and December 31, 1968, in Docket No. RI69–441, shall remain unchanged and in full force and effect.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Designated as Supplement Nos. 8 and 1 to Marathon's FPC Gas Rate Schedule Nos. 44 and 86, respectively.

[2] Designated as Supplement No. 2 to Marathon's FPC Gas Rate Schedule No. 86.

[3] Designated as Supplement No. 1 to Supplements Nos. 8, 1, and 2 to Marathon's FPC Gas Rate Schedules Nos. 44, 86, and 86, respectively.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI68-226	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	44	[4] 1 to 8	El Paso Natural Gas Co. (Aneth Area, San Juan County, Utah, and Montezuma County, Colo.) (Aneth Area).	$10	4-23-69	.....	[5] 11-21-67	[6] 17.7	[7] 17.7177	RI68-226.
	....do.....	86	[8] 1 to 1	El Paso Natural Gas Co. (Chinle Wash Field, San Juan County, Utah) (Aneth Area).	32	4-23-69	.....	[9] 11-21-67	[10] 17.7	[11] 17.7133	RI68-226.
RI69-441	....do.....	86	[12] 1 to 2	....do.....	2,632	4-23-69	.....	[13] 6- 9-69	[13] 17.7133	[14] 18.7140	-

[4] Supersedes rate increase filed Oct. 20, 1967, to correct tax reimbursement. Applies to Utah production only.

[5] Date superseded rate increase made effective subject to refund in Docket No. RI68-226.

[6] Tax reimbursement increase.

[7] Pressure base is 15.025 p.s.i.a.

[8] Rate of 17.8 cents effective subject to refund in Docket No. RI68-226.

[9] Supersedes rate increase filed Oct. 20, 1967, to correct tax reimbursement.

[10] Rate of 17.775 cents effective subject to refund in Docket No. RI68-226.

[11] Supersedes rate increase filed Dec. 9, 1968, to correct tax reimbursement.

[12] Expiration date of suspension proceeding pending in Docket No. RI69-441.

[13] Rate of 18.775 cents suspended until June 9, 1969, in Docket No. RI69-441.

[14] Periodic rate increase.

[F.R. Doc. 69–6414; Filed, June 2, 1969; 8:45 a.m.]

[Docket No. RI69-763]

SHELL OIL CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

MAY 23, 1969.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.[1]

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before July 7, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69-763	Shell Oil Co., 50 West 50th St., New York, N.Y. 10020.	366	1	Michigan-Wisconsin Pipe Line Co. (Block 276 Field, Eugene Island Area, Offshore Louisiana) (Federal Domain).	$10,950	[2] 4-25-69	[3] 5-26-69	[4] 5-27-69	[7] [8] 18.5	[4] [8] 20.0	

[2] Shell on May 9, 1969, requested that its filing be considered as being made on the date of initial delivery.
[3] The stated effective date is the first day after expiration of the statutory notice.
[4] The suspension period is limited to 1 day from the expiration date of the statutory notice, or 1 day from the date of initial delivery, whichever is later.
[5] Special by virtue of relief petition filed pursuant to Opinion No. 546-A (issued Mar. 20, 1969) for third-vintage gas.
[6] Pressure base is 15.025 p.s.i.a.
[7] Area base rate for gas well gas as conditioned by temporary certificate issued Apr. 8, 1969, in Docket No. CI69-293. Deliveries have not commenced under temporary certificate.
[8] Subject to upward and downward B.t.u. adjustment as provided by Opinion No. 546.

On April 25, 1969, Shell Oil Co. (Shell), pursuant to ordering paragraph (A) of Opinion No. 546-A, filed a notice of change in rate to 20 cents per Mcf for a sale to Michigan Wisconsin Pipe Line Co., from the Eugene Island Block 276 Field, Offshore Louisiana (Federal Domain).

By temporary certificate issued April 8, 1969, in Docket No. CI69-293, Shell was authorized to collect the third vintage prices of 18.5 cents for gas well gas and 17 cents for casinghead gas and was advised that it could file to a base rate of 20 cents for sales of gas well gas. Shell, by letter dated April 14, 1969, accepted this temporary certificate. On April 25, 1969, Shell filed a notice of change in rate to 20 cents and requested that the Commission waive the 30-day notice period and permit this increase to become effective as of the date of initial delivery. Good cause has not been shown for waiving the statutory notice period. We conclude that Shell's proposed rate increase should be suspended for 1 day from May 26, 1969, the expiration date of the 30-day statutory notice period, or for 1 day from the date of initial delivery, whichever is later.

[F.R. Doc. 69-6415; Filed, June 2, 1969; 8:45 a.m.]

[Dockets Nos. RP69-28—RP69-31]

COLUMBIA GULF TRANSMISSION CO. ET AL.

Order Providing for Hearing, Suspending Proposed Revised Tariff Sheets and Prescribing Procedures

MAY 26, 1969.

Columbia Gulf Transmission Co., Docket No. RP69-28; United Fuel Gas Co., Docket No. RP69-29; Kentucky Gas Transmission Corp., Docket No. RP69-30; and Atlantic Seaboard Corp., Docket No. RP69-31.

The four pipeline companies named in the above captioned proceedings, each of which is an affiliate of the Columbia Gas System, Inc., on April 15, 1969, by separate applications tendered for filing proposed changes in their FPC Gas Tariffs to become effective June 1, 1969.[1]

[1] The proposed revised tariff sheets are listed in Appendix A which is filed as part of the original document.

The proposed change filed by Columbia Gulf would increase its charges to United Fuel for transportation service under a cost of service tariff formula, while the changes filed by the other three pipeline companies would increase rates and charges for gas sold for resale, based upon operations and sales for the year ended December 31, 1968, as adjusted. The proposed annual increases are in the following approximate amounts: Columbia Gulf $7.3 million, United Fuel $9.2 million, Kentucky Gas $2.3 million, and Atlantic Seaboard $5.5 million.

In support of its proposed rate filing, Columbia Gulf, United Fuel, Kentucky Gas, and Atlantic Seaboard each states there are three principal causes necessitating its tariff changes: (1) The claimed need for a 7.5 percent rate of return due to changed economic conditions; (2) experienced increases in costs of labor, supplies, expenses, and construction; and (3) continuation of the current inflationary trend of the economy. In addition, United Fuel, Kentucky Gas, and Atlantic Seaboard indicate they

are also tracking the increases in purchased gas costs resulting from their upstream suppliers' rate filings. The four companies also propose certain changes in each of their rate schedules and general terms and conditions of their FPC Gas Tariffs, as specifically set out in their filings.

Each of the pipeline companies states that the rate of return testimony to be submitted in its proceeding, listed above, will be identical to that which has been the subject of hearings held in Manufacturers Light and Heat Co. and Home Gas Co., Dockets Nos. RP69–16 and RP69–17, and that such testimony is based upon the experience of Columbia Gas System, their common parent holding company. They further assert they are agreeable to the Commission's applying the same rate of return in their cases which is finally determined in those proceedings, subject, however, to their right to update the testimony if this procedure is not satisfactory to the Commission or to any intervener.

The Commission's public notice of proposed changes in rates and charges issued April 22, 1969, provided that interveners, in petitions filed on or before May 9, 1969, should clearly state whether the procedure regarding determination of the rate of return issue as proposed in Dockets Nos. RP69–28, RP69–29, RP69–30, and RP69–31, is acceptable, or if not acceptable, the specific further procedural steps deemed necessary on this issue.

Nineteen notices of intervention and petitions to intervene in one or more of the above proceedings have been filed.[2] In response to the request in the notice for comments on the proposed procedure on the rate of return issue, 14 intervenors (some reserving their positions generally) stated that the procedure is acceptable and 3 did not comment. The remaining two intervenors, the Public Service Commission of the State of New York, and Virginia Pipe Line Co. urge that a separate rate of return determination should be made for each of the pipeline companies. Whether those intervenors intend to offer testimony, cross-examine witnesses, file briefs, or propose other procedures relative to determination of the rate of return issue is not entirely clear from their comments.

In the circumstances it is appropriate that we provide for an early convening of hearings wherein the Presiding Examiner, after receiving pipeline companies' cases-in-chief into the record, may ascertain the specific procedures urged by the interveners on the rate of return issue, including whether any evidence other than that which has already been the subject of cross-examination in Dockets Nos. RP69–16 and RP69–17 will be offered, and whether any intervener in the captioned dockets requests the right to further cross-examine the witnesses presented in Dockets Nos. RP69–16 and RP69–17.[3]

Review of the aforementioned filings indicates that certain issues are raised therein which require development in evidentiary proceedings. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

We contemplate that some of the issues involved in these proceedings may be susceptible of hearing and decision within the 5-month suspension period or shortly thereafter. In order that the collection and refunding of any possible excess charges may be avoided or limited, we are authorizing the Presiding Examiner to determine which issues, if any, may be tried in an initial phase of the hearing.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the rates and charges contained in the FPC Gas Tariffs of Columbia Gulf, United Fuel, Kentucky Gas, and Atlantic Seaboard, as proposed to be amended, and that the proposed tariff sheets listed in Appendix A hereto[4] be suspended, and use thereof be deferred as herein provided.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the disposition of these proceedings be expedited in accordance with the procedures set forth below.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I) public hearings shall be held commencing June 5, 1969, at 10 a.m., e.d.s.t., 441 G Street NW., Washington, D.C., concerning the lawfulness of the rates, charges, classifications, and services contained in the FPC Gas Tariffs of Columbia Gulf, United Fuel, Kentucky Gas, and Atlantic Seaboard, as proposed to be amended.

(B) Pending such hearing and decision thereon, the proposed revised tariff sheets listed in Appendix A hereto[4] are hereby suspended and their use is deferred until November 1, 1969, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) At the hearing on June 5, the prepared testimony (Statement P) of each of the four pipeline companies filed and served on April 29, 1969, together with their entire rate filings as submitted and served on April 15, 1969, shall be admitted into the record as their complete cases-in-chief as provided in the Commission's regulations, § 154.63(e)(1), and Order No. 254, 28 FPC 495, 496, without prejudice to motions by other parties to exclude or strike such evidence.

(D) Following admission of the respective case-in-chief into the record of each docket, the parties shall set forth their positions on the specific further procedures on the issue of rate of return and their views on whether that issue or any other should be considered in an initial phase of these proceedings. If the Presiding Examiner in the exercise of his discretion determines that there shall be an initial phase hearing, he shall (1) specify the issues to be heard therein; (2) fix all appropriate dates with respect thereto; (3) consolidate these proceedings for purposes of hearing and decision on the initial phase issues, if he determines such consolidation appropriate; and (4) proceed with such hearings as expeditiously as feasible.

(E) Presiding Examiner Allen C. Lande, or other Examiner, designated by the Chief Examiner (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearings in these proceedings; shall prescribe relevant procedural matters not herein provided; and shall control these proceedings in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69-6452; Filed, June 2, 1969; 8:45 a.m.]

[Docket Nos. RP69-32, RP69-33]

HOME GAS CO. AND MANUFACTURERS LIGHT AND HEAT CO.

Order Providing for Hearing, Suspending Proposed Revised Tariff Sheets and Consolidating Proceedings

MAY 26, 1969.

Home Gas Co. (Home) and The Manufacturers Light and Heat Co. (Manufacturers), each of which is an affiliate of the Columbia Gas System, Inc., on April 15, 1969, by separate applications tendered for filing proposed changes in their FPC Gas Tariffs to become effective June 1, 1969.[1]

The proposed changes filed by the pipeline companies would increase rates and charges for gas sold for resale, based

[2] The petitions to intervene will be considered in a separate Commission order.

[3] By separate action we are denying the motion presently pending before us for waiver of the intermediate decision in Dockets Nos. RP69-16 and RP69-17. Such action is without prejudice to renewal of a similar motion in those dockets and/or the captioned dockets.

[4] Appendix A filed as part of original document.

[1] The proposed revised tariff sheets are listed in Appendix A which is filed as part of the original document.

upon operations and sales for the year ended August 31, 1968, as adjusted. The proposed annual increases are in the following approximate amounts: Home $153,000, and Manufacturers $1.8 million.

In support of their proposed increased rates, Manufacturers and Home state that the purpose of these filings is to track the increases in purchased gas costs resulting from their upstream suppliers' rate filings which were filed the same date, April 15, 1969.[2] The tariff sheets tendered for filing on April 15 would supersede on June 1, 1969, the tariff sheets filed pursuant to Commission order issued March 19, 1969, in Dockets Nos. RP69-16 and RP69-17, which were permitted to become effective subject to refund on May 15, 1969, in order to track increased rates filed by Texas Eastern Transmission Corp. in Docket No. RP69-13.

The pipeline companies indicate that the rates tendered for filing on April 15 compensate them only for the increased cost of gas purchased from their upstream affiliates over and above the cost of service included in their pending rate cases. In lieu of an entirely new rate filing, involving a whole new proceeding, the pipeline companies request that they be permitted to adjust the test year data underlying their cost of service studies in Dockets Nos. RP69-16 and RP69-17. The pipeline companies therefore request that the Commission grant waiver of §§ 154.63(b)(3) and 154.63(e)(2)(i) of the regulations which require the filing of supporting statements including certain test year cost of service studies and data. The cost of service statements submitted in Dockets Nos. RP69-16 and RP69-17 are based upon operations for the year ended August 31, 1968, adjusted for changes in the 9 months ended May 31, 1969. On May 12, 1969, the pipeline companies filed Statements N cost of service studies based upon the year ended December 31, 1968, in response to Commission Secretary's letter of April 21, 1969. They, likewise, request waiver of § 154.66(b) to permit their filing of the subject increased rates during the suspension period (ending July 10, 1969) of the increased rates in the prior proceedings in order that the proposed increased rates may become effective coincidentally with those of their suppliers.

The Public Service Commission of the State of New York, an intervener in these proceedings, urges that these filings be rejected because they seek to supersede rate schedules which are presently under suspension until July 10, 1969. We think the pipelines have shown good cause for waiver of § 154.66(b). See Texas Eastern Transmission Corp. (39 FPC 630).[3] Moreover, by our action herein these filings are being suspended until November 1, 1969.

Since the increased rates proposed herein are directly and entirely based upon proposed rate increases of the pipeline companies' suppliers which are being suspended this day until November 1, 1969, these proposals should be similarly suspended. The proposed increases have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the rates and charges contained in Home's and Manufacturers' FPC Gas Tariffs, as proposed to be amended, and that the proposed tariff sheets listed in Appendix A hereto[4] be suspended, and use thereof be deferred as herein provided.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that these proceedings be consolidated for hearing and decision with the proceedings in Dockets Nos. RP69-16 and RP69-17, as prescribed herein.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I) public hearings shall be held at a time and place to be fixed by further notice of the Presiding Examiner, concerning the lawfulness of the rates, charges, classifications, and services contained in Home's and Manufacturers' FPC Gas Tariffs, as proposed to be amended.

(B) Pending such hearing and decision thereon, the proposed revised tariff sheets listed in Appendix A hereto[4] are suspended and their use is deferred until November 1, 1969, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) The proceedings in Dockets Nos. RP69-16 and RP69-33 are hereby consolidated for the purposes of hearing and decision on the matters and issues involved therein.

(D) The proceedings in Dockets Nos. RP69-17 and RP69-32 are hereby consolidated for the purposes of hearing and decision on the matters and issues involved therein.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69-6453; Filed, June 2, 1969; 8:45 a.m.]

[2] United Fuel Gas Co., Docket No. RP69-29; Atlantic Seaboard Corp., Docket No. RP69-31.

[3] Appeal pending, C.A. 5, No. 26477. Cf. Manufacturers Light and Heat Co., Docket No. RP69-16 et al. order issued Mar. 19, 1969; and Consolidated Gas Supply Corp., Docket No. RP69-19 et al., order issued May 14, 1969.

[4] Appendix A filed as part of original document.

[Docket No. E-7483]

KENTUCKY UTILITIES CO.

Notice of Application

MAY 26, 1969.

Take notice that on May 16, 1969, Kentucky Utilities Co., (Applicant), filed an application seeking an order pursuant to section 203 of the Federal Power Act authorizing the acquisition of certain securities of the Old Dominion Power Co. (Old Dominion).

Applicant is incorporated under the laws of the State of Kentucky with its principal business office in Lexington, Ky., and is engaged in the electric utility business in 78 counties in central, southeastern and western Kentucky and one county in Tennessee.

Old Dominion, a 100-percent subsidiary of Applicant, is incorporated under the laws of the State of Virginia with its principal business office in Norton, Va., and is engaged in the electric utility business in five counties in southwestern Virginia.

According to the application, Applicant proposes to acquire from Old Dominion from time to time during the year 1969, unsecured promissory notes in an aggregate amount not to exceed $1,500,000. The notes, which are to be payable on or before 10 years after the issuance date, are to bear interest not to exceed the prime rate in effect in the First National Bank of Chicago on the date of the issuance.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1969, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69-6454; Filed, June 2, 1969; 8:45 a.m.]

[Docket No. CP68-364]

MANUFACTURERS LIGHT AND HEAT CO. AND HOME GAS CO.

Order Denying Rehearing; Correction

MAY 26, 1969.

In the order denying rehearing issued May 16, 1969, make the following changes:

(A) Page 3, strike subparagraphs (1) and (2) and substitute the following paragraphs:

(1) Maintain books and records in such a manner that in the event the Commission denies the companies a permanent certificate Manufacturers and Home may resume individual operations; and

(2) Bill their respective customers at each company's filed rates, including rates subject to refund at Dockets Nos. RP69–16 and RP69–17 upon their effectiveness.

(B) Page 4, strike line 15, "application, pp. 6–7 and Applicants' Answer to Penn Gas".

(C) Page 4, insert the following line after line 12: "necessary for ratemaking purposes, covering the term of the".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-6455; Filed, June 2, 1969; 8:45 a.m.]

[Project 2698]

NANTAHALA POWER AND LIGHT CO.

Notice of Application for License for Constructed Project

MAY 12, 1969.

Public notice is hereby given that application for license has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Nantahala Power and Light Co. (correspondence to: John M. Archer, Jr., President, Nantahala Power and Light Co., Post Office Box 260, Franklin, N.C. 28734) for constructed Project No. 2698, known as East Fork Project, located on East Fork of Tuckasegee River and tributaries thereof, Jackson County, N.C., near the town of Sylva and the city of Asheville.

The existing East Fork Project comprises: I. Cedar Cliff Development consisting of (1) an earth and rock fill dam 590 feet long with a maximum height of 173 feet, having two spillways—the right one containing a 25- x 25-foot tainter gate and the left containing a 221-foot "fuse plug"; (2) a reservoir which covers an area of 121 acres at maximum normal elevation of 2,330 feet (U.S.C. & G.S. datum) and having useful storage of 585 acre-feet in a 5-foot drawdown; (3) a 1,138-foot pressure conduit; (4) a powerhouse containing one generator rated at 6,375 kw.; (5) a boat launching area and an area reserved for future recreational development; II. Bear Creek Development consisting of (1) an earth and rock fill dam 760 feet long with maximum height of 215 feet, a spillway, located in the right abutment, containing a 25- x 25-foot tainter gate; (2) two "fuse plugs", one 107 feet long and one 276 feet long; (3) a 476-acre reservoir at maximum normal elevation of 2,560 feet (U.S.C. & G.S. datum) and having useful storage of 4,536 acre-feet in a 10-foot drawdown; (4) a 1,494-foot pressure conduit; (5) a powerhouse containing one generator rated at 9,000 kw.; (6) a boat launching area; III. Tennessee Creek Development consisting of: A. (1) East Fork dam of earth and rock fill 385 feet long with a maximum height of 140 feet and containing one 25- x 19-foot tainter gate; (2) a saddle dam, located on the left side of the dam, 225 feet long with a maximum height of 21 feet; (3) a spillway consisting of one 25- x 19-foot tainter gate and two "fuse plugs", one 43 feet long and one 97 feet long; (4) a reservoir, created by the East Fork dam, covering an area of 40 acres at maximum normal elevation of 3,080 feet (U.S.C. & G.S. datum) and having useful storage of 1,250 acre-feet in a 62-foot drawdown; (5) planned boat launching area; B. (1) Wolf Creek dam of earth and rock fill 810 feet long with a maximum height of 175 feet containing one 25- x 19-foot tainter gate and two "fuse plugs", one 36.4 feet long and the other 37.2 feet long; (2) a reservoir, created by the Wolf Creek dam, covering an area of 183 acres at maximum elevation of 3,080 feet (U.S.C. & G.S. datum) and having useful storage of 7,640 acre-feet in a 62-foot drawdown; (4) a planned boat launching area and an area reserved for future recreational development; C. pressure conduits, from the East Fork and Wolf Creek reservoirs, converging into one conduit; D. a powerhouse containing one generator rated at 10,800 kw.; IV. a transmission system for the project consisting of a 69 kv., single circuit, wood pole line beginning at the substation of Tennessee Creek powerhouse and continuing via Bear Creek and Cedar Cliff developments, where it is connected to project substations, to the switching station adjacent to the Thorpe powerhouse, and V. appurtenant facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 3, 1969, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-6456; Filed, June 2, 1969; 8:45 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN REPUBLIC OF KOREA

Entry and Withdrawal From Warehouse for Consumption

MAY 28, 1969.

The purpose of this notice is to announce certain requirements governing the entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products produced or manufactured in the Republic of Korea.

Under the bilateral cotton textile agreement of December 11, 1967, between the Governments of the United States and the Republic of Korea, the Republic of Korea has undertaken to limit its exports of cotton textiles and cotton textile products to the United States to certain designated levels. Pursuant to paragraph 15 of that agreement, providing for administrative arrangements, the Governments of the United States and the Republic of Korea have established an administrative mechanism intended to preclude circumvention of the licensing system for exports to the United States of cotton textiles and cotton textile products produced or manufactured in the Republic of Korea.

Effective upon publication of this notice in the FEDERAL REGISTER, entry into the United States for consumption and withdrawal from warehouse for consumption of any cotton textiles or cotton textile products produced or manufactured in the Republic of Korea, and exported from the Republic of Korea on or after the date of this publication, for which the Republic of Korea has not issued an appropriate export Visa, fully described below, will be prohibited.

Application of this Visa system to cotton textiles or cotton textile products exported from the Republic of Korea before the date of this publication shall become effective ninety (90) days following the date of this publication.

Such Visa is to appear on the original copy of the invoice (Special Customs Invoice Form 5515 or other successor document; otherwise the commercial invoice when used) and will indicate the quantity of goods involved, in the appropriate unit or units of measures, the category or categories under which the goods are classified, and the signature of the official issuing the Visa. The officials authorized to issue such visas are the following:

T.S.U.S.A. Category Numbers	*Signature*
1 through 38, 64	Jin Won Lee
39 through 63	Kim Hae Kang

The Visa will also include an official seal which will be superimposed on the information to be provided above. A facsimile of the seal is filed as part of the original document with the office of the FEDERAL REGISTER.

Any discrepancy between the actual quantity of goods presented for entry and the quantity specified on the Visa will be resolved as follows: Whenever the actual quantity exceeds the quantity specified the entire quantity will be denied entry pending receipt of a letter from the Chairman of the Interagency Textile Administrative Committee authorizing entry of the visaed amount; such letters will be issued automatically. Whenever the actual quantity is less than the quantity specified, the actual quantity will be entered. In such cases, a new Visa will be required for the entry of the balance of the quantity specified, except where the goods have been erroneously off loaded at another port in the United States and where (a) the goods are subsequently forwarded to the intended port of entry, or (b) entered at the port of erroneous discharge on the basis of a Customs Abstract of the certified invoice. Moreover, it is anticipated that provision may be made for entry of goods in those cases where the amount presented for entry is greater than the quantity specified on the Visa so long as the difference is nominal, i.e., not more than 5 percent. In all cases, the actual amounts permitted entry will be charged against the applicable levels provided for in the bilateral agreement of December 11, 1967.

Interested parties are advised to take all necessary steps to assure that cotton textiles and cotton textile products produced or manufactured in the Republic of Korea which are to be entered into the United States for consumption or withdrawn from warehouse for consumption will meet the above stated Visa requirements.

There is published below a letter of May 28, 1969, from the Chairman of the President's Cabinet Textile Advisory Committee, to the Commissioner of Customs to prohibit effective upon the publication of this notice, the entry or withdrawal for consumption in the United States of cotton textiles and cotton textile products produced or manufactured in the Republic of Korea which do not meet the stated Visa requirements.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

THE SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226

MAY 28, 1969.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to paragraph 15 of the bilateral cotton textile agreement of December 11, 1967, providing for administrative arrangements, between the Governments of the United States and the Republic of Korea, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit effective upon publication of notice in the FEDERAL REGISTER and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of any cotton textiles and cotton textile products produced or manufactured in the Republic of Korea, and exported from the Republic of Korea on or after the date of said publication, for which the Republic of Korea has not issued an appropriate Visa fully described below.

Application of this Visa system to exports of cotton textiles and cotton textile products which have a date of exportation prior to publication in the FEDERAL REGISTER shall become effective ninety (90) days following the date of publication of such notice.

Such Visa is to appear on the original copy of the invoice (Special Customs Invoice Form 5515 or other successor documents; otherwise the commercial invoice when used) and will indicate the quantity of goods involved in the appropriate unit or units of measure, the category or categories under which the goods are classified, and the signature of the official issuing the Visa.

The Visa will also include an official seal which will be superimposed on the information to be provided above. A facsimile of the seal is enclosed for your information.

Any discrepancy between the actual quantity of goods presented for entry and the quantity specified on the Visa will be resolved as follows: Whenever the actual quantity exceeds the quantity specified, the entire quantity will be denied entry, pending receipt of a letter from the Chairman of the Interagency Textile Administrative Committee authorizing entry of the visaed amount. Such letters will be issued automatically. Whenever the actual quantity is less than the quantity specified, the actual quantity will be entered. In such cases, a new Visa will be required for entry of the balance of the quantity specified, except where the goods have been erroneously off loaded at another port in the United States and where (a) the goods are subsequently forwarded to the intended port of entry, or (b) entered at the port of erroneous discharge on the basis of a properly certified photocopy of the invoice.

You are further directed to allow entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of cotton textiles and cotton textile products produced or manufactured in the Republic of Korea and exported in the United States from the Republic of Korea on or after the date of publication of notice in the FEDERAL REGISTER, notwithstanding the designated shipment or shipments do not meet the aforementioned Visa requirements, whenever requested to do so in writing by the Chairman of the Interagency Textile Administrative Committee.

A detained description of the 64 categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 17, 1968 (33 F.R. 582), and amendments thereto on March 15, 1968 (33 F.R. 4600).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton textiles and cotton textile products from the Republic of Korea, have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. II, 1965–66). This letter will be published in the FEDERAL REGISTER.

Sincerely,

MAURICE H. STANS,
Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[F.R. Doc. 69-6525; Filed, June 2, 1969; 8:50 a.m.]

OFFICE OF EMERGENCY PREPAREDNESS

IOWA

Notice of Major Disaster

Notice of major disaster for the State of Iowa, dated May 1, 1969, and published May 9, 1969 (34 F.R. 7563), is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 25, 1969:

Allamakee.	Jackson.
Clayton.	Lee.
Clinton.	Louisa.
Des Moines.	Muscatine.
Dubuque.	Scott.
Fremont.	Story.
Ida.	

Dated: May 26, 1969.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 69-6459; Filed, June 2, 1969; 8:45 a.m.]

SOUTH DAKOTA

Notice of Major Disaster

Notice of major disaster for the State of South Dakota, dated April 24, 1969, and published April 30, 1969 (34 F.R. 7095), is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 18, 1969:

Buffalo.	Hutchinson.
Faulk.	Hyde.
Hand.	Sanborn.
Hughes.	

Dated: May 26, 1969.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 69-6460; Filed, June 2, 1969; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30 (Rev. 2), Amdt. 1; Southeastern Area]

SOUTHEASTERN AREA COORDINATORS ET AL.

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Area Administrator by Delegation of Authority No. 30 (Rev. 12), 32 F.R. 179, dated January 7, 1967, as amended (32 F.R. 8113, 33 F.R. 8793, 33 F.R. 17217, 33 F.R. 19097, 34 F.R. 5134), Delegation of Authority No. 30 (Rev. 2), Southeastern Area, 33 F.R. 9317, dated June 25, 1968, is hereby amended by:

1. Revising Item I. E–1 to read as follows:

I. *Area Coordinators.* * * *

E. *Financial Assistance Coordinator*—1. *Eligibility determinations (for financial assistance only).* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

* * * * *

2. Revising Items II. B–4 and B–5 and adding thereto Item II. B–6 to read as follows:

II. *Regional Directors.* * * *

B. *Development company assistance.* * * *

4. To execute sections 501 and 502 loan authorizations for Central Office and area approved loans and for loans approved under delegated authority, said execution to read, as follows:

(Name), *Administrator*

By: ----------

Regional Director.
(City)

5. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans.

6. To take all necessary actions in connection with the administration, servicing, and collection other than those accounts classified as "in liquidation"; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of foregoing.

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

3. Revising Items II. C, II. D, II. F–2, II. G–4 and II. G–12 to read as follows:

II. *Regional Directors.* * * *

C. *Size determinations.* To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended; and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

D. *Eligibility determination.* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC Program, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2 (e) of SBA Loan Policy Regulations.

* * * * *

F. *Chiefs, Financial Assistance Divisions (and Assistant Chiefs, if assigned).* * * *

2. *Eligibility determinations for financial assistance only.* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

* * * * *

G. *Supervisory Loan Officer and/or Assistance Team Leader.* * * *

4. To enter into business, economic opportunity, and disaster loan participation agreements with banks.

* * * * *

12. *Eligibility determinations for financial assistance only.* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

* * * * *

4. Revising Items II. I–3 and I–4 and adding thereto Item II. I–5 to read as follows:

II. *Regional Directors.* * * *

I. *Chief, Development Company Assistance Division.* * * *

3. To execute sections 501 and 502 loan authorizations for Central Office, area, and regional approved loans, said execution to read, as follows:

(Name), *Administrator*

By: ----------

(Name)
Chief, Development Company Assistance Division.

4. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans.

5. To take all necessary action in connection with the administration, servicing, and collection, other than those accounts classified as "in liquidation"; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The aproval of bank application for use of liquidity privilege under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

* * * * *

Effective date: December 31, 1968.

WILEY S. MESSICK,
Area Administrator,
Southeastern Area.

[F.R. Doc. 69-6462; Filed, June 2, 1969; 8:45 a.m.]

[Delegation of Authority No. 30 (Middle Atlantic Area), Amdt. 1]

MIDDLE ATLANTIC AREA COORDINATORS ET AL.

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Area Administrators by Delegation of Authority No. 30 (Revision 12), 32 F.R. 179, dated January 7, 1967, as amended (32 F.R. 8113, 33 F.R. 8793, 33 F.R. 17217, 33 F.R. 19097, and 34 F.R. 5143), Delegation of Authority No. 30 (Middle Atlantic Area), 33 F.R. 10669, is hereby amended by:

(1) Revising Item I.E.1, to read as follows:

I. *Area Coordinators.* * * *

E. *Financial Assistance Coordinator.*—1. *Eligibility determinations (for financial assistance only).* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

* * * * *

(2) Revising Items II.B. 4 and 5 and adding thereto a new Item II.B.6, to read as follows:

II. *Regional Directors.* * * *

B. *Development Company Assistance.* * * *

4. To execute sections 501 and 502 loan authorizations for Central Office and area approved loans and for loans approved under delegated authority, said execution to read, as follows:

(Name), Administrator,

By: _____

Regional Director, (City)

5. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans.

6. To take all necessary actions in connection with the administration, servicing, and collection; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of assignments, subordinations, releases (in whole or in part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

(3) Revising Items II.C., II.D., II.F.2, and II.G.12, to read as follows:

II. *Regional Directors.* * * *

C. *Size determinations.* To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, and further to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

D. *Eligibility determinations.* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC program, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

* * * * *

F. *Chiefs, Financial Assistance Divisions (and Assistant Chiefs, if assigned).* * * *

2. *Eligibility determinations for financial assistance only.* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

* * * * *

G. *Supervisory Loan Officer and/or Assistance Team Leader.* * * *

12. *Eligibility determinations for financial assistance only.* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and Development Company Assistance Programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

(4) Revising Items II.I. 3 and 4 and adding thereto a new item II.I.5, to read as follows:

II. *Regional Directors.* * * *

I. *Chief, Development Company Assistance Division.* * * *

3. To execute sections 501 and 502 loan authorizations for Central Office, area, and regional approved loans, said execution to read, as follows:

(Name), Administrator

By: _____

(Name)

Chief, Development Company Assistance Division.

4. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans.

5. To take all necessary actions in connection with the administration, servicing, and collection, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank application for use of liquidity privilege under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

* * * * *

Effective date: December 31, 1968.

EDWARD N. ROSA,
Area Administrator,
Middle Atlantic Area.

[F.R. Doc. 69-6463; Filed, June 2, 1969; 8:45 a.m.]

TARIFF COMMISSION

[337-L-36]

SKI POLES

Notice of Complaint Received

The U.S. Tariff Commission hereby gives notice of the receipt on April 7, 1969, of a complaint under section 1337 of title 19 of the United States Code, filed by Robert J. McDonald, of Arlington,

Va., alleging unfair methods of competition and unfair acts in the importation and sale of ski poles and ski pole components, which have the effect or tendency to substantially injure, or prevent the establishment of, an industry in the United States. The unfair methods or acts are alleged to be the continued importation and sale of ski poles and ski pole rings (baskets) by—

Anderson and Thompson Ski Co., 1725 Westlake Avenue North, Seattle, Wash.
Barrecrafters, 168 Seventh Street, Brooklyn, N.Y.
Tomic Golf and Ski Equipment Co., 7701 East Compton Boulevard, Paramount, Calif.
Ski Country Imports Inc., 70 West Main Street, Littleton, Colo.
Union Distributing Co., 825 West 2500 South, Salt Lake City, Utah.
Whittlesey, Powers and Cameron, 23850 Clawiter Road, Hayward, Calif.

which have been made in accordance with the claims of U.S. Letters Patent No. 3,193,300 and No. 3,204,974 owned by the complainant. Other alleged unfair methods and acts relate to improper disclosures of confidential technical know-how, improper marking of imported components, and sundry claims set forth in the complaint.

In accordance with the provisions of § 203.3 of its rules of practice and procedure (19 CFR 203.3), the Commission[1] has initiated a preliminary inquiry into the allegations of the complaint for the purpose of determining whether there is good and sufficient reason for a full investigation, and if so whether the Commission should recommend to the President the issuance of a temporary order of exclusion from entry under section 337(f) of the tariff act (19 U.S.C. 1337(f)).

A copy of the complaint is available for public inspection at the office of The Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York office of the Tariff Commission located in Room 437 of the Customhouse in accordance with §§ 201.5 and 201.10 of the rules (19 CFR 201.5, 201.10).

Information submitted by interested persons which is pertinent to the aforementioned preliminary inquiry will be considered by the Commission if it is received not later than July 7, 1969. As stated in § 201.8 (a) and (d) of the rules (19 CFR 201.8 (a) and (d)) such information should be sent to The Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C. 20436. A signed original and nineteen (19) true copies of each document must be filed. Information submitted which is to be treated as confidential should be appropriately marked in accordance with § 201.6 of the rules of practice and procedure (19 CFR 201.6).

Issued: May 27, 1969.

By order of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 69-6477; Filed, June 2, 1969; 8:46 a.m.]

[1] Chairman Metzger did not participate in the issuance of this notice.

[332-45]

INTERIM REPORT OF STUDY RELATING TO TEMPORARY ENTRY OF ARTICLES IMPORTED INTO UNITED STATES

Notice of Public Hearing

Hearing. Notice is hereby given that a public hearing will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, D.C., beginning at 10 a.m., e.d.s.t., on August 5, 1969, in connection with a study,[1] under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), of the provisions of title 19 of the United States Code, which permit the temporary importation into the United States of merchandise without the payment of ordinary duties or which permit a virtual recovery of duties paid, when the imported merchandise, or its domestic equivalent, is exported either in the same form as entered or in changed condition.

In its original announcement of the study (FEDERAL REGISTER of July 29, 1965, 30 F.R. 9503), the Commission stated that it would review the original objectives of each provision, examine the extent to which the provision is now accomplishing its purpose, and determine its impact on United States international trade; and expressed especial interest in whether the economic forces which led to the creation of these programs have so changed in the intervening years as to warrant modification and possible consolidation of the procedures to meet current conditions. Interested parties were invited to submit written views relative to the study. In March 1966 the Commission released an interim report titled: "Report on Legislative Objectives" (T.C. Publication 170), containing the legislative history of the various provisions covered by the study.

Concurrent with this notice the Commission is releasing a second interim report titled: "Report on use of Temporary Entry Procedures and Tentative Proposals" (T.C. Publication 286), containing detailed data for the years 1965-67 on the various temporary entry provisions covered by the study. The report also contains tentative proposals under consideration by the Commission with respect to the various provisions of title 19 of the United States Code. The proposals are for the purpose of eliciting constructive comment and suggestions from interested parties.

Requests to appear. All interested parties will be given an opportunity to be present, to produce evidence, and to be heard. Parties requesting to be heard should notify the Secretary of the Tariff Commission, in writing, at its office in Washington, D.C. 20436, no later than July 25, 1969. The request must contain the following information:

(a) The name, address, telephone number, and organization of the person filing the request, together with the name and organization of the witnesses who will testify.

(b) A statement designating which of the provisions described in T.C. Publication 286 is of interest to the party and an indication of the commodity or commodities on which his testimony will be presented. If the statement relates to the drawback provisions, the request should include, to the extent practicable, the value of each principal article on which drawback was received in 1968, the value of the imported material it contained, and the amount of the drawback. If pertaining to the other provisions, the request should include, to the extent practicable, the value of the imported material, the amount of duty which otherwise would have been assessed, and the value of the material when exported.

(c) A careful estimate of the aggregate time desired for presentation of oral testimony by all witnesses for whose appearance the request is filed.

Allotment of time. Because of the anticipated response from users of the temporary entry procedures, limitation of time for the presentation of oral testimony is in the public interest. Therefore, in scheduling appearances at the hearing the time to be allotted witnesses for the presentation of oral testimony will be limited as circumstances require. Supplemental written statements will be allowed in all cases, and should be submitted at the time of presentation of oral testimony. Matters already presented in written submissions to the Commission need not be repeated. Witnesses should bring to the hearing at least 20 copies of any prepared statements, and where feasible, of any exhibits they plan to introduce.

Notification of date of appearance. Persons who have properly filed requests to appear will be individually notified in advance of the date on which they will be scheduled to present oral testimony and of the time allotted for that purpose.

Order of hearing. To the extent practicable, the hearings will follow the order of the context of T.C. Publication 286.

Written submissions. Written information and views in lieu of appearances at the public hearings may be submitted by interested persons. A signed original and 19 true copies of each submission shall be furnished. Business data to be treated as confidential shall be submitted on separate sheets, each clearly marked at the top "Business Confidential". Written statements in lieu of appearance, to be assured of consideration, should be submitted at the earliest practicable date, but not later than the date of the closing of the public hearings.

Issued: May 28, 1969.

By order of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 69-6496; Filed, June 2, 1969; 8:48 a.m.]

[1] Study filed as part of the original document.

BROOM CORN BROOMS

Report to the President

MAY 23, 1969.

To the President:

In accordance with Executive Order 11377 of October 23, 1967 (copy attached),[1] to assist the President in the exercise of his authority under headnote 3 to schedule 7, part 8, subpart A, of the Tariff Schedules of the United States (79 Stat. 948; 19 U.S.C. 1202), the U.S. Tariff Commission [1a] herein reports its judgment as to the estimated domestic consumption of broom corn brooms for the year 1968, the basis for that estimate, and information on U.S. consumption, production, imports, and exports of other types of brooms considered to be competitive with broom corn brooms. For convenience, the Commission also reports corresponding data where available for the year 1965.

Estimated consumption of broom corn brooms. In the judgment of the Commission, the consumption in the calendar years 1965 and 1968 of brooms wholly or in part of broom corn was as follows (in dozens):

Type of broom	1965 [1]	1968
Whiskbrooms of a kind provided for in items 750.26 to 750.28, inclusive, of the tariff schedules	470,612	400,215
Other brooms of a kind provided for in items 750.29 to 750.31, inclusive, of the tariff schedules	2,878,995	2,813,681

[1] As reported to the President May 2, 1968.

Basis for the Commission's judgment with respect to broom corn brooms. The Commission estimated consumption of broom corn brooms in 1968 by the same methods it used to estimate consumption in 1965 and 1967 for its first report pursuant to Executive Order 11377. Apparent annual consumption was determined by adding the quantity of shipments by domestic producers to the quantity of imports and subtracting therefrom the quantity of exports. Data on imports were obtained from the Bureau of Customs of the U.S. Treasury Department; data on production and exports were estimated from responses to questionnaires sent to all known domestic producers of broom corn brooms.

The data for each of the components used in the computation of apparent annual consumption of broom corn brooms are as follows (in dozens):

Item	1965 [1]	1968
	Whiskbrooms of a kind provided for in TSUS items 750.26 to 750.28, inclusive	
U.S. producers' shipments	318,691	288,947
Imports	152,686	111,953
Exports	765	685
Apparent consumption	470,612	400,215
	Other brooms of a kind provided for in TSUS items 750.29 to 750.31, inclusive	
U.S. producers' shipments	2,596,457	2,615,760
Imports	286,897	202,308
Exports	14,359	4,387
Apparent consumption	2,878,995	2,813,681

[1] As reported to the President on May 2, 1968.

Brooms considered competitive with broom corn brooms. After considering information obtained from producers, importers, buyers for retail stores, jobbers, and others having knowledge of the broom trade, the Commission has concluded that whiskbrooms of all fibers other than broom corn are competitive with whiskbrooms made of broom corn, and that upright brooms of all fibers other than broom corn are competitive with upright broom corn brooms. The Commission further is of the opinion that push brooms 16 inches or less in width generally are competitive with upright broom corn brooms. The "competitive" brooms identified above are generally used for the same purpose as, and are generally substitutable for, broom corn brooms.

The Commission estimates that domestic shipments, imports, exports, and apparent consumption in 1967 and 1968 of the brooms considered to be competitive with broom corn brooms were as follows (in thousands of dozens):

Type of broom	Domestic shipments		Exports		Imports		Apparent consumption	
	1967	1968	1967	1968	1967	1968	1967	1968
Whiskbrooms:								
Plastic fiber	14	36	(1)	(1)	----	8	14	44
Other fiber	67	59	(1)	(1)	----	----	67	59
Other (upright) brooms:								
Plastic fiber	182	193	8	6	44	131	218	318
Other fiber	101	95	2	2	----	----	99	93
Push brooms (16" or less in width)	253	269	1	1	----	----	252	268

[1] Less than 500 dozen.

SOURCE: Compiled from data furnished by importers and domestic producers.

By direction of the Commission.

[SEAL]

DONN N. BENT,
Secretary.

[F.R. Doc. 69-6495; Filed, June 2, 1969; 8:48 a.m.]

[1] Copy of Executive Order 11377 filed as part of original document.

[1a] Chairman Metzger did not participate in the issuance of this report.

VETERANS ADMINISTRATION

STATEMENT OF ORGANIZATION

Addresses of Installations and Central Office and Jurisdictional Areas of Insurance Centers

In the Veterans Administration statement of organization (32 F.R. 9776), section 4 is amended to read as follows:

SEC. 4. *Addresses of Veterans Administration installations and Central Office and jurisdictional areas of insurance centers.* This is a guide to the location of Veterans Administration Central Office and field stations in each State (also District of Columbia, Republic of the Philippines, and Commonwealth of Puerto Rico) where information may be obtained concerning benefits to veterans and their dependents and beneficiaries. Information concerning benefits as well as such matters as office hours, location of public reference facilities, fees charged for certain services such as records searching or copying, forms for use by the public and where they may be obtained, and officials to contact for various services, information or decisions, may be obtained by writing or otherwise contacting the office concerned. On any matter in which there may be a question as to the proper point of contact for services, information, or decisions, request may be directed to the Manager or Contact Officer in the nearest VA regional office.

* * * * *

ALABAMA

Hospital, Montgomery 36109: Delete "Perry Hill Rd." and insert "215 Perry Hill Rd."

ALASKA

Regional Office, Juneau 99801: Insert "Federal Bldg., U.S. Post Office and Courthouse."

CALIFORNIA

Hospital, Palo Alto 94304: Delete "Veterans Administration Hospital," and insert "3801 Miranda Ave."

Hospital, San Francisco 94121: Delete "42d Avenue and Clement Street," and insert "4150 Clement St."

CANAL ZONE

VA Office, Balboa: Delete in its entirety.

DELAWARE

Regional Office, Wilmington: Delete "19899—Post Office Box 1266" and insert "19805."

FLORIDA

Hospital, Coral Gables 33134: Delete in its entirety and insert:
Hospital, Gainesville 32601—Archer Rd.
Hospital, Miami 33125—1201 Northwest 16th Street.

IOWA

Center (Regional Office and Hospital), Des Moines: Delete "50308" and insert "50309."

MARYLAND

Regional Office Baltimore: Delete "21202—Fayette and St. Paul Streets" and insert "21201—Federal Bldg., 31 Hopkins Plaza."

MASSACHUSETTS

Hospital, Northampton: Delete "01062" and insert "01060."

MICHIGAN

Regional Office, Detroit 48231: Delete in its entirety and insert:
Regional Office, Detroit 48232—801 West Baltimore at Third.
Below Regional Office, Detroit, insert:
Hospital, Allen Park 48101—Veterans Administration Hospital.
Hospital, Dearborn 48121: Delete in its entirety.

NEW YORK

VA Office, Syracuse 13202: Delete "Chimes Building, 500 South Salina Street," and insert "Gateway Bldg., 809 South Salina St."

OHIO

Regional Office, Cleveland: Delete 44114—Cuyahoga Building, 216 Superior Avenue," and insert "44199—Federal Office Bldg., 1240 East Ninth St."

OREGON

Regional Office, Portland 97204: Delete "208 Southwest Fifth Avenue," and insert "426 Southwest Stark St."

PENNSYLVANIA

Hospital, Pittsburgh 15240: After "University Drive," add "C".
Outpatient Clinic, Philadelphia 19102: Delete "128 North Broad Street," and insert "1421 Cherry Street."

TENNESSEE

Hospital, Memphis: Delete "38115—Park Avenue and Getwell Street," and insert "38104—1030 Jefferson Ave."

TEXAS

Hospital, Amarillo 79106: Delete "Veterans Administration Hospital," and insert "6010 Amarillo Blvd., W."

WASHINGTON

Hospital, Vancouver: Delete "98663" and insert "98661."
Hospital, Walla Walla 99362: Delete "Veterans Administration Hospital," and insert "77 Wainwright Drive."

By direction of the Administrator.

[SEAL] A. H. MONK,
Associate Deputy Administrator.

[F.R. Doc. 69-6494; Filed, June 2, 1969; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 841]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 28, 1969.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 48958 (Sub-No. 103 TA), filed May 14, 1969. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Morris G. Cobb, 601 Ross Street, Post Office Box 9050, Amarillo, Tex. 79105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading), serving the site of the Duval Sulphur Mine approximately 19 miles southwest of Orla, Tex. (Orla, Tex., is located midway between Carlsbad, N. Mex., and Pecos, Tex., on U.S. Highway 285); and (2) serving the construction site of Duval Sulphur Mine as an off-route point in connection with applicant's presently authorized regular route authority in certificate No. MC 48958, Sub 51, between Carlsbad, N. Mex., and Pecos, Tex., and coordinating such service by tacking at Carlsbad with other authority of the applicant in MC 48958 and subnumbered proceedings thereunder, for 180 days. NOTE: Proposed authority is to be operated in conjunction with MC 48958, Sub 51, between Carlsbad and Pecos, tacking at Carlsbad with applicant's other interstate authority in MC 48958 and subs, and interlining at all ICX gateways with other motor common carriers. Supporting shipper: Stearns-Roger Corp., 660 Bannock Street, Post Office Box 5888, Denver, Colo. 80217. Send protests to: District Supervisor W. C. Buckner, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 95920 (Sub-No. 20 TA), filed May 22, 1969. Applicant: SANTRY TRUCKING COMPANY, 11552 Southwest Pacific Highway, Portland, Oreg. 97223. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products and packages, and such other products as are dealt in and used by retail and wholesale petroleum distributors or dealers* (except in bulk), from points in Los Angeles County and Richmond, Calif., to points in Washington and Oregon on and west of U.S. Highway 97, for 180 days. Supporting shipper: Standard Oil Co. of California, Western Operations, Inc., 225 Bush Street, San Francisco, Calif. 94120. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 107295 (Sub-No. 196 TA), filed May 19, 1969. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sewer pipe and sewer pipe fittings, bituminized fiber; and conduit and conduit connections, bituminized fiber;* from Louisiana, Mo., to points in New York, New Jersey, West Virginia, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Georgia, Alabama, Mississippi, Oklahoma, Kansas, and Minnesota, for 180 days. Supporting shipper: Tallman Conduit Co., 600 South Main Street, Louisiana, Mo. 63353. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 112304 (Sub-No. 29 TA), filed May 22, 1969. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gun mounts and related equipment* requiring special equipment or special handling, between Louisville, Ky., and Crane, Ind., on the one hand, and, on the other, Long Beach, San Diego, and San Francisco, Calif.; Bremerton, Wash.; Boston, Mass.; Charleston, S.C.; Norfolk, Va.; and Jacksonville, Fla., for 180 days.

Supporting shipper: Military Traffic Management and Terminal Service, Department of the Army, Washington, D.C. 20315. Send protests to: Emil P. Schwab, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1010 Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 115904 (Sub-No. 15 TA), filed May 19, 1969. Applicant: LOUIS GROVER, 1710 West Broadway, Idaho Falls, Idaho 83401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, including laminated beams*, from points in Lemhi and Custer Counties, Idaho, to points in Nevada and Washington, for 180 days. NOTE: Applicant does not intend to tack or interline the authority herein sought. Supporting shipper: Intermountain Lumber Co., Post Office Box 1208, Salmon, Idaho 83467. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Courthouse, 550 West Fort Street, Boise, Idaho 83702.

No. MC 115904 (Sub-No. 16 TA), filed May 22, 1969. Applicant: LOUIS GROVER, 1710 West Broadway, Idaho Falls, Idaho 83401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plasterboards* (fiberboard, felt or fiber and plaster combined), from the plantsite of the Big Horn Gypsum Company near Cody, Wyo., to points in Idaho south of the Salmon River, for 180 days. NOTE: Applicant does not intend to tack or interline the authority herein sought. Supporting shipper: Western Wholesale & Supply, Inc., 1800 South Yellowstone, Idaho Falls, Idaho 83401. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Courthouse, 550 West Fort Street, Boise, Idaho 83702.

No. MC 129863 (Sub-No. 4 TA), filed May 20, 1969. Applicant: FREDERICK L. BULTMAN, INC., 3140 West Fond du Lac Avenue, Milwaukee, Wis. 53210. Applicant's representative: William C. Dineen, 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpet cushions, and unfinished carpet and industrial textile products*, between the plants and warehouse facilities of the Ozite Corp. at Milwaukee, Wis., and the plant and warehouse facilities of the Ozite Corp. at Libertyville, Ill., for the account of the Ozite Corp., for 180 days. Supporting shipper: Ozite Corp., 1755 Butterfield Road, Libertyville, Ill. 60048 (Marion E. Busby). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 133740 TA, filed May 19, 1969. Applicant: BBR TRUCKING CO., INC., 604 Babcock Street, Buffalo, N.Y. 14206. Applicant's representative: William J. Hirsch, 43 Niagara Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Green salted beef hides and lamb and sheep pelts*, from Buffalo, N.Y., to Peabody, North Adams, Woburn, and Salem, Mass.; Pownal, Vt.; Berwick and Sacco, Maine; Newark and Camden, N.J.; and Philadelphia, Pa., and Lebanon, N.H., for 180 days. Supporting shippers: Tog Packing Inc., 1010 Clinton Street, Buffalo, N.Y. 14206; Elmer Bender & Son, 175 Lewis Street, Buffalo, N.Y., 14206; Everett Horlein & Sons, 669 Howard Street, Buffalo, N.Y. 14206. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 133748 TA, filed May 22, 1969. Applicant: LILE MOVING & STORAGE COMPANY, 7021 Northeast Halsey Street, Portland, Oreg. 97213. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Interstate Commerce Commission, between points in Multnomah, Washington, Columbia, Clackamas, Yamhill, and Hood River Counties, Oreg., and Clark, Cowlitz, and Skamania Counties, Wash., for 180 days. Supporting shippers: Astron Forwarding Co., Post Office Box 161, Oakland, Calif. 94604; Asiatic Forwarders, Inc., 335 Valencia Street, San Francisco, Calif. 94103; Georgia-Pacific Corp, Commonwealth Building, Portland, Oreg. 97204; Tektronix, Inc., Post Office Box 500, Beaverton, Oreg., 97005. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, Room 450, Multnomah Building, 120 Southwest Fourth Avenue, Portland, Oreg. 97204.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 69-6509; Filed, June 2, 1969; 8:49 a.m.]

FEDERAL REGISTER

VOLUME 34 • NUMBER 105

Tuesday, June 3, 1969 • Washington, D.C.

PART II

Department of Commerce
Bureau of International Commerce

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Revision of Export Regulations



Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[12th Gen. Rev. of Export Control Regs.]

REVISION OF EXPORT REGULATIONS

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

Effective date: June 1, 1969.

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

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

Sec.
368.1 Effect of regulations.
368.2 U.S. international import certificate.
368.3 U.S. delivery verification certificate.
368.4 Penalties and sanctions for violations.

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

§ 368.1 Effect of regulation.

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

(2) *Commodities covered and administering U.S. agencies.* The Office of Export Control will receive from importers in the United States the representations regarding the intended destination of commodities and will provide a certification that such representations have been made (i) for commodities under the export control jurisdiction of the Office of Export Control that are identified by the symbol "A" on the Commodity Control List and (ii) by agreement with the Atomic Energy Commission, for commodities classified as "source material," "by-product material," "special nuclear material," or "facilities for the production or utilization of special nuclear material," as defined in the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission. (See § 370.10(e) of this chapter.) (iii) The U.S. Treasury Department, Alcohol, Tobacco, and Firearms Division, Washington, D.C. 20224, administers similar procedures with respect to arms, ammunition, and implements of war as enumerated in the U.S. Munitions List (22 CFR Part 121).

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

§ 368.2 International import certificate.

(a) *Procedure*—(1) *General.* Where a person in the United States purchases or expects to receive commodities from one of the foreign countries participating in the IC/DV procedure and is required by the government of the exporting country to furnish an import certificate, he shall use Form FC–826 (IRS 4522), International Import Certificate, and accompanying Form FC–827, Import Certificate Cross-Reference Card (see Supplement S–18 for facsimiles), showing his name and address. All items on the international import certificate are required to be completed.

(i) The forms shall be sent to the Office of Export Control, or the nearest field office listed in subparagraph (2) of this paragraph, in triplicate for commodities on the Commodity Control List; and in quadruplicate for atomic energy commodities. Forms are obtainable from any field office (see list on page 1 under Field Office Addresses) or the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

(ii) Representations by the importer which prescribe that the commodities will be entered into the United States do not preclude the temporary unlading of the commodities in a foreign trade zone for subsequent entry into the economy of the United States.

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

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

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

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

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

(ii) *Description of goods* (Item 3). A complete description of the commodity (ies) being imported, as well as the contract number and lot numbers, and the name and address of the U.S. military disposal installation if this has not been entered in Item 2. When approved, the international import certificate number covering the foreign excess property will be suffixed by the code "USMS."

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

(ii) Where the validity period of a certificate has expired before its presentation to the foreign government and an extension is desired, the U.S. importer should apply for a new certificate. (See subparagraph (11)(ii) of this paragraph below for unused certificates.)

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

exporter has surrendered it to his government, or for any other valid reason, the importer shall submit a written statement giving his reasons for failure to submit the original certificate.

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

(8) *Approval of shipment, transfer, or sale of commodities to a foreign consignee before delivery under international import certificate.* (i) The written approval of the Office of Export Control is required before commodities covered by a U.S. international import certificate, whether or not bearing a triangle, may be shipped to a destination other than the United States or Canada or sold to a foreign purchaser, and before title to or possession of such commodities may be transferred to a foreign transferee.[1] This requirement does not apply after the commodities have been delivered in accordance with the undertaking set forth in the certificate.

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

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

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

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

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

(ii) Resale or transfer to another U.S. purchaser or transferee requires the prior approval of the Office of Export Control only in cases where the buyer or transferee is listed in Supplement No. 1 to Part 388, table of "Denial and Probation Orders." However, the person who obtained the international import certificate is required to notify the Office of Export Control of any change in facts or intentions relating to the transaction, and in all cases that person is held responsible for the delivery of the commodities in accordance with the export control regulations. The seller or transferor is therefore required in all cases to secure, prior to sale or transfer, and to retain in his files for 3 years, written acceptance by the purchaser or transferee of (*a*) all obligations undertaken by, and imposed under the export control regulations upon, the holder of the certificate; and (*b*) an undertaking that all subsequent sales or transfers will be made subject to the same conditions.

(iii) The responsibility of the international import certificate holder for

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[1] The attention of U.S. purchasers is directed to the transaction control regulations of the U.S. Treasury Department (Title 31 of the Code of Federal Regulations, sections 505.01 et seq.) These regulations prohibit persons within the United States from purchasing or selling, or arranging the purchase or sale, without a Treasury Department license, of any merchandise in any foreign country when the transaction involves a shipment from any foreign country to country group W, Y, or Z (except Cuba, for which the Cuban assets control regulations mentioned below restrict shipments to Cuba), of merchandise identified by the symbol "A" in the last column of the commodity control list (§ 399.1), or of a type prohibited by any of the several regulations referred to in § 370.10. (See Supplement No. 1 to Part 370 for country group designations.)

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

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

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

obtaining a delivery verification certificate also applies to those cases where the commodities are resold to a U.S. purchaser. This is explained fully in § 368.3(a)(1) of this chapter.

(10) *Reexport of transshipment of commodities after delivery to United States.* Commodities imported into the United States under the provisions of a U.S. international import certificate may not be reexported to any destination under the provisions of General License GIT (see § 371.4) of this chapter. However, all other provisions of the export control regulations applicable to commodities of domestic origin shall apply to the reexport of commodities of foreign origin shipped to the United States under a U.S. international import certificate.

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

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

(*b*) That if the original international import certificate is found, the applicant agrees to return the original or duplicate of the certificate to the Office of Export Control.

(ii) *Unused certificates.* Where the transaction will not be completed and the international import certificate will not be used, the certificate shall be returned for cancellation to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

§ 368.3 Delivery verification certificate.

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

(ii) The responsibility of a person or firm executing a U.S. international import certificate for providing the foreign exporter with confirmation of delivery of the commodities includes instances where the commodities are resold or transferred to another U.S. person or firm prior to actual delivery to the United States or to an approved foreign destination. The person who executed the certificate shall secure in writing from the U.S. purchaser or transferee, and retain in his files for 3 years, (*a*) acceptance of the obligation to provide him with either the delivery verification certificate (or other official government confirmation of delivery if a delivery verification certificate is unobtainable) or assurance that this document was submitted to the Office of Export Control; and (*b*) an undertaking that each succeeding U.S. transferee or purchaser will assume the same obligation or assurance. In each case the seller or transferor shall transmit to the U.S. purchaser or transferee the identification number of the international import certificate covering the export from the foreign country and request that they pass it on to any other U.S. purchasers or transferees.

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

(2) *Completion and disposition of delivery verification certificates.* A U.S. importer who is required by the foreign government to obtain a delivery verification certificate shall present Form FC–908, Delivery Verification Certificate (revised May 1, 1968), in duplicate, to a U.S. customs office. A delivery verificaton certificate will be certified by a U.S. customs office only where the import is made under a warehouse or consumption entry. Form FC–908 shall be completed by the U.S. importer in all respects except as to type of customs entry (warehouse or consumption), entry number, date of entry, and the certification at the bottom of the form. The commodities shall be described on the form in the same terms as those shown on the related international import certificate. The importer shall dispatch the original of the certified delivery verification certificate to the foreign exporter or otherwise dispose of it in accordance with the instructions of the exporting country. The duplicate copy will be retained by the U.S. customs office. Form FC–908 may be obtained from all U.S. Department of Commerce field offices (see list on page 1 under Field Office Addresses) from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, and from U.S. Customs Offices.

(3) *Issuance of U.S. delivery compliance notice in lieu of delivery verification certificate.* Where a U.S. party is required to provide a delivery verification certificate but does not wish to disclose the name of his customer to the foreign supplier (e.g., in the event that the commodities are resold or transferred to another person or firm before the commodities enter the United States), he may submit an authenticated Form FC–908, delivery verification certificate, together with an explanatory letter requesting a delivery compliance notice, to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. The Office of Export Control will then provide the U.S. party with an original and a copy of an authenticated Form IA–956, Delivery Compliance Notice, signifying that the commodities were imported into the United States and that a satisfactory U.S. delivery verification certificate has been submitted to the Office of Export Control. The U.S. party shall forward the original to the foreign supplier for submission to the foreign government and retain the copy in its files.

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

(i) That the original delivery verification certificate has been lost or destroyed;

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

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

(iv) The number and date of the related international import certificate.

(5) The Office of Export Control will in applicable cases, notify the exporting government that a delivery verification certificate has been issued.

§ 368.4 Penalties and sanctions for violations.

(a) *Administrative.* The enforcement provisions of Part 387 and § 390.1(a), and the sanctions set forth in § 388.1(a) of the Export Control Regulations shall apply to transactions involving imports into the United States covered by this Part 368 and to both foreign and U.S. parties involved in a violation of this Part 368. Any provisions of Part 387, and § 390.2(a) which, by their terms, relate to "exports" or "exports from the United States" are also deemed to apply and extend to imports into the United States, applications for international import certificates (Form FC–826 presented to U.S. Department of Commerce for certification), international import certificates, and delivery verification certificates, dealt with in this Part 368. (Applications for international import certificates, and delivery verification certificates, as specified in this Part 368, are included within the definition of export control documents set forth in § 370.2 of the Export Control Regulations.)

(b) *Criminal.* The False Statements Act makes it a criminal offense to make a wilfully false statement or conceal a material fact, or knowingly use a document containing a false statement, in any matter within the jurisdiction of a U.S. department or agency. Maximum

penalties under this provision are $10,000 fine or imprisonment for 5 years, or both. In addition, a violation of the Export Control Act or any regulation, order, or license issued thereunder is punishable by a fine of not more than $10,000 or by imprisonment for not more than 1 year, or both (also see § 387.1(a)).

PART 369—RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

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

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

§ 369.1 General policy.

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

§ 369.2 Reporting requirement.

(a) *Scope.* In order to implement the policy set forth in § 369.1, a reporting requirement is established. The provisions of this § 369.2 apply to any U.S. exporter who receives a request for an action, including the furnishing of information or the signing of agreements, that has the effect of furthering or supporting a restrictive trade practice or boycott fostered by any foreign country against any country not included in Country Group S, W, Y, or Z. (See § 369.3 for examples of restrictive trade practices or boycotts.) Where such request is received by any other person handling any phase of the transaction for the exporter, that person (forwarding agent, etc.) is responsible for informing the exporter of the request so that the latter may report it.

(b) *Report from U.S. Exporter.*[2] Any U.S. exporter who receives a request, or is informed of a request, relating to a restrictive trade practice or boycott, as described in paragraph (a) above, shall report the request to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. The exporter's report may be submitted in accordance with the procedure set forth in either subparagraph (1) or (2) of this paragraph. (The information contained in these reports is subject to the provisions of section 6(c) of the Export Control Act regarding confidentiality of information.)

(1) *Single transaction report.* If the report covers only a single transaction it shall be submitted to the Office of Export Control within 15 business days from the date the exporter receives the request. This report shall be made on Form IA–1014: U.S. Exporter's Report of Request Received for Information, Certification, or Other Action Indicating a Restrictive Trade Practice or Boycott Against a Foreign Country[3] (see Supplement S–21 for facsimile of form). If the request is for information and is received in the form of a questionnaire, a copy of this questionnaire shall accompany the report. Copies of requests received in other forms need not be submitted with the report, but appropriate quotations from the request shall be included in the report. Whenever an exporter receives more than one request for action with reference to the same export transaction, only the first request need be reported.

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

(i) Name and address of U.S. exporter submitting report;

(ii) Calendar quarter covered by report;

(iii) Name of country(ies) against which the request is directed;

(iv) Date(s) request(s) was (were) received;

(v) Name and address of requestor;

(vi) Number of transactions to which restrictions were applicable;

(vii) Type(s) of request(s) received (If questionnaire, attach copy. If other than questionnaire, give the type of document or other form of request and the specific information or action requested.);

(viii) Quantity, description, and value of the commodities or technical data covered by the request(s) (The description may conform to the description on the order or to usual commercial terminology and may, but need not be, in terms of the Commodity Control List or Schedule B.); and

(ix) Whether or not the U.S. exporter intends to comply with the request(s). (Submission of the information required by this paragraph (ix) would be helpful to the U.S. Government but is not mandatory.)

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

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

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

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

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

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

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

(f) A restriction prohibiting the U.S. exporter or any subsidiary or affiliate of the U.S. exporter from using shipping or transportation facilities that are "blacklisted" by the importing country. (However, a request or restriction solely precluding the export of commodities to the importing country on (1) shipping or transportation facilities owned, controlled, operated, or chartered by a country or a national of a country, friendly to the United States but not friendly to the importing country, or (2) a carrier that stops at a port in a country friendly to the United States but not friendly to the importing country prior to stopping

[1] Country Group are listed in Supplement No. 1 to Part 370.

[2] See § 370.2 for definition of U.S. exporter.

[3] Copies of Form IA–1014 may be obtained at all U.S. Department of Commerce Field Offices (see list on page i under Field Office Addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

at the port of unlading, is not deemed a restrictive practice within the meaning of section 2(4) of the Export Control Act, but rather a precautionary measure to avoid any risk of confiscation of the commodities. Accordingly, these two types of shipping restrictions are exempted from the reporting requirement of this section.)

§ 369.4 Effect of other provisions.

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

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

Sec.

370.1 General policy.
370.2 Definitions of export control terms.
370.3 Prohibited exports.
370.4 Shipments to territories, dependencies, and possessions of the United States, and trust territories.
370.5 Intransit shipments without unloading.
370.6 Shipments entering foreign trade zones.
370.7 Unauthorized disposition of foreign excess personal property purchased from the armed forces in foreign countries.
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370.9 Shipments which transit Country Group Y or Z en route to any other destination.
370.10 Exports authorized by U.S. Government agencies other than Office of Export Control.

Country Groups—Supplement No. 1.
U.S. Munitions List—Supplement No. 2.

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

§ 370.1 General policy.

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

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

(2) To further the foreign policy of the United States and to aid in fulfilling its international responsibilities; and

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

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

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

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

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

§ 370.2 Definitions of export control terms.

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

Export control law. Export Control Act of 1949.

Export Control Regulations. Regulations set forth in Parts 368–399, inclusive, of the Code of Federal Regulations and contained in this publication.

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

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

Department of Commerce. The Office of Export Control and the Bureau of International Commerce of the U.S. Department of Commerce.

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

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

Validated license. A document issued by or under the authority of the Office of Export Control authorizing export.

License application; application for license. License application and similar wording means an application for a validated export license.

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

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

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

Commodity. Any article, material, or supply except technical data.

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

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

Export Control Commodity Numbers. The commodity classification numbers used in § 399.1 of the Export Control Regulations. The Export Control Commodity Number has either three or five digits which are the same as the initial digits of the corresponding Schedule B number.

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

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

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

Periodic requirements license (§ 373.5). A special license authorizing the export

during a 1-year period of one or more commodities identified by the symbol "E" in the last column of the Commodity Control List (§ 399.1) to one or more ultimate consignees in a named ultimate destination.

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

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

Distribution license (§ 373.3). A special bulk license authorizing export of certain commodities to approved consignees in any one or more of 12 specified countries during a period of 1 year. The consignees must be foreign distributors or users of the licensed commodity.

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

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

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

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

Licensee. The person named in the export control document as exporter.

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

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

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

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

Customs officer. The customs officers in the Bureau of Customs and Postmasters unless the context indicates otherwise.

Port of export. The port at which the cargo is laden aboard the exporting carrier which will carry it abroad. It includes, in the case of an export by mail, the place of mailing.

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

Exporting carrier. Any instrumentality of water, land, or air transportation by which an export is effected, including any domestic air carrier on which any cargo for export is laden or carried that is covered by a shipper's export declaration authenticated by a Customs Officer.

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

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

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

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

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

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

An individual who is a citizen of Canada; or

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

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

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

§ 370.3 Prohibited exports.

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

(1) Any export to Canada, for consumption in Canada[3] other than:

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

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

(iii) The following copper commodities:

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

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

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

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

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

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

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

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

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

[3] See § 374.1 for shipments to Canada, not intended for consumption in Canada, and regarding the requirement of a shipper's export declaration for certain exports to Canada.

reexport are subject to revision, suspension, or revocation without notice. It may be necessary for the Office of Export Control to stop a shipment or an export transaction at any stage of its progress; e.g., in order to prevent an unauthorized export or reexport. If a shipment is already en route, it may be further necessary to order the return or unloading of such shipment at any port of call in accordance with the provisions set forth in § 386.10.

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

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

§ 370.5 Intransit shipments without unloading.

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

§ 370.6 Shipments entering foreign trade zones.

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

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

(2) Shipments covered by international import certificates. Commodities shipped to the United States under a Form FC–826, International Import Certificate, in accordance with the procedure described in paragraph 368.2 require a validated license.

(3) Shipments originating in Canada. Shipments of commodities originating in Canada require a validated license only:

(i) If the shipment does not meet the conditions set forth in § 371.4(b)(1); or

(ii) If the shipment could not be exported directly from the United States to Country Group T under the provisions of General License G–DEST.

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

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

(a) *General.* In the event the U.S. Armed Forces shall sell in any foreign country any commodity, in used or new condition, which was exported from the United States pursuant to § 370.3(a)(2), the prohibitions and sanctions provided in Parts 382 and 383 shall apply whenever such commodity is, or is attempted to be transshipped, diverted, or reexported to any destination contrary to the provisions of the contract of sale executed by the U.S. Armed Forces or to the Export Control Regulations referred to therein.

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

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

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

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

§ 370.8 Shipments via Hong Kong.

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

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

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

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

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

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

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

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

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

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

to Canada or a destination in Country Group S, T, V, W, or X, is hereby prohibited unless a validated license specifically authorizes the transshipment or intransit shipment, or both, except:

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

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

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

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

(a) *Arms, ammunition, and implements of war.* Regulations administered by the Office of Munitions Control, U.S. Department of State, Washington, D.C. 20520, govern the export of arms, ammunition and implements of war. These regulations are issued under the authority of section 414 of the Mutual Security Act of 1954 (68 Stat. 848; 22 U.S.C. § 1934 (1964), as amended (Supp. III, 1965–1967)). The commodities covered by the regulations are listed in Supplement No. 2 to this Part 370.

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

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

(d) *Narcotics.* Regulations administered by the Bureau of Narcotics and Dangerous Drugs, U.S. Department of Justice, Washington, D.C. 20537, govern the export of the following narcotic drugs: (1) Amidone or Methadon (Adanon and Dolophine—trade names); (2) coca leaves and their derivatives; (3) isonipecaine (Demerol—trade name); (4) marihuana or cannabis; (5) opium and its derivatives; (6) opiates; and (7) any medicine or preparation containing any quantity of the foregoing drugs or their derivatives. The regulations are issued under the Narcotic Drugs Import and Export Act, (35 Stat. 614; 21 U.S.C. §§ 171–185 (1964)), and the Marihuana Tax Act of 1937 (50 Stat. 551; 26 U.S.C. §§ 4741 et seq. (1964), as amended (Supp. III, 1965–1967)).

(e) *Commodities subject to Atomic Energy Act.* Regulations administered by the Division of State and Licensee Relations, U.S. Atomic Energy Commission, Washington, D.C. 20545, govern the export of the materials and facilities set forth and defined below, except that components for such facilities are licensed by the Office of Export Control. The AEC regulations are issued under the authority of the Atomic Energy Act of 1954 (66 Stat. 1921; 42 U.S.C. §§ 2011–2296 (1964), as amended (Supp. III, 1965–1967)).

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

(2) *Source material.* The term "source material" means any material except special nuclear material, which contains: by weight one-twentieth of one percent (0.05%) or more of (1) uranium, (2) thorium, or (3) any combination thereof.

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

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

(i) Any nuclear reactor designed or used primarily for the formation of plutonium or U^{233}, or

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

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

(5) *Utilization facility.* The term "utilization facility" means any nuclear reactor other than one designed or used primarily for the formation of plutonium or U^{233}.

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

(1) Export Authorization by U.S. Maritime Administration and U.S. Department of State.

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

(2) Export authorization by U.S. Maritime Administration and Office of Export Control.

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

(3) Export authorization by U.S. Maritime Administration only.

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

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

(iii) The Maritime Administration regulations are issued under the authority of the Shipping Act of 1916 (39 Stat. 728; 46 U.S.C. §§ 801–842 (1964), as amended (Supp. III, 1965–67)).

(g) *Natural gas and electric energy.* Regulations administered by the U.S. Federal Power Commission, Washington, D.C. 20426, govern the export of "natural gas" and "electric power", as defined in the Acts cited below, and the construction, operation, maintenance, or connection of facilities for such export at the United States side of international boundaries. The regulations relating to "natural gas" are issued under the authority of the Natural Gas Act of 1938 (52 Stat. 822; 15 U.S.C. § 717(b) (1964)); the regulations relating to "electric power" are issued under the authority of the Federal Power Act (49 Stat. 847; 16 U.S.C. §§ 791–828(c) (1964), as amended (Supp. III, 1965–67)).

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

SUPPLEMENT NO. 1

COUNTRY GROUPS

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

COUNTRY GROUP S

Southern Rhodesia.

COUNTRY GROUP T

NORTH AMERICA

Northern Area:
Greenland.
Miquelon and St. Pierre Islands.
Southern Area:
Mexico (including Cozumel and Revilla Gigedo Islands).
Central America:
British Honduras.
Costa Rica.
El Salvador.
Guatemala.
Honduras (including the Bay Islands).
Nicaragua.
Panama, Republic of.
Bermuda and Caribbean:
Bahamas.
Barbados.
Bermuda.
Dominican Republic.
French West Indies.
Haiti (including Gonave and Tortuga Islands).
Jamaica.
Leeward and Windward Islands.
Netherlands Antilles (formerly Curacao, N.W.I.).
Trinidad and Tobago.

SOUTH AMERICA

Northern Area:
Colombia.
French Guiana (including Inini).
Guyana (formerly British Guiana).
Surinam (Netherlands Guiana).
Venezuela.
Western Area:
Bolivia.
Chile (including the islands Sala-y-Gomez, Juan Fernandes, San Felix, San Ambrosio, and Easter Island).
Ecuador (including the Galapagos Islands).
Eastern Area:
Argentina.
Brazil (including the islands St. Paul, Fernando Noronha, and Trinidad (in South Atlantic)).
Falkland Islands.
Paraguay.
Uruguay.

COUNTRY GROUP V

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

COUNTRY GROUP W

Poland (including Danzig).
Rumania.

COUNTRY GROUP X

Hong Kong.
Macao.

COUNTRY GROUP Y

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

COUNTRY GROUP Z

China (Mainland):
Including Inner Mongolia; the provinces of Tsinghai and Sikang; Sinkiang; Tibet; and Manchuria (includes the former Kwantung Leased Territory, the present Port Arthur Naval Base Area, and Liaoning Province); but excluding Republic of China (Taiwan) (Formosa) and Outer Mongolia.
Communist-controlled area of Vietnam.
Cuba.
North Korea.

SUPPLEMENT NO. 2

THE U.S. MUNITIONS LIST

The following articles [1] are designated by the Office of Munitions Control, U.S. Department of State as arms, ammunition, and implements of war: [2]

CATEGORY I—FIREARMS

(a) Nonautomatic and semiautomatic firearms, to caliber .50 inclusive, and all components and parts therefor.
(b) Automatic firearms and all components and parts therefor, to caliber .50 inclusive.
(c) Insurgency-counterinsurgency type firearms or other weapons having a special military application regardless of caliber; and all components and parts therefor.
(d) Firearms silencers.
(e) Bayonets and specifically designed components therefor.
(f) Riflescopes (except sporting type sights including optical) and specifically designed components therefor.

CATEGORY II—ARTILLERY AND PROJECTORS

(a) Guns over caliber .50, howitzers, mortars, and recoilless rifles.
(b) Military flame throwers and projectors.
(c) Components and parts including, but not limited to mounts and carriages for the articles in paragraphs (a) and (b) of this Category.

CATEGORY III—AMMUNITION

(a) Ammunition for the arms in Categories I and II of this section.
(b) The following components, parts, accessories, and attachments: cartridge cases, powder bags, bullets, jackets, cores, shells (excluding shotgun), projectiles, boosters, fuzes and components therefor, primers, and other detonating devices for such ammunition.
(c) Ammunition belting and linking machines.
(d) Ammunition manufacturing machines, and ammunition loading machines (except hand loading).

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

(a) Launch vehicles, guided missiles, ballistic missiles, bombs, grenades, rockets, torpedoes, rocket torpedoes, depth charges, land and naval mines, and military demolition blocks and blasting caps.
(b) Apparatus, devices, and materials for the handling, control, activation, detection, protection, discharge, or detonation of the articles in paragraph (a) of this category.
(c) Missile and space vehicle powerplants.
(d) Military explosive excavating devices.
(e) Filament winding machines designed for or modified for the manufacture of structural forms, for articles in this category.
(f) All specifically designed components, parts, accessories, attachments, associated equipment, and specialized production equipment for the articles in this category.

CATEGORY V—PROPELLANTS, EXPLOSIVES, AND INCENDIARY AGENTS

(a) Propellants for the articles in Categories III and IV of this section.
(b) Military explosives.
(c) Military fuel thickeners.
(d) Military pyrotechnics.

CATEGORY VI—VESSELS OF WAR AND SPECIAL NAVAL EQUIPMENT

(a) Warships, amphibious warfare vessels, landing craft, mine warfare vessels, patrol vessels, auxiliary vessels, service craft, floating dry docks, and experimental types of naval ships.
(b) Turrets and gun mounts, missile systems, arresting gear, special weapons systems, protective systems, submarine storage batteries, catapults and other components, parts, attachments and accessories specifically designed for combatant vessels, including but not limited to, battleships, command ships, guided missile ships, cruisers, aircraft carriers, destroyers, frigates, escorts, minesweepers, and submarines.
(c) Submarine and torpedo nets, and mine sweeping equipment and components, parts, attachments and accessories specifically designed therefor.
(d) Harbor entrance magnetic, pressure, and acoustic detection devices, controls and components thereof.
(e) Naval nuclear propulsion plants, their land prototypes and special facilities for their construction, support and maintenance, including any machinery, device, component, or equipment specifically developed or designed for use in such plants or facilities.

CATEGORY VII—TANKS AND MILITARY VEHICLES

(a) Military type armed or armored vehicles, military railway trains, and vehicles fitted with, designed or modified to accommodate, mountings for arms or other specialized military equipment.
(b) Military tanks, tank recovery vehicles, halftracks, and gun carriers.
(c) Self-propelled guns and howitzers.
(d) Military trucks, trailers, hoists, and skids specifically designed for carrying and handling the articles in paragraph (a) of Categories III and IV; military mobile repair shops specifically designed to service military equipment.
(e) Military recovery vehicles.
(f) Amphibious vehicles.
(g) All specifically designed components, parts, accessories, attachments, and associated equipment, including military bridging and deep water fording kits for the articles in this category.

CATEGORY VIII—AIRCRAFT, SPACECRAFT, AND ASSOCIATED EQUIPMENT

(a) Aircraft including helicopters designed, modified or equipped for military purposes, including but not limited to the following: gunnery, bombing, rocket, or missile launching, electronic surveillance, reconnaissance, refueling, aerial mapping, military liaison, cargo carrying or dropping, personnel dropping, military trainers, drones, and lighter-than-air aircraft.
(b) Spacecraft including manned and unmanned, active and passive satellites.
(c) Military aircraft engines, except reciprocating engines, and spacecraft engines specifically designed or modified for the aircraft and spacecraft specified in paragraphs (a) and (b) of this category.
(d) Airborne equipment, including but not limited to, JATO units and airborne refueling equipment, specifically designed for use with the aircraft, spacecraft, and engines of the types in paragraphs (a), (b), and (c) of this category.
(e) Launching, arresting, and recovery equipment for the articles in paragraphs (a) and (b) of this category.
(f) Nonexpansive balloons in excess of 3,000 cubic feet capacity, except such types as are in normal sporting use.

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

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

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

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

(i) Experimental or developmental aircraft components known to have a significant military application.

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

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

(l) Inertial systems, and specifically designed components therefor, inherently capable of yielding accuracies of better than 2 to 4 nautical miles per hour c.e.p.

CATEGORY IX—MILITARY TRAINING EQUIPMENT

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

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

CATEGORY X—PROTECTIVE PERSONNEL EQUIPMENT

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

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

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

CATEGORY XI—MILITARY AND SPACE ELECTRONICS

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

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

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

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

(a) Fire control; gun and missile tracking and guidance systems; military infrared, image intensifier and other night sighting and night viewing equipment; military masers and military lasers; gun laying equipment; range, position and height finders and spotting instruments; aiming devices (electronic, gyroscopic, optic, and acoustic); bomb sights, bombing computers, military television sighting and viewing units, inertial platforms; and periscopes for the articles of this section.

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

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

CATEGORY XIII—AUXILIARY MILITARY EQUIPMENT

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

(b) Cyptographic devices (encoding and decoding), and specifically designed components therefor.

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

(d) Armor plate.

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

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

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

CATEGORY XIV—TOXICOLOGICAL AGENTS AND EQUIPMENT; RADIOLOGICAL EQUIPMENT

(a) Chemical agents, including lung irritants, vesicants, lacrimators, and tear gases, sternutators and irritant smokes, and nerve gases and incapacitating agents.

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

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

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

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

CATEGORY XV—HELIUM GAS

Contained helium and admixtures thereof.

CATEGORY XVI—NUCLEAR WEAPONS DESIGN AND TEST EQUIPMENT

(a) Any article, material, equipment, or device, which is specifically designed or specifically modified for use in the design, development, or fabrication of nuclear weapons or nuclear explosive devices.

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

CATEGORY XVII—CLASSIFIED ARTICLES

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

CATEGORY XVIII—TECHNICAL DATA

Technical data relating to the articles designated in this subchapter as arms, ammunition, and implements of war.

CATEGORY XIX—MISCELLANEOUS ARTICLES

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

PART 371—GENERAL LICENSES

Sec.

371.1 Definitions.
371.2 General provisions.
371.3 General License G-DEST; shipments of commodities to destinations not requiring a validated license.
371.4 General License GIT; intransit shipments.
371.5 General License GLV; shipments of limited value.
371.6 General License Baggage.
371.7 General License Tools of Trade.
371.8 General License GLD; dunnage.
371.9 General License Ship Stores.
371.10 General License Plane Stores.
371.11 General License Crew.
371.12 General License RCS; shipments to United States or Canadian vessels, planes and airline installations or agents.
371.13 General License GUS; shipments to personnel and agencies of the U.S. Government.
371.14 General License GLC; exports of commercial vehicles by certain civil airlines and by private or common carriers.
371.15 General License GTF-U.S.; goods imported for display at U.S. exhibitions or trade fairs.
371.16 General License GTF-F; goods temporarily exported for display at foreign exhibitions or trade fairs.
371.17 General License GLR; return of certain commodities imported into the United States.
371.18 General License GIFT; shipments of gift parcels.
371.19 General License GATS; aircraft on temporary sojourn.
371.20 General License GMS; shipments under the Mutual Security Act.
371.21 General License GTDA and GTDR; technical data.

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

§ 371.1 Definition.

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

§ 371.2 General provisions.

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

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

(2) *Mail shipments.* (i) Except as provided in paragraph (ii) below, the general license symbol shall be entered on the address side of the parcel wrapper and shall be followed by the phrase "Export License Not Required." The use of such symbol and phrase constitutes a certification by the exporter that the terms, provisions, and conditions of the general license have been met.

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

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

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

(2) The commodity and/or technical data will be unladen from a vessel or aircraft in Country Group Y or Z, or will move in transit through Country Group Y or Z, en route to another country, except as provided in § 370.5;

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

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

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

(6) The commodity to be shipped is related to nuclear weapons, nuclear explosive devices, or nuclear testing as described in § 378.1 or the technical data to be shipped is related to nuclear weapons, nuclear exposive devices, or nuclear testing, as described in paragraph 379.5(e)(vi), unless the technical data may be exported under the provisions of general license GTDA or GTDR; or

(7) The commodity is not listed on the Commodity Control List. (§ 399.1.)

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

(e) *Country groups.* When a general license applies to a particular country group (see list in Supplement 1 to Part 370) it may, subject to the provisions of the Export Control Regulations, be exported to any destination in that country group. Conversely, if not applicable to a particular country group, it is not applicable to any destination in that group.

(f) *Consignee/consignor control under general license.* (1) General licenses may be revoked or suspended as to any person within or without the United States by an order issued pursuant to the provisions of Part 389.

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

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

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

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

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

§ 371.4 General License GIT; intransit shipments.

(a) *Scope.*[1] (1) A general license designated GIT is established, authorizing, subject to the other provisions of this § 371.4, the export from the United States of commodities which originate in and are destined to any foreign country: *Provided,* That such commodities are moving in transit[2] through the United States under a Transportation and Exportation (T. & E.) customs entry or an Immediate Exportation (I.E.) customs entry made at a U.S. Customs Office.

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

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

[2] A commodity is not considered as "moving in transit" within the meaning of General License GIT if it is covered by a warehouse entry and withdrawn from warehouse under a withdrawal for export customs entry or if its transit is broken by a warehousing or processing operation under another type of customs entry.

be exporter to those destinations under General License GIT.

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

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

(1) Commodities shipped to the United States under the provisions of a Form FC–826, International Import Certificate; and

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

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

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

§ 371.5 General License GLV; shipments of limited value.

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

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

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

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

(2) *"Single shipment."* A shipment of commodities moving at the same time from one exporter to one consignee or intermediate consignee on the same exporting carrier even though such shipment is to be forwarded to one or more ultimate consignees. However, not more than one shipment may be made by parcel post or mail per calendar week from one exporter to one consignee or intermediate consignee.

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

§ 371.6 General License Baggage.

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

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

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

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

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

§ 371.7 General License Tools of Trade.

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

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

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

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

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

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

(2) *Tools not owned by person leaving the United States.* Where the person leaving the United States does not own the tools, such tools may be taken to any destination except Country Group W, X, Y, or Z for use in installing, inspecting,

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

[1] See § 371.6(b)(1).

testing, calibrating, or repairing any type of commodity subject to the following conditions:

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

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

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

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

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

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

(*b*) Temporary destination of the tools;

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

(*d*) The following certification:

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

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

§ 371.8 General License GLD; dunnage.

A general license designated GLD is hereby established, authorizing the export to any destination except Country Group Z (excluding Cuba), of usual and reasonable[1] kinds and quantities of dunnage necessary and appropriate to stow or secure cargo on the outgoing and any immediate return voyage of an exporting carrier, when exported solely for use as dunnage, not intended for unlading in a foreign country and not exported under a bill of lading.

§ 371.9 General License Ship Stores.

(a) *Scope.* A general license designated Ship Stores is hereby established, authorizing, subject to the provisions set forth below, the export on vessels of United States or foreign registry departing from the United States, of usual and reasonable[1] kinds and quantities of the commodities indicated in (1) below, provided such commodities are not intended for unlading in a foreign country and are not exported under a bill of lading as cargo.[2]

(1) The commodities listed below may be exported, subject to the conditions set forth in paragraph (b) of this section, for use or consumption on board a vessel of any registry, during the outgoing and immediate return voyage, except a vessel registered in, owned or controlled by, or under charter or lease to a country in Group Z or a national of such country.

(i) Bunker fuel;

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

(iii) Medical and surgical supplies;

(iv) Food stores;

(v) Slop chest articles; and

(vi) Saloon stores or supplies.

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

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

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

(3) *Registry restrictions.* No export of petroleum or petroleum products listed in paragraph (4) below (including those used as bunker fuel) may be made under this general license on a foreign vessel of 500 gross registered tons or more departing from the United States, for use on board such vessel, if the vessel is registered in, owned or controlled by, or under charter or lease to a country included in Country Group W, Y, or Z, or a national of any of these countries. No such export may be made on a foreign vessel regardless of tonnage, if the vessel is registered in, owned or controlled by, or under charter or lease to a Cuban National.

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

Export Control Commodity Number and Commodity Description	
331	Petroleum crude (including shale oil).
33210	Gasoline, excluding jet fuel.
33210	Gasoline blending agents, hydrocarbon compounds only, n.e.c.
33220	Jet fuels, all types.
33220	Kerosene.
33230	Distillate fuel oils.
33240	Residual fuel oils.
33250	Cylinder bright stock (including bright stock and industrial lubricating oils which are predominantly bright stock and have a Saybolt Universal Viscosity at 210° F (98.8° C) of 95 seconds or more).
33250	Lubricating oils and greases.
33262	Mineral waxes.
33291	Aliphatic naphtha, in containers over 4 oz.; mineral spirits, solvents and other finished light aliphatic products, n.e.c.
33291	Insulating or transformer oils, cutting oils, white mineral oils (excluding medicinal grade).
33294	Petroleum coke.
33295	Petroleum bitumen and other petroleum and shale oil residues.
33296	Bituminous mixtures, based on asphalt, petroleum, etc.

§ 371.10 General License Plane Stores.

(a) *Scope.* A general license designated plane stores is established, subject to the provisions set forth below, authorizing the export on aircraft of United States or foreign registry departing from the United States, of usual and reasonable[1] kinds and quantities of the commodities indicated in (1) below, provided such commodities are not intended for unlading in a foreign country and are not exported under a bill of lading as cargo.[2]

(1) The following commodities may be exported, subject to the conditions set

[1] See 371.6(b)(1).

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

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

[1] See § 371.6(b)(1).

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

forth in paragraph (b) below, for use or consumption on board an aircraft of any registry, during the outgoing and immediate return flight, except an aircraft registered in, owned or controlled by, or under charter or lease to a country in Country Group Z (excluding Cuba) or a national of any of these countries:

(i) Fuel;

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

(iii) Medical and surgical supplies;

(iv) Food stores;

(v) Slop chest articles; and

(vi) Saloon stores or supplies:

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

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

§ 371.11 General License Crew.

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

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

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

(b) *Limitation.* The personal and household effects may include only those articles (i) owned by such crew member; (ii) intended, necessary, and appropriate for use by him or his immediate family; (iii) in his possession at the time of his departure from the United States; (iv) not intended for resale; (v) not exported under a bill of lading as cargo;. (vi) not intended for importation into a Group Z country; and (vii) not exported from the United States on a carrier registered in a Group Z country.

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

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

(b) *Exports to vessels or planes of United States or Canadian registry.* Export may be made of the commodities set forth in paragraph (d) below, for use by or on a specific vessel or plane of United States or Canadian registry located at any seaport or air port outside the United States or Canada except a port in Country Group Y or Z (excluding Cuba), provided that such commodities are: [2]

(1) Ordered by the person in command or the owner or agent of the vessel or plane to which they are consigned;

(2) Intended to be used or consumed on board such vessel or plane and necessary for its proper operation;

(3) In usual and reasonable [1] kinds and quantities; and

(4) Shipped as cargo for which a shipper's export declaration is filed with a Customs Office.

(c) *Exports to United States or Canadian airline's installation or agent.* Export may be made of the commodities set forth in paragraph (d) below, to a United States or Canadian airline's [4] installation or agent in any foreign destination except Country Group Y or Z (excluding Cuba), provided such commodities are: [2]

(1) Ordered by a United States or Canadian airline and consigned to its own installation or agent abroad;

(2) Intended for maintenance, repair, or operation of aircraft registered in either the United States or Canada, and necessary for the aircraft's proper operation, except where such aircraft is located in, or owned, operated or controlled by, or leased or chartered to, a Group Y or Z country (excluding Cuba) or a national of such country;

(3) In usual and reasonable kinds and quantities; and

(4) Shipped as cargo for which a shipper's export declaration is filed with a Customs Office.

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

(1) Fuel;

(2) Deck, engine, and steward department stores, provisions, and supplies;

(3) Medical and surgical supplies;

(4) Food stores;

(5) Slop chest articles;

(6) Saloon stores or supplies; and

(7) Equipment and spare parts.

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

(a) *Scope.* A general license designated GUS is established, authorizing exports to any destination, as follows:

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

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

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

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

(a) *Scope.* A general license designated GLC is established authorizing exports of air and other carriers as follows:

(b) *Air carriers.* Civil aircraft operating under an Air Carrier Operating Certificate, Commercial Operating Certificate, or Air Taxi Operating Certificate issued by the Federal Aviation Agency may depart from the United States for any destination other than one in Country Group S, Y, or Z (excluding Cuba), except that (1) U.S. registered aircraft shall not depart for the purpose of sale, resale, lease, charter, or any other disposition to a foreign country or national and (2) the aircraft's U.S. registration shall not be changed while

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

[1] See paragraph 371.6(b)(1).

[2] Where a validated license is required see § 372.4.

[3] See paragraph 371.6(b)(1).

[4] See § 370.1 for definitions of United States and Canadian airlines.

abroad. This provision is not intended to prevent an otherwise eligible U.S. registered aircraft from departing from the United States under General License GLC for the purpose of conducting a round trip flight to a foreign country(ies) and subsequent return to the United States.

(c) *Other carriers.* Trucks, buses, trailers, railroad rolling stock, and other commercial vehicles when operated by private or common carriers between the United States and other countries may be exported to any destination except Country Group S, Y or Z, provided that such vehicles, except those imported into the United States from a foreign country, shall not be exported for resale.

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

(a) *Scope.* A general license designated GTF–U.S. is established authorizing, under the conditions in pargaraph (b) or (c) below, the export of commodities that (1) were imported into the United States for display at an exhibition or trade fair and (2) were either entered under bond or permitted temporary free importation under bond providing for their export and are being exported in accordance with the terms of such bond.

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

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

(1) Commodities imported into the United States pursuant to an international import certificate, or

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

§ 371.16 General License GTF–F; goods temporarily exported for display at foreign exhibitions or trade fairs.[1]

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

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

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

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

(3) The following additional commodities:

Export Control Commodity Number and Commodity Description

68321 Bars, rods, angles, shapes, and sections of porous nickel having a purity of 99 percent or more.

68322 Plates, sheets, strips, and foil of porous nickel having a purity of 99 percent or more.

68323 Tubes, pipes, blanks, and fittings therefor, and hollow bars of porous nickel having a purity of 99 percent or more.

72970 Neutron generators employing the electrostatic acceleration of ions.

72970 Parts specially designed for neutron generators employing the electrostatic acceleration of ions.

86140 Streak cameras having writing speeds of 8 mm./microsecond and above, capable of recording events which are not initiated by the camera mechanism.

86140 Streak cameras having writing speeds of less than 8 mm./microsecond, capable of recording events which are not initiated by the camera mechanism; and specially designed parts and accessories, n.e.c.

86140 High-speed cameras having any of the following characteristics: (a) Using film widths 35 mm. or narrower and capable of recording at rates in excess of 3,000 frames per second when using a steady light flow as the lighting source, and 10,000 frames per second when using flash equipment connected to the unwinding system as the lighting source, (b) using film widths greater than 35 mm. and capable of recording in excess of 64 frames per second, or (c) capable of recording in excess of 250,000 frames per second.

86140 Parts and accessories, n.e.c., specially designed for high-speed cameras under No. 86140 which are subject to the Import Certificate/Delivery Verification procedure.

86140 Photographic microflash equipment capable of giving a flash of 1/200,000 second or shorter duration at a minimum recurrence frequency of 200 flashes per second; and specially designed parts and accessories. (Specify by name.)

86140 Photographic microflash equipment capable of giving a flash of between 1/100,000 and 1/200,000 second duration, at a minimum recurrence frequency of 200 flashes per second; and specially designed parts and accessories. (Specify by name.)

86150 High-speed motion picture cameras having any of the following characteristics: (a) Using film widths 35 mm. or narrower and capable of recording at rates in excess of 3,000 frames per second when using a steady light flow as the lighting source, and 10,000 frames per second when using flash equipment connected to the unwinding system as the lighting source, (b) using film width greater than 35 mm. and capable of recording in excess of 64 frames per second, and (c) capable of recording in excess of 250,000 frames per second.

86150 Parts and accessories, n.e.c., specially designed for high-speed motion picture cameras under No. 86150 which are subject to the Import Certificate/Delivery Verification procedure.

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

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

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

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

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

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

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

[1] Applications for validated export license for commodities going to foreign trade fairs or exhibitions, but not qualifying under any general license, should be prepared in accordance with § 372.8(c) of the Export Control Regulations.

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

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

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

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

(iii) Commodities related to nuclear weapons, nuclear explosive devices or nuclear testing, as described in § 378.1.

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

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

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

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

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

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

(ii) No commodity shall be exported to replace a defective part or equipment owned or controlled by, or leased or chartered to a country included in Country Group S, W, Y, or Z, or a national of any of these countries;

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

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

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

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

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

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

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

(i) Present to the Customs Officer an additional copy of the shipper's export declaration in accordance with the provisions of Part 38b; and

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

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

§ 371.18 General License Gift; shipments of gift parcels.

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

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

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

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

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

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

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

(ii) Each parcel must have the notation "Gift-Export License Not Required"

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

written on the addressee side of the package and the word "Gift" written on any required customs declaration.

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

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

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

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

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

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

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

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

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

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

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

(2) Where it is decided that the aircraft or any of its equipment, parts, accessories or components will be sold or leased abroad, or will not be returned to the United States for any other reason, request shall be made to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, for authorization of such disposition.

(i) The request shall be by letter, in original and one copy, setting forth, where applicable, the date on which the aircraft last departed from the United States, the reason for nonreturn to the United States, the country in which the aircraft will be registered, the commodity description, Export Control Commodity Number, value and quantity, as well as the name and address and identity of each party to the proposed transaction. In addition, the request shall be accompanied by all documents which would be required in support of an application for export license for shipment of the same commodity directly from the United States to the proposed destination.

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

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

(a) A general license designated GMS is established authorizing the export of commodities sold by the U.S. Department of Defense to a foreign government, other than the government of a country included in Country Group S, W, Y, or Z, under the provisions of the Mutual Security Act of 1954, Public Law 665, 83d Congress, approved August 26, 1954 (68 Stat. 832), as amended. In addition to entering the symbol GMS on the shipper's export declaration (see § 371.2 (b)), the MSMS (Mutual Security Military Sales) case number assigned by the Department of Defense to the transaction shall be entered on the declaration.

(b) The following completed destination control statement is required on each copy of the shipper's export declaration, bill of lading, and invoice covering a shipment under this General License GMS:

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

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

§ 371.21 General License GTDA and GTDR technical data.

(See §§ 379.3 and 4.)

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

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

§ 372.1 General provisions.

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

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

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

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

§ 372.2 Types of validated licenses.

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

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

[1] Also see § 371.14, General License GLC.

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

(2) A "Project License" (§ 373.2) authorizes the export of commodities (and technical data where specifically authorized) required for a specified activity for a period of approximately 1 year from the issuance of the license.

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

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

(5) A "Distribution License" section 373.3 authorizes the export of certain commodities to approved consignees in one or more of 12 specified countries during a period of 1 year. The consignees must be foreign distributors or users of the licensed commodity.

§ 372.3 Parties to the transaction.

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

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

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

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

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

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

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

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

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

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

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

§ 372.4 How to apply for a validated license.

(a) *Form and manner of filing—*(1) *Application form and processing card.* An application for a validated license must be submitted on Form FC–419, Application for Export License (Rev. Jan. 1966), accompanied by Form FC–420, Application Processing Card (see Supplements S–1 and S–2 for facsimiles). An application which omits essential information, or is otherwise incomplete, or is not accompanied by Form FC–420 completely and correctly filled in, will be returned without action to the applicant. Copies of these forms may be obtained at all U.S. Department of Commerce Field Offices (see list on page i under Field Office Addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

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

(3) *Facsimiles of Form FC–419.* Exporters may print facsimiles of Form FC–419 (Rev. Jan. 1966) with printed answers to many of the questions, provided the facsimiles are identical with the official form in size, color, ink, and typographic arrangement.

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

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

[1] Filed with the Office of the Federal Register.

(b) *Assembly and submission of applications.* (1) All documents or correspondence accompanying the application should bear the applicant's reference number, if any, and be firmly stapled together in the upper left corner of the application.

(2) Form FC–420, typed side up, should be attached with a paper clip (not stapled) to the upper left corner of Form FC–419.

(3) Applications should be submitted (preferably by mail) to the Office of Export Control (Attention: 854), U.S. Department of Commerce, Washington, D.C. 20230.

(4) Applications which omit essential information will be returned without action.

(c) *Separate application for each consignee.* Only one consignee may be shown on an individual license application.

(d) *Inclusion of related commodities on a single application.* For each entry on the Commodity Control List (§ 399.1) there is a three-digit number in the column headed "Processing Number." Entries on the Commodity Control List having the same processing number may be included on a single license application. (See §§ 373.4 and 376.8 for exceptions.) Regardless of the processing number, shipments of commodities for relief or charity may be included on a single license application.

(e) *Partial approval.* An application may be approved in whole or in part. However, if specifically requested on the form, the application will be considered as a whole and either approved or rejected in its entirety.

(f) *Partial or periodic shipments*—(1) *General.* Where partial or periodic shipments of technical data or of an identical commodity are to be made by applicant to the same consignee in a foreign country, a single application may be filed covering the entire quantity.

(2) *Shipments by mail.* Only one shipment by mail may be made against a validated license, except as specified in paragraph 386.1(c). If at the time of applying for an export license, an exporter expects to make several shipments by parcel post against one order, he may submit one application and request a separate license for each anticipated partial shipment. The applicant shall indicate in the commodity description column of the application the quantity of each partial shipment and enter across the bottom of that column: "Anticipated Partial Shipments by Mail Against One Order."

(g) *Second applications.* (1) A second application covering the same proposed export shall not be submitted pending action on the first application.

(2) When an application has been returned without action to the applicant and is being resubmitted, a new application ordinarily should not be filed. However, a new application may be submitted if the necessary alterations on the old application would be illegible or too difficult to make. When a new form is submitted, the original application must be attached to the new one.

(3) When a license application has been returned without action with instructions that it is not to be resubmitted until a later date, the resubmission of the application must be in accordance with the requirements existing at the time of resubmission.

(h) *Emergency clearance.* In case of emergency, the Office of Export Control will authorize clearance of an export license by telephone or telegraph to the appropriate customs office. The cost of the telephonic or telegraphic message will be charged to the applicant. In such cases, the license is not sent to the licensee but to the customs office with which the clearance has been authorized. The validity period of a license issued under this emergency procedure ends no later than the last day of the first month following the month during which the license is validated. No extension of the validity period will be granted.

(i) *Inquiries about status of application*—(1) *Waiting time before inquiry.* Applicants should allow a period of 2 weeks after filing a license application before inquiring about its progress. Applications remaining in process at the end of 2 weeks are acknowledged by the Office of Export Control, giving the reason for delay and the case number.

(2) *Address for inquiries.* A request for information concerning applicability of the Export Control Regulations to a specific situation, the status of a delayed case, or any other inquiry concerning export license applications should be addressed to Exporter's Service Section, Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. Such a communication should not be attached to the license application but mailed in a separate envelope. A memorandum or letter attached to a license application should be limited to information about that application only, and should not include an inquiry requiring individual reply.

(3) *Status request form.* An inquiry concerning the status of an application may be made only by the applicant or his authorized agent. The Office of Export Control will not furnish status information to other persons. A status inquiry should be submitted, in duplicate, on Form IA–743–A, Status Request on Export License Application, in accordance with instructions contained thereon, except that the case number item need not be completed. (See Supplement S–12 for facsimile.) Copies of the form may be obtained at all U.S. Department of Commerce field offices (see list on page i under Field Office Addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.) After determining the status of an application, the Office of Export Control will return the form with the requested information. A separate form must be submitted for each application.

(4) *Telegraphic reply.* When an exporter requests telegraphic reply to an inquiry, the complete address of such person or company, including name, street, city, State, and ZIP code number, must be given, or, if desired, the Western Union "WUX" designation may be substituted for the address. This will expedite the servicing of such request by the telegraph company. A telegraphic reply will be sent at the expense of the inquirer.

§ 372.5 Additional information.

(a) *Requirements in Export Control Regulations and related forms.* Any person applying for an individual or other type of validated export license shall, in addition to the information required by the Export Control Regulations in connection with such type of license or by the form on which the export license application is made, furnish such information with respect to such application as may be required by the Office of Export Control.[1]

(b) *Identification of information.* Any additional information submitted by an applicant in connection with a license application must be clearly identified as part of such application.

(c) *Supporting information.* A supporting letter should give additional information for only the application to which it is attached.

§ 372.6 Substantiation of facts on application.

(a) *Orders and other material facts.* Except as provided in paragraph (d) of this section, no application for an export license shall be made unless the applicant or order party has documentary evidence in his possession of:

(1) An order for export of the commodities or technical data covered by the application (see paragraph (b) of this section for definition of order and § 372.7(d)(1) for exceptions to order requirement);

(2) Substantiation of the following facts relating to the purchase transaction which the applicant must disclose on the application.

(i) Country of ultimate destination; and

(ii) Names and addresses of the ultimate consignee, intermediate consignee (if any), purchaser (if other than ultimate consignee), and any other party to the purchase transaction, whether principal or agent, including but not limited to brokers, representatives, or other agents through whom the order was received;

(3) Quantity and description of the commodities to be exported;

(4) End use of the export.

(b) *Definitions*—(1) *Order.* "Order" means a communication from a person in a foreign country or his representative expressing an intent to import commodities or technical data from the proposed U.S. exporter or order party as defined in § 372.3(b)(5). While an order must, in any case, be more than a mere business inquiry relating to a possible export, it need not be an agreement that can presently be executed or that would become

[1] Subject to approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

a binding contract upon acceptance. Furthermore, an order need not be an unconditional offer to buy. An order, for instance, may be contingent upon certain variable conditions such as market price, time of delivery, availability of the commodities in kinds and quantities desired, and other undetermined factors. Such a contingent offer still constitutes an order within the meaning of these provisions. Similarly, a continuing or "open" order that remains at all times flexible in some respects may be acceptable. If, however, all of the terms of the order are not finally determined before an application is submitted, all negotiations toward the settlement of the terms must have been advanced sufficiently to establish the intent of the person placing the order to consummate the proposed transaction.

(2) *Evidence of an order.* Evidence of an order as used in this section means any document(s) emanating from the foreign purchaser which set forth the terms and conditions of his offer to buy the commodities for which the export license is requested. Such evidence may take the form of a contract signed by both parties, or of letters, telegrams, cables, confirmations, or other documents which set forth in definite terms the offer of the foreign purchaser to buy or the acceptance by the foreign purchaser of the exporter's offer to sell.

(3) *Evidence of facts relating to the purchase transaction.* Evidence of the facts relating to the purchase transaction means any documents emanating from the purchaser or ultimate consignee that relate to statements in the application enumerated in paragraph (a) of this section. Such evidence may be contained in the document(s) constituting evidence of the order, or in additional documents emanating from the purchaser or ultimate consignee. The printed name, address, or nature of business of the ultimate consignee or purchaser appearing on his letterhead or order form shall not constitute evidence of either his identity, the country of ultimate destination, or end use of the commodities described in the application.

(4) *Order from foreign agent.* An order from the foreign agent of the U.S. exporter does not qualify as a proper order under this requirement where it is based on an order in the agent's hands from a specific purchaser. The Export Control Regulations require that, in such cases, the purchaser's order must be transmitted to the U.S. exporter. However, an order from the foreign agent of the exporter would be acceptable if the commodities are intended for general resale to presently unknown end users.

(c) *Signature of order party*—(1) *Where to be shown.* The application must be signed by the order party as well as by the applicant if they are different. The order party should be shown in the "Order Party's Certification" item on the application, not as applicant. The license, when issued, will show as licensee only the party shown as applicant on the application.

(2) *When not required.* The signature of the order party is not required in cases where maintenance, repair, or operating supplies are to be exported for use and consumption by the ultimate consignee and not for resale, and where the applicant has complete records and information concerning the transaction(s), including all correspondence between the foreign consignee and the person in the United States who originally received the order, provided the application is supported by one of the following certifications, as appropriate, from the ultimate consignee:

(i) *Single order.*

I (We) certify that _____
(Applicant)
has received and will continue to receive all records and information, including correspondence, regarding the negotiations between _____ and _____
(Order party) (Ultimate consignee)
relating to the export order for maintenance, repair and operating supplies to be used and consumed, but not resold, by the undersigned and upon which the application for an export license dated _____ is based. Any material changes in the information transmitted to the applicant will be promptly communicated to him.

_____ _____
(Date of signing) (Ultimate consignee)

An application supported by a single order certification covering a purchase order for commodities which require more than one application shall contain the following certification:

Instead of an order party signature, this application is supported by a single order certification dated _____ from the named consignee to the applicant and submitted in support of Application No. _____. The shipment set forth on
(Case No.)
this application is covered by that certification.

(ii) *Multiple orders.* If the consignee prefers, he may submit the following multiple certification, in original and one copy, covering all such orders placed by him with the applicant within a period ending on June 30 of the year following the year in which the certification is executed unless an earlier termination date is specified:

I (We) certify that _____
(Applicant)
has received and will continue to receive, all records and information, including correspondence, regarding the negotiations between _____ and
(Order party)
_____ relating to the
(Ultimate consignee)
export orders for maintenance, repair, and operating supplies to be used and consumed, but not resold, by the undersigned and which are the basis for all applications for export licenses placed by the applicant on or before _____. Any ma-
(Enter date not later than June 30 of next year)
terial changes in the information transmitted to the applicant will also be promptly communicated to him.

_____ _____
(Date of signing) (Ultimate consignee)

An application supported by a multiple order certification need not be signed by the order party but must contain the following certification:

Instead of an order party signature, this application is supported by a multiple order certification dated _____ from the named consignee to this applicant and submitted in support of Application No. _____.
(Case No.)

(d) *Export transactions where no order has been received*—(1) *Exceptions to the order requirement.* If no order has been received, or if an inquiry has been received that does not clearly meet the requirements of an order as defined in paragraph (b)(1) of this section, the Office of Export Control will consider granting an exception to, or a waiver of, the order requirement where the applicant is able to show that an exception is warranted. Some examples of reasons which, if fully substantiated, might warrant an exception are:

(i) An unusual expenditure of time, money, or technical skill, in excess of ordinary sales expenses, is necessary before negotiations for an order may be pursued and before a bid can be submitted or an order obtained.

(ii) The applicant is under an unusual obligation to export immediately the commodities or technical data covered because of a special trade or industry practice.

(iii) The export involves a sample, gift, relief, or charitable shipment, or other shipment where an order is not normally an element of the export transaction.

(iv) An applicant requesting such exception should submit with his application all required supporting documentation whenever possible; a statement explaining in full the reason(s) for the requested exception; and a certification that the transaction does not meet the requirements of either a Periodic Requirements License (PRL) or a Time Limit License (TL). If it is not possible to obtain the required documentation at the time the waiver request is submitted, these supporting documents shall, nevertheless, be submitted as soon as they are obtainable. If the exception request is granted, the license, if issued, may include certain conditions or limitations to the export.

(2) *Inquiry regarding prospects of obtaining license or other authorization.* The Office of Export Control gives a formal licensing decision only through the issuance of a license or other appropriate document based upon the actual submission of a formal application or other formal request setting forth all of the facts relevant to the export transaction and supported by all required documentation. Upon request, however, the Office of Export Control will, if practicable, provide a preliminary opinion on the outlook for approval of a prospective transaction with respect to particular commodities and destinations. If the negotiations of the terms of an export order depend upon an indication of the prospects of obtaining an export license covering the transaction, the person proposing to export may submit an inquiry, before filing a license application describing the proposed transaction in full detail and explaining why an advisory opinion is needed in advance from the Office of Export Control.

(e) *Retention of records.* The documents constituting evidence of any of

the following shall be kept and made available for inspection in accordance with the provisions of § 387.11.

(1) An order;

(2) The facts relating to the purchase transaction as defined in paragraph (b)(3) of this section; or

(3) Other transactions referred to in paragraph (d)(1) of this section.

(f) *Copies of documents.* The Office of Export Control may request either the originals or copies of the documents constituting evidence of an order. The time and manner of submission will be made known to the applicant at the time the request for submission is made. In accordance with § 375.5, all documents submitted in connection with a license application must be identified clearly as a part of that application, all terms and abbreviations must be explained, and an English translation of documents in a foreign language must be attached.

(g) *Changes in facts.* Answers to all items on the application shall be deemed to be continuing representations of the existing facts or circumstances. Any material or substantive change in the terms of the order, or in the facts relating to the purchase transaction or other transaction, shall be promptly reported to the Office of Export Control, whether a license has been granted or the application is still under consideration. If a license has been granted, such changes shall be reported immediately to the Office of Export Control, in accordance with the provisions of § 372.7(b), even though shipments against the license may be partially or wholly completed. Change in intermediate consignee must be reported on the Shipper's Export Declaration, and in certain cases an amendment to the export license is required. (See § 372.3(b)(3) and § 372.11(e).)

§ 372.7 Disclosure of prior action on the shipment.

Any license or amendment obtained without disclosure of the facts set forth in paragraphs (a) and (b) of this section where applicable, shall be deemed to have been obtained without disclosure of all facts material to the granting of the license or amendment, and the license and amendment so obtained shall be void.

(a) *Detention of commodities or technical data by customs.* Any exporter or his agent making application to the Office of Export Control for an export license or requesting an amendment[1] to an existing license, who knows or has reason to believe that a customs officer has detained commodities or technical data that would be exportable under such license or amendment, if granted, shall disclose this fact to the Office of Export Control at the time of application.

(b) *Export without a license.* No license application or amendment request shall be submitted to the Office of Export Control covering a shipment that is already laden aboard the exporting carrier or exported. If such export should not have been made without first securing a validated license authorizing the shipment, the exporter shall send a letter or telegram to the Investigations Division, Office of Export Control (Attention: 848), U.S. Department of Commerce, Washington, D.C. 20230, explaining why a validated license was not obtained and disclosing all the facts concerning the shipment that would normally have been disclosed on the license application or amendment request. The Office of Export Control will inform the exporter of its action and furnish instructions to him by letter.

§ 372.8 Special types of individual license applications.[2]

(a) *Intransit shipments*—(1) *Information required on application.* A license application for commodities moving intransit through the United States which may not be exported under the provisions of General License GIT[2] shall include the following information in the "Additional Information" item of the application or on an attachment:

(i) The name and address of the foreign consignor who shipped the goods to the United States;

(ii) A statement that the shipment is wholly of foreign origin; and

(iii) The notation "Intransit Shipment."

(2) *Evidence of foreign government approval.* The applicant should submit available evidence showing the approval or acquiescence of the exporting country (or the country of which the exporter is a resident) with respect to the proposed ultimate destination of the shipment. Such evidence may be in the form of a Transit Authorization Certificate or other document.

(3) *Applicability of special provisions.* Except for a shipment originating in Canada, the application must be accompanied by the document applicable to the country of ultimate destination; e.g., an Import Certificate, a Consignee/Purchaser Statement, a Swiss Blue Import Certificate, or a Yugoslav End-Use Certificate, as appropriate (see Part 375 for details on these documents).

(4) *Limitation on use of license.* A license issued under this section will be valid only for the export of an intransit shipment wholly of foreign origin and for which a Transportation and Exportation (T. & E.) customs entry or an Immediate Exportation (I.E.) customs entry is outstanding. In clearing an intransit shipment under a validated license, the customs officer may, at his discretion, require the licensee to submit a copy of the transportation and exportation customs entry or an Immediate Exportation customs entry covering such shipment.

(5) *Destination control statement.* A shipment of foreign-origin commodities moving intransit through the United States under a validated license must comply with the destination control provisions of § 386.5. Under these provisions all copies of the intransit Shipper's Export Declaration presented to the customs office at the port of export must contain the destination control statement. In addition, the destination control statement must be shown on all bills of lading and commercial invoices in the possession of, or sent to the ultimate consignee or purchaser by, the shipper, exporter, carrier, and agent in the United States.

(b) *Commodities transiting Country Group Y or Z en route to any other destination*—(1) *Information Required on Applications.* A license application to export any commodity that will be unladen from a vessel or aircraft in Country Group Y or Z or which will move in transit through Country Group Y or Z en route to Canada or a destination in Country Group T, V, W, or X shall be prepared on Form FC–419 in accordance with the instructions contained in Supplement No. 1 to Part 372, with the following modifications:

(i) Where the intermediate consignee in the Group Y or Z country of unlading or transit is unknown at the time of filing the license application, the Group Y or Z country of unlading or transit shall be shown in the "Additional Information" item of the application or on an attachment by a statement such as:

(ii) "To be transshipped at (name of transshipment point) and destined to (name of country)"; or, "To be shipped to (name of country of destination) via (name of country)."

(2) *Designation of intermediate consignee.* Except as set forth below, a validated license issued under the provisions of this paragraph 372.8(b) will name the intermediate consignee in the Group Y or Z country of unlading or transit approved by the Office of Export Control. (Transshipment authority does not relieve any person from complying with foreign laws. See § 374.9.)

(3) *Intermediate consignee unknown.* Where the license application indicates that the intermediate consignee in the Group Y or Z country of unlading or transit is unknown, the license will name the Group Y or Z country of unlading or transit approved by the Office of Export Control. However, the exporter is obliged to obtain an amendment of the export license before shipment is made in those instances where the license does not include the name of the intermediate consignee in the Group Y or Z country of unlading or transit.

(c) *Commodities exported for exhibition, demonstration, or testing purposes*—(1) *Applicability.* General License GTF–F (see § 371.16) authorizes, under certain conditions, the temporary export of commodities for display at foreign exhibitions or trade fairs.

(i) The provisions of this § 372.8(c) apply to the export of a commodity not eligible for a general license and therefore requiring a validated license when exported for display at a trade fair or other exhibition, or for demonstration, or

[1] See § 372.11 with respect to amendments to licenses and extensions of their validity periods.

[2] For intransit shipments under General License GIT, see § 371.4; and for special clearance procedures applicable to intransit shipments, see § 386.3(t).

testing purposes, with the exporter retaining title to the commodity and intending to return the commodity to the United States, forward it to another trade fair, exhibition, demonstration or testing site, or sell it abroad to a yet undetermined purchaser.

(ii) The term "testing," as used in this paragraph (c), includes the testing of the commodity being exported from the United States as well as its use in testing other commodities (e.g., instruments and/or equipment exported for testing aircraft engines).

(2) *Submission of application.* An application for an export license covering an export described in subparagraph (1) of this paragraph does not require the usual supporting documentation issued by either the consignee or the country of ultimate destination. Instead, the application shall include the following statement in the item entitled "Additional Information" or on an attachment:

The commodities described on this application are to be exported for display at (official name of trade fair or exhibition) or for (demonstration or testing) to be held at (street address, city, and country) and returned to the United States at the conclusion of such (display, demonstration or testing). If these commodities are not returned to the United States at the end of the (trade fair) (exhibition) (demonstration) (test) they will not be (displayed, demonstrated, tested) or otherwise disposed of without prior written authorization from the Office of Export Control.

In addition, since the applicant retains title to the commodities, he shall be shown on the application as the ultimate consignee, in care of the person who will have custody of the commodities abroad.

(3) *Return of commodities to the United States.* Where commodities are returned to the United States after display at a trade fair, exhibition, demonstration, or test in Country Group S, W, Y, or Z, the applicant shall notify the Office of Export Control, in writing, of the case number shown on the related U.S. validated export license, the customs import entry number (if any) of the returned shipment, the date of return, and the port of entry at which all or any part of the commodities were returned to the United States. If only a part of the commodities are covered by the notification, a full explanation shall be included, and an additional written notification sent to the Office of Export Control for each partial return until the entire shipment described on the related export license is returned.

(4) *Commodities not returned to the United States.* If it is decided that the commodities are not to be returned to the United States, a letter shall be sent to the Office of Export Control (Attention: 854) requesting authorization to dispose of the commodities. The letter request shall include the license number, case number, ultimate destination, commodity description, Export Control Commodity Number, quantity, and value, as well as the proposed disposition of the commodities and the name, address, and identity of each party to the transaction. In addition, except where the commodities are to be displayed at another trade fair or exhibition, or transferred to another destination for demonstration or testing, the letter shall be accompanied by all documents required in support of an application for an export license to the proposed destination.

(5) *Action by Office of Export Control.* If the request is approved, the Office of Export Control will validate and issue Form IA–L–196, Authorization to Dispose of Commodities Exported for Exhibition, Demonstration, or Testing Purpose (see Supplement S–11 for facsimile). If the request is not approved, the Office of Export Control will advise the applicant by letter. If it is subsequently desired to make any other use or disposition of the commodities not authorized by the validated Form IA–L–196, a properly documented written request for amendment of the form shall be submitted. (Reexport or distribution authority does not relieve any person from complying with foreign laws. See § 374.9.)

§ 372.9 Issuance of validated licenses.

(a) *General.* When a license application is approved by the Office of Export Control, a license is issued on Form FC–628, Export License. Although an export license may not set forth all the facts relating to the transaction as they appeared in the license application and supporting documents, any validated license issued authorizes only the specific export transaction described in the application and supporting documents, unless otherwise specifically provided by the license or the Export Control Regulations.

(b) *Issuance of license document.* When a license application is received in the Office of Export Control it is assigned a case number for identification purposes. This number is not the license number. After an application is approved, the covering license is issued on Form FC–628 (with continuation sheets, where necessary). This document is then validated and identified by a license number comprised of a letter and a series of digits which appear in the upper right hand corner of the license, representing the last digit of the year, the month and day, plus a serial number for the use of the Office of Export Control (e.g., C9–611–60161 represents the validation date of June 11, 1969, plus the Serial No. 60161). Where necessary, license continuation sheets and other attachments to a license will also be validated, using a number beginning with D and followed by the date of validation. Exporters are cautioned to use the complete license number when preparing Shipper's Export Declarations or other export documents or when requesting services from the Office of Export Control.

(c) *Units of Quantity.* Where no unit of quantity is shown in the "Unit" column of the Commodity Control List (§ 399.1), commodities are licensed in terms of the total dollar value as shown on the license. To consider a license application for such commodities, the Office of Export Control requires that the unit of quantity commonly used in the trade must be shown on the application. Although the same terminology may appear on the license, the quantity of the commodities authorized for export in such instances is, nevertheless, limited entirely by the total dollar value shown on the license.

(d) *Validity of license*—(1) *Six-month validity period.* Unless otherwise stated on the face of the license, export licenses will be issued for a validity period ending on the last day of the sixth month following the month during which the license is validated; e.g., a license issued on January 12 would expire on July 31. If the validity period expires on a day when the Customs Office is not open for business, the validity period shall automatically be extended to midnight of the first day of business following the expiration date.

(2) *Special provisions.* If special provisions for any commodity include terms regarding the validity period of an individual export license, these will be found in Part 376.

(3) *Revocations, suspensions, or revisions.* Outstanding licenses may be revised, suspended, or revoked, or the validity periods thereof may be extended or reduced, by appropriate orders or regulations.

(e) *Reports.* Any person to whom a validated license has been issued shall file with the Office of Export Control such reports as the Office of Export Control shall, from time to time, require.[1]

(f) *Return of revoked, expired, or unused license.* If a license is revoked or expires or if shipment is not to be made, the license shall be returned immediately to the Office of Export Control with a notation explaining the reason for such return. If the license is not in his possession at that time, the licensee shall so notify the Office of Export Control.

§ 372.10 Duplicate license.

Where a license is lost or destroyed, the licensee may obtain a duplicate of such license by submitting a letter to the Office of Export Control (Attention: 854), containing the following information:

(a) That the original license assigned case number _____ and Export License number _____ (if known) issued to (name and address of licensee) has been lost or destroyed;

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

(c) The quantity and value of commodities, if any, that have been shipped under the original license and at what port the license was filed; and

(d) If the original license is found, the licensee agrees to return either the original or duplicate license to the Office of Export Control.

(e) Where partial shipment has been made, the duplicate license will cover the unshipped balance and will be mailed directly to the customs office at the port where the license was filed.

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[1] Subject to approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

§ 372.11 Amending export licenses.

(a) *Persons authorized to amend licenses.* No amendments or alterations of outstanding export licenses may be made except by the U.S. Department of Commerce or by customs officers or postmasters acting under specific instructions from the U.S. Department of Commerce.

(b) *General provisions.* The Office of Export Control will consider for approval a request to amend an outstanding export license for the purpose of conforming it to changes which have taken place in the original transaction, provided that the change is not of such significance as to constitite a new transaction.

(c) *Amendments of pending license applications.* A request to amend a pending license application may be submitted at any time. The amendment procedure set forth in this § 372.11 shall be followed with respect to these requests. The request shall include the applicant's reference number, date of application, commodity, country of destination, case number if known for the purpose of identifying the application, and reasons for the request.

(d) *Changes requiring a new license application.* Except for changes to a project license, the following types of changes are considered to be of such significance as to constitute an essentially new transaction and therefore require a new license application:

(1) Country of ultimate destination.

(2) Ultimate consignee (except as indicated in paragraph (e)(2) of this section).

(3) Commodity.

(4) Increase in the quantity or value of a Periodic Requirements License during the last 6 months of the validity period of the license (see § 373.5).

(e) *Changes that may be made by amendment.* The changes that may be made by amending an outstanding license include, but are not limited to, the following:

(1) Purchaser, if the change in purchaser does not also effect a change in ultimate consignee.

(2) Ultimate consignee, if the change is made (i) to identify correctly the same ultimate consignee named in the license; or (ii) to add one or more new consignees to an outstanding Project License, Periodic Requirements (PRL) License, Time Limit (TL) License or, Distribution License; or (iii) to designate a new consignee when the purchaser instructs that shipment be made directly to the ultimate user, provided that all documents required from the ultimate user, such as a consignee/purchaser statement, are submitted to the Office of Export Control either with the original application or with the amendment request.

(3) Intermediate consignee, if the new intermediate consignee (i) is either located in a country other than the country of ultimate destination shown on the license or is located in the country of ultimate destination and an amendment request is submitted in accordance with the provisions of § 386.4, or (ii) if, pursuant to notice from the Office of Export Control, the customs officer requires the submission of an amended license showing the new intermediate consignee.

(4) Increase in quantity or price, except for a Periodic Requirements License (see § 386.7 for allowable shipping tolerances).

(5) Extension of the validity period of the license, except for a Periodic Requirements License (see § 373.5) or a Distribution License (see § 373.3).

(6) Correction of a clerical error on the part of the Office of Export Control.

(7) Correction of a clerical error on the part of the applicant and not covered by paragraph (f) of this section.

(8) Change of licensee (in accordance with the provisions relative to transfer of licenses set forth in § 372.13).

(f) *Changes which require neither amendment nor new license.* The following changes do not require a new license, an approved amendment, or any other notification to the Office of Export Control:

(1) Change in applicant's reference number.

(2) Decrease in unit price or total value.

(3) Other changes in price (see paragraph (j) of this section).

(4) Change in intermediate consignee if the new intermediate consignee is located in the country of ultimate destination as shown on the export license, except (i) a change in or addition of an intermediate consignee involving a consolidated shipment (see § 386.4), or (ii) in any case where, pursuant to a notice from the Office of Export Control, the customs office requires an amendment.

(5) Change in address of purchaser or ultimate consignee if the new address is located within the same country shown on the license.

(6) Change in Export Control Commodity Number, unit of quantity, or wording of the commodity description (where necessary only for the purpose of conforming to an official revision in the Commodity Control List). This does not cover an actual change in the commodity to be shipped or the quantity licensed, for which amendments are required.

(g) *Where to File*—(1) *General.* All requests for amendments to licenses may be filed with the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. However, certain types of amendments described in (2) below may be requested from the following named field offices of the U.S. Department of Commerce:

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

(2) *Amendments on which field offices may take action.* With the exceptions set forth in subparagraphs (3) and (4) of this paragraph, the Department of Commerce field offices listed above are authorized to take action on requests to amend licenses of the following types only:

(i) Extension of validity period.

(ii) Correction of certain types of obvious errors due to mistakes in typing licenses, such as misspelled words, errors in price extension or computation, and errors in unit of quantity if the correction does not change the total quantity.

(iii) Change in quantity or dollar value, within the limits of specified small percentages of the licensed quantity or value, where required as a result of factors beyond the control of the licensee, such as unforeseen overruns of the mill.

(iv) Change of licensee's address.

(v) Change in or addition of intermediate consignee (see paragraph (e)(3) of this section and § 386.4).

(3) *Amendments or extensions of licenses on which field offices may not take action.* Department of Commerce field offices are not authorized to take action on requests for amendments under the following conditions:

(i) Amendment or extension of a license covering an export to Country Group S, Y, or Z other than changes involving no more than a correction of obvious error(s) in the license, such as a mistake in typing.

(ii) Amendment of a license where the intended port of export is not known to the licensee.

(iii) Amendment or extension of a license for a shipment which has already been laden aboard the exporting carrier or exported (see § 372.7(a)).

(iv) Amendment or extension of a Project License.

(v) Amendment or extension of a license to export any quota commodity listed in Supplement No. 1 to Part 377.

(vi) Amendment or extension of a Technical Data License.

(vii) Amendment or extension of a license to export commodities related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in Part 378.

(4) *Duplicate request covering same license.* A request for amendment shall not be submitted to or acted upon by any Department of Commerce field office if a request to amend the same license is pending with or has been denied by the Office of Export Control or by any other field office.

(h) *Procedure for submitting amendment requests*—(1) *Number of copies.* An amendment request shall be submitted in triplicate on Form IA-763, Request for and Notice of Amendment Action. (See Supplement S-4 for facsimile.)[1] However, when such request is filed with one of the field offices listed in paragraph (g)(1) of this section, a fourth copy is required, which may be made on plain, thin, white paper. A request for

[1] Form IA-763 is printed in quadruplicate sets so as to provide a copy for the applicant's file. These forms may be obtained at all U.S. Department of Commerce field offices (see list on page 1 under Field Office Addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

amendment by letter will not be accepted. (See paragraph (h)(4) of this section with regard to emergency situations.)

(2) *Information required.* All numbered items shown on Form IA–763 must be completely filled in on all copies, unless otherwise stated on the form.

(i) The reasons for requesting the amendment must be clearly stated in the item entitled "Facts Necessitating Amendment." (For amendments to a license covered by an Import Certificate Swiss Blue Import Certificate, Yugoslav End-Use Certificate, or consignee/purchaser statement, see paragraphs (k) and (l) of this section).

(ii) The licensee shall not retain the license when submitting an amendment request except requests related to a Project License or Distribution License. Where shipment is to be made through customs, the address of the customs office with which the license has been deposited shall be entered in the item entitled "License Has Been Deposited With." If the exporter does not know the intended port of export, he shall enter the word "Unknown" and return the license to the Office of Export Control with his request for amendment. Where shipment is to be made by mail, the license shall accompany the request for amendment; a postmaster or post office address is not acceptable.

(iii) In completing the item entitled "Amend License To Read As Follows," the applicant shall identify that portion of the license upon which amendment is requested and insert the proposed change.

(iv) Disclosure of prior action on the shipment: Any person making application for an amendment to an export license (including extension of validity period) shall disclose to the Office of Export Control at the time of the request any information regarding prior action on the shipment as explained in § 372.7.

(3) *Signature.* The signature of the licensee, or an officer or duly authorized agent of the licensee, shall be placed on the original of Form IA–763 in the item entitled "Signature." When such request is submitted by an officer or an agent authorized by the licensee, who may be a freight forwarder, attorney, or any other authorized individual, the licensee's name shall be shown, followed by the word "By" and the signature and title of the authorized officer or agent.

For example:

Joseph Aloysius Jones, By: Hamilton Newbold, Agent.

(4) *Telegraph and telephone requests and clearances.* Under emergency conditions, an amendment request may be made by telegram or telephone, and the licensee may ask that the amendment, if approved, be forwarded to the customs office by telegram or telephone, the cost of the telegraphic or telephonic message being charged to the licensee. In such instances, the telegram or telephone call shall include the same information as required to complete a Form IA–763, and, in addition, full information as to the necessity for such type of service, including deadline dates. If the request is submitted by mail on Form IA–763 but emergency clearance is requested, a letter setting forth the required details shall accompany the amendment request. If the amendment is approved, the Office of Export Control will so advise the applicant and the customs office. However, before the customs office will release the shipment under the amended license, the applicant must file a completed and signed Form IA–763 with the customs office.

(i) *Action on amendment request*—(1) *By Office of Export Control*—(i) *Approved.* The Office of Export Control will validate all copies of an approved Form IA–763 by imprinting, in the space entitled "Validation", a facsimile of the U.S. Department of Commerce seal followed by the letter "D" and a series of numbers indicating the year, month, and day of validation. If the license is on file with a customs office, the duplicate copy will be forwarded as the official notice of amendment to the office designated in the item entitled "License Has Been Deposited With." The triplicate copy will be forwarded to the individual named in the item entitled "Return Copy of Amendment Notice To." If the license accompanies an amendment request and the amendment is approved, the Office of Export Control will either amend the original license or issue a new license and will forward same to the individual named in the item entitled "Return Copy of Amendment Notice To."

(ii) *Rejected or returned without action.* When a request is rejected or returned without action, the reason(s) therefor will be indicated on the triplicate copy of Form IA–763 or on an attachment, and the triplicate, plus any attachments, will be returned to the individual named in the item entitled "Return Copy of Amendment Notice To." The license (if submitted with the request) will also be returned unless it has expired or the rejection or return without action requires that it be canceled.

(2) *By field office*—(i) *Approved.* Amendment requests approved by a U.S. Department of Commerce field office will be validated in a different manner than those approved by the Office of Export Control. The facsimile of the U.S. Department of Commerce seal and the name of the field office will be inserted in the space entitled "Validation" by means of a validating machine and plate, and the amending officer will sign and date Form IA–763. The duplicate of the approved form will be sent to the appropriate customs office (together with the export license if submitted with the request) as the official notice of amendment. The triplicate will be sent to the party named in the item entitled "Return Copy of Amendment Notice To."

(ii) *Rejected or returned without action.* When a request is rejected or returned without action, the amending officer will indicate the reasons therefor in the space entitled "For Official Use Only," sign, date, and identify the field office. The triplicate, together with an attachment, will be sent to the individual named in the item entitled "Return Copy of Amendment Notice To."

(j) *Price amendments.* (1) An export license shall be amended for (i) any upward change in unit price or total value shown on the license, if the commodity is licensed by dollar value (those commodities on the Commodity Control List (§ 399.1) which do not show a specific unit of quantity are licensed by dollar value); or (ii) an upward change in unit price or total value in excess of 25 percent beyond that shown on the license, if the commodity is licensed in units other than dollar value, except the following, which do not require approval from the Office of Export Control:

(*a*) Where the licensee uses the permissible shipping tolerances see § 386.7. In such cases, the total value for the commodity shown on the Shipper's Export Declaration may exceed the total value shown on the license to the extent set forth in § 386.7. However, the unit value shown on the license may not be increased, except in accordance with paragraph (1)(i) above.

(*b*) Where a price increase can be justified to the customs officer on the basis of changes in point of delivery, port of export, or as a result of transportation cost, drayage, port charges, warehousing, etc.

(*c*) Where unit or total price is not shown on the license but is based upon the market price at a specified date plus an exporter's mark-up, or like basis. In such cases, the unit or total price need only conform with the price statement on the license; or

(*d*) Where a change involves a reduction in price and the commodities are (1) licensed by units of quantity, or (2) licensed by dollar value, provided in the latter case that the value shown on the declaration shall not exceed the total value shown on the license, except as described in subparagraph (1)(i) of this paragraph.

(k) *License covered by an International Import Certificate, a Swiss Blue Import Certificate, or a Yugoslav End-Use Certificate*—(1) *Import Certificates.* A request to amend an export license covering a commodity subject to an International Import Certificate (§ 375.1), Swiss Blue Import Certificate (§ 375.3), or Yugoslav End-Use Certificate (§ 375.4) that changes any party to the transaction named on the license or increases the net quantity set forth on the license, shall be accompanied by a new or appropriately amended document if the proposal is not in accordance with the document previously submitted. If a proposed quantitative amendment is in accordance with the previously submitted document, the request shall include the following certification:

I (We) certify that this request for amendment of export license number ------, if granted, will not exceed the total quantity authorized under the (name of country) (Import Certificate) (End-Use Certificate) (Import License) number -------.

(l) *Licenses covered by consignee/purchaser statements.* (1) A new Form

FC–842, Single Transaction Statement by Consignee and Purchaser, or a new Form FC–843, Multiple Transactions Statement by Consignee and Purchaser, shall accompany a request for an amendment of an export license which proposes a change in the consigee or purchaser in the transaction named in the export license if the proposed amendment is not in accordance with the consignee and purchaser statement previously submitted.

(2) A new Form FC–842, or a letter, wire, or cable from the ultimate consignee and purchaser if applicable, confirming the change, shall accompany a request for an amendment of an export license which proposes any increase in the quantity set forth in the export license if the proposed amendment is not in accordance with the Form FC–842 previously submitted. If a proposed quantitative amendment is in accordance with the previously submitted Form FC–842, the amendment request shall include the following certification:

I (We) certify that this request for amendment of export license number ------, if granted, will not exceed the total covered by the Single Transaction Statement by Consignee and Purchaser against which this export license was issued.

(3) Where the export license is based on a Form FC–843, Multiple Transactions Statement by Consignee and Purchaser, an additional Form FC–843 is not required from the consignee or purchaser to support a proposed license amendment for an increase in quantity. In lieu thereof, the following certification shall be entered on Form IA–763, Request for and Notice of Amendment Action:

I (We) certify that the license(s) described in Item 2a (is) (are) supported by a Multiple Transactions Statement.

§ 372.12 Special provisions for an amendment to extend the validity of license.

A request to extend the validity of a license must be made on Form IA–763 in the same manner as any other amendment request.

(a) *Time for submitting requests.* Except for a license issued under the emergency clearance procedure (see § 372.4(h)), a request may be made to extend the validity of a license that will expire before complete shipment is made against it. An extension request shall be submitted sufficiently in advance of the license's expiration date to permit the Office of Export Control to use regular mail in notifying the licensee and the customs office holding the license before the license would otherwise expire. However, where unusual circumstances make it impossible for the licensee to request an extension before the normal expiration date, such a request will be considered if received within one month after the license has expired. If a license does not meet the above qualifications, a new license application shall be submitted in accordance with paragraph (d) of this section.

(b) *Procedure and justification for requesting extension.* The request shall be accompanied by the expiring license unless it has been filed with a customs office. In the latter case, notification of approval shall be given to the customs office. If the expiring license does not accompany the extension request, the applicant shall include the following information on Form IA–763:

(1) In the item entitled "Facts Necessitating Amendment," state why shipment was not or will not be made before the expiration of the license and all circumstances which will assure that shipment can be effected during the extended validity period requested. If partial shipment has been made, indicate quantity and value.

(2) In the item entitled "Amend License to Read as Follows," state whether the license has been previously extended. If so, give date(s) and duration of such extension(s) and office (Office of Export Control or field office) which approved the extension(s).

(3) The information described in this paragraph shall also be included when, in emergency situations, an extension request is submitted by telegram or telephone (see § 372.11(h)(4)).

(c) *Length of extension.* Generally, the length of an extension is limited as follows:

(1) *One extension.* No single extension will be granted for a length of time greater than the original validity period set forth on the license.

(2) *Two or more extensions.* The total length of time of all extensions granted for any one license will not be more than 1 year beyond the expiration date shown on the license. For example, if a license is originally valid for 6 months, extensions may be granted which total up to 12 months beyond the original expiration date, but no one extension will be for more than 6 months. A license originally valid for 1 year may be extended for 1 year in total, either in a single extension action or in two or more extension actions.

(d) *New license application to replace expiring or expired license.* Where an application is submitted for a new license to replace an expiring or expired license, the applicant shall (1) indicate on the new application that it is being submitted to replace (expiring) (expired) export license bearing case number (insert number), and (2) submit new documentation in the following circumstances: (i) if current Export Control Regulations require the application to be supported by a consignee/purchaser statement, a new consignee/purchaser statement must be furnished unless a current Form FC–843, Multiple Transactions Statement by Consignee and Purchaser is already on file in the Office of Export Control; (ii) if current Export Control Regulations require the application to be supported by any document which was not submitted with the application upon which the license was based, this document must be furnished; and (iii) if the Office of Export Control requests the applicant to furnish a specific document.

(e) *Action on extension request.* (1) If granted, an extension will be made in the same manner as other amendments. (See § 372.11(l).)

(2) When a customs office holding an expiring or expired license is notified that a request for extension of the license has been filed in accordance with the foregoing provisions, the customs office will hold the license for an additional 30 days after the original expiration date. If the approved extension is not received within 30 days, the customs office will return the license to the Office of Export Control.

§ 372.13 Special provisions for transfer of licenses to another party.

(a) *Authorization.* An export license shall not be transferred from one licensee to any other party except by prior written authorization of the Office of Export Control. Upon request of the original licensee, a transfer may be effected by amending the original license, except as provided below.

(b) *When transfer may be authorized.* A transfer of a license may be authorized to a transferee who is subject to the jurisdiction of the United States, is a principal party in interest, and will assume all powers and responsibilities under the license for the control of the shipment of the commodities or technical data out of the United States. Only one transfer of the same license will be approved.

(c) *Information from transferor and form of request*—(1) *Less than 15 licenses.* (i) When requesting the transfer of less than 15 outstanding licenses, the original licensee shall submit:

(a) A completed Form IA–763, Request for and Notice of Amendment Action (see Supplement S–4 for facsimile),[1] in triplicate, for each license(s);

(b) The original license(s) if held by the licensee;

(c) A signed letter from the person or firm to whom the license(s) is (are) to be transferred as required by paragraph (d) of this section; and

(d) The following certification:

The undersigned hereby certifies that, if license number(s) ------ is (are) transferred in accordance with my (our) request, any and all documents evidencing the order covered by this (these) license(s) will be made available upon demand and will be retained by me (us) for a period of three years from the time of the export from the United States, or any known reexport, transshipment, or diversion, or any other termination of the transaction whether formally in writing or by any other means, whichever is later. The undersigned will promptly report to the Office of Export Control any material or substantive changes in the terms of the order and any other facts of the export transaction known or reported to the under-

[1] Form IA–763 may be obtained at all U.S. Department of Commerce field offices (see list on page 1 under Field Office Addresses), and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

signed at any future time by any party to the export transaction.

(Signature of transferor)

(By)

(Title)

(Date)

(ii) In the item entitled "Facts Necessitating Amendment" of Form IA-763, give the reasons for the requested transfer and state whether or not any consideration has been or will be paid for the transfer. Show the name and address of the proposed transferee in the item entitled "Amend License to Read as Follows."

(iii) If the original license(s) is (are) being held by a customs office at the time the request for transfer is submitted, show the address of that customs office in the item of Form IA-763 entitled "License Has Been Deposited With." The licensee must also submit an additional triplicate (yellow) copy, showing under "Return Copy of Amendment Notice To," the name and address of the original licensee and the name and address of the person to whom the license is to be transferred. This additional copy will be used to notify the transferee of the action taken.

(2) *15 or more licenses.* Where a transfer affects 15 or more outstanding licenses, the original licensee shall submit a written request for such transfer containing the following information:

(i) Either a list of the case numbers and outstanding license numbers or a statement that all outstanding licenses in the name of the licensee are to be transferred, and the total number of such outstanding licenses;

(ii) A list showing the case numbers (if known), the applicant's reference numbers, and other information identifying applications pending in the Office of Export Control which are to be transferred;

(iii) Name and address of the proposed transferee;

(iv) Facts necessitating transfer;

(v) A statement as to whether any consideration has been or will be paid for the transfer; and

(vi) The certification set forth in paragraph (c)(1)(i)(d) of this section.

(3) *Additional proof.* In addition to the information required under paragraph (c)(1) and (2) of this section, the original licensee must identify by name the legal document (certificate, agreement, etc.) or other authority by which the new firm name is legally established, the new corporation or firm created, or the assets transferred, showing the effective date of such document and the state where filed or recorded.

(d) *Information from transferee.* The request for transfer from the original licensee must be accompanied by a signed letter from the person to whom the license is being transferred, stating:

(1) That the transferee is a principal party in interest in the transaction covered by the license, or is acting as agent for a principal party in interest;

(2) That the transferee is subject to the jurisdiction of the United States;

(3) That the transferee assumes all powers and responsibilities under the license for the control of the shipment of the commodities or technical data out of the United States;

(4) Whether any consideration has or has not been or will be paid for the transfer;

(5) The name and address of the foreign principal in instances where the transferee will make the export as agent on behalf of a foreign principal; and

(6) In addition, if the license is to be used by a subsidiary or parent corporation of the licensee, or if the licensee has sold or transferred to the new exporter all, or a substantial portion, of his assets or business, the transferee must certify that the legal document or authority under which the change of exporter is effected authorizes and imposes the responsibility on the transferee of accepting and fulfilling the legal obligations of the transferor under the transactions covered by the license to be transferred.

(e) *Notification of transfer*—(1) *Less than 15 licenses.* When a request for the transfer of less than 15 outstanding license is approved, the Office of Export Control validates all copies of Form IA-763 by imprinting, in the space entitled "Validation," a facsimile of the U.S. Department of Commerce seal followed by a five-digit number representing the date of validation. The duplicate is forwarded as the official notice of amendment to the customs office designated in the item entitled "License Has Been Deposited With." The triplicate is forwarded to the individual named in the item entitled "Return Copy of Amendment Notice To." If the request is rejected or returned without action, the reason(s) therefor is indicated on the triplicate copy, which is then returned to the applicant.

(2) *15 or more licenses.* When a request to transfer 15 or more outstanding licenses is approved, the Office of Export Control issues a blanket authorization notifying customs offices that shipments may be cleared for export against such licenses on presentation by the transferee. The transferor and transferee are notified by letter.

PART 373—SPECIAL LICENSING PROCEDURES

Sec.

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373.7 (Reserved for future use.)
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Supplement No. 1—Commodities excluded from distribution license procedure.

AUTHORITY: The provisions of this Part 373 issued under Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.

§ 373.1 Introduction.

In order to facilitate the export of commodities requiring a validated license, a series of special licensing procedures is established that may be used, when appropriate, in lieu of the individual export license as set forth in Part 372.

(a) *Relationship to foreign laws.* No authority granted under the provisions of this part to reexport, resell, distribute, transfer, divert, or transship a commodity shall in any way relieve any person from his responsibility to comply fully with the laws, rules, and regulations of the country from which the commodity is to be reexported or of any other country having authority over any phase of the transaction. Conversely, no foreign law, rule, regulation, or authorization in any way relieves any person from his responsibility to obtain such authorization from the Office of Export Control as may be required by the Export Regulations.

(b) *Effect of other regulations.* Insofar as consistent with the provisions of this part, all of the provisions of the Export Control Regulations shall apply equally to applications for licenses and licenses issued under this part.

§ 373.2 Project license.

A project license procedure is established that authorizes exports for a period of 1 year for use in specified activities.

(a) *Commodities, technical data, and activities eligible for project licenses.* The Project License Procedure is applicable if:

(1) The total value of validated license shipments is expected to be $100,000 or more annually;

(2) The commodities to be exported are covered by entries in the Commodity Control List under at least four Commodity Processing Numbers in which the first two digits of each differ from the first two digits of the other three Commodity Processing Numbers. (For example, Processing Nos. 411, 421, 612, and 621 would meet this requirement, while Processing Nos. 411 412, 413, and 418 would not meet the requirement);

(3) At least 40 individual validated licenses would be needed to export the proposed commodities; and

(4) The license, if granted, would be used for one of the following activities:

(i) A substantial project representing a capital expansion, either a new facility or expansion of an existing facility; or

(ii) A program for supplying maintenance, repair, and operating supplies to serve an existing facility; or

(iii) A program for supplying materials to be used in the production of other commodities for sale.

(b) *Commodities, technical data, and activities not eligible for project license.* The Project License Procedure does not apply:

(1) The commodities are identified by the symbol "F" in the last column of the Commodity Control List;

(2) The commodities are related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in § 378.1;

(3) The technical data is not generally available to the public and relates to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in paragraph § 379.4(c)(1); or

(4) The commodities are intended for resale in the form in which they were exported from the United States.

(c) *Application procedure*—(1) *General.* The preparation of an initial application for a Project License requires a substantial amount of work by the exporter. Therefore, a prospective applicant may wish to consult the Office of Export Control in advance to obtain a preliminary determination of the applicability of the project licensing procedure and to obtain advice as to any special information that may be required.

(2) *Documents required.* An applicant for a project license shall submit the following:

(i) Form FC–420, Application Processing Card, prepared in accordance with the provisions of § 372.4(a)(5), except that the applicant shall:

(*a*) Write "Project License" in the Export Control Commodity Number space;

(*b*) Leave the processing number space blank;

(*c*) Show the name or description of the project in the commodity description space.

(ii) Form FC–419, Application for Export License, prepared in accordance with the provisions of § 372.4(a)(4), except that the applicant shall:

(*a*) Insert "see attached list" in the space entitled "Ultimate Consignee in Foreign Country" if there is more than one ultimate consignee, and attach to the application a list, in duplicate, of the country(ies) of ultimate destination followed by the name(s) of the ultimate consignee(s), both in alphabetical order. For example:

France: Central Corp.; Development Corp.
Mexico: Consolidated Copper; Fairway Ltd.

(*b*) Insert the following in the space entitled "Commodity Description":

Articles and materials set forth on the attached statement of estimated requirements constitute the known requirements of commodities (and technical data, if applicable) requiring validated licenses for the (insert name of program or project).

I (We) hereby certify that if a license is granted in response to this application: (a) no commodities (or technical data, if applicable) will be exported under the license unless specifically required for the (program) (project); and (b) after export, the commodities (and technical data, if applicable) will not be disposed of or used for any purpose other than that stated in this application.

(iii) Form FC–988, Statement by Ultimate Consignee in Support of Project License Application (see Supplement S–14 for facsimile of form). This form is required from each ultimate consignee named in the license application, including subsidiaries, affiliates, branches, or other associated firms of the applicant, if the applicant and the consignee are separate legal entities. It is not required where the applicant is the same person as the ultimate consignee. Form FC–988 shall be manually signed by the ultimate consignee, or by a responsible official of the ultimate consignee's firm who has (*a*) personal knowledge of the information included in the statement, (*b*) authority to bind the ultimate consignee, and (*c*) 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 form may not be delegated to any person (agent, employee, or other) whose authority to sign is not inherent in his official position with the ultimate consignee. The official signing the statement shall include his official title with his signature.

(iv) *Estimated requirements*—(*a*) *Commodities.* A statement shall be submitted in duplicate specifying the estimated requirements for commodities requiring a validated license which are expected to be exported during the first 1-year validity period and any commodities exportable under General License GLV which the licensee prefers to ship under the project license. Only broad descriptive categories corresponding with the commodity sections and subheadings appearing in the Commodity Control List (§ 399.1(j)) shall be used to describe the commodities, and the requirements for each commodity shall be broken down into subtotals and grand totals for Country Group T, Country Group V, and another entry for all other country groups. (See example blow.) An additional statement, in duplicate, shall be submitted if the commodities are for use in a project representing a capital expansion. This statement shall cover the estimated requirements of commodities requiring a validated license that are expected to be exported during the period required for the full completion of the project. If a project license is issued, the estimated values constitute a limit only on the grand total licensed. It is not a limit on the subtotals. For example, in the following illustration an amendment is necessary only if the grand total value of all shipments under the project license to all country groups will exceed $705,000.

EXAMPLE: VALIDATED LICENSE REQUIREMENTS FOR FIRST YEAR

Commodity section	Country Group T	Country Group V	Other country groups	Subtotal
Section 3—Mineral Fuels, Lubricants and Related Materials:				
Petroleum and Petroleum Products	$50,000	$100,000	$20,000	$170,000
Section 7—Machinery and Transport Equipment:				
Machinery, Other Than Electric	100,000	175,000	25,000	300,000
Electrical Machinery, Apparatus, and Appliances	750	1,500	250	2,500
Transport Equipment	2,250	4,500	750	7,500
Section 8—Miscellaneous Manufactured Articles:				
Professional, Scientifics and Controlling Instruments	75,000	125,000	25,000	225,000
Grand totals	228,000	406,000	71,000	705,000

(*b*) *Technical data.* The following information regarding any exports of technical data related to the project shall accompany the statement of estimated commodity requirements:

(*1*) A detailed description of the subject matter or substance of the technical data and its relationship to the project;

(2) Processes involved, if any; and

(3) The form in which the information will be furnished to the foreign consignee (e.g., blue prints, specifications, technical aid contracts, manufacturing agreements, patent licensing arrangements, instruction, or training).

(v) *Comprehensive narrative statement.* The comprehensive narrative statement of explanation by the applicant shall include, as a minimum:

(*a*) *Qualification.* An explanation by the applicant of how the proposed project license application qualifies under the criteria described in paragraph 373.2(a) above.

(*b*) *Description.* A detailed description, including the nature and scope of the project, and the estimated completion date.

(*c*) *Business relationship.* The nature and duration of the business relationship between the applicant and the consignee(s) named in the project license application. If there are any corporate or other ownership relationships between the parties, these relationships shall be fully disclosed.

(d) *Action by Office of Export Control on license applications*—(1) *Approved license application.* When an application for a project license is approved, the covering export license will be similar to validated license described in § 372.9, with the following exceptions:

(i) *Validation.* The license will be validated by stamping in the license number space a facsimile of the U.S. Department of Commerce seal, the letter "D," and a series of numbers to indicate the year, month, and day on which the license was validated. For example, a validation stamp which reads "D9–110" indicates that the license was validated in the year 1969 (9), in the month of January (1), and on the 10th day of the month (10).

(ii) *License number.* The license number assigned to the project will be indicated immediately below the validation stamp. This will be a four-digit number prefixed by the letters DL, and suffixed by a one-letter code indicating the Office of Export Control licensing division to which the project was assigned (that is, "C" for Capital Goods Division; "P" for Production Materials and Consumer Products Division; and "S" for Scientific and Electronic Equipment Division).

(2) *Commodity description.* Instead of a specific description of quantities, kinds, or values of commodities and technical data, one of the following statements will

appear in the commodity description item on the license:

(i) If commodities only:

This license authorizes export of commodities requiring a validated license subject to the specific limitations set forth in the Export Regulations and on this license.

(ii) If commodities and technical data:

This license authorizes export of commodities and technical data requiring a validated license subject to the specific limitations set forth in the Export Regulations and on this license.

If any special conditions are imposed with respect to the use of a specific project license that are more restrictive than the general conditions provided in the Export Regulations, these conditions will either be set forth on the license or the licensee will be advised by other means.

(3) *Notification to customs offices.* The Office of Export Control will notify all customs offices of the issuance of the project license.

(4) *Rejected applications.* When an application for a project license is rejected, the applicant will be notified by Form FC–204–A, Notice of Rejection. This notice will explain the reason for rejection. The applicant may apply for an individual or other appropriate type of validated license for transactions covered by the rejected project license application.

(e) *Extensions and amendments of project licenses*—(1) *Extensions*—(i) *Form to use.* Requests to extend a project license shall be submitted in triplicate on Form FC–957, "Application for and Notice of Extension of Project License" (see Supplement S–13 for facsimile of form and instructions). All items of the form must be completed. If more space is needed, an extra sheet shall be attached identified by the project license number and by the item number to which the information applies. If no answer applies to an item, the word "none" shall be inserted.

(ii) *When to apply.* An extension request should be submitted to the Office of Export Control from 60 to 90 days before the expiration date in order to avoid interrupting the movement of shipments under the license.

(iii) *Action by Office of Export Control.* Each extension request is analyzed by the Office of Export Control as to the past activity of the project to determine whether an extension is justified. Prior to asking for an extension the licensee should examine his own records to see if the criteria described in paragraph (a) of this section were met during the initial validity of the license. If not, the licensee should apply for an individual or other appropriate type of license instead of an extension of the project license. When action has been taken by the Office of Export Control, this form will be returned to the licensee for retention in his files.

(2) *Amendments*—(i) *Form to use.* All requests for amendment other than an extension of validity period shall be submitted on Form IA–763 in the usual manner (see § 372.11). However, if submitted with an extension request, the amendment request may also be included on the Form FC–957.

(ii) *New consignee.* Where an additional ultimate consignee is proposed, the request shall be accompanied by a statement from the proposed ultimate consignee and the U.S. exporter setting forth the information required by paragraph (c)(2)(iii) and (c)(2)(v)(c) of this section.

(iii) *Addition of technical data.* If an amendment request proposes adding technical data, the Form FC–763 shall be accompanied by: A statement from the U.S. exporter setting forth the information required by paragraph 373.2 (c)(2)(iv)(*b*), a Form FC–988, Statement by Ultimate Consignee in Support of Project License Application, from each ultimate consignee who will receive the data, as described in paragraph (c)(2)(iii) of this section and the following certification:

I (We) certify that if the request for amendment of Project License No. ------ is granted, the technical data will be used only in connection with the (program) (project) and after export will not be disposed of or used for any other purpose than that stated in this request.

(iv) *Transfer of license.* A request to transfer a project license is handled in the same manner as a request to transfer any other license. See § 372.13.

(3) *Amendments not required.* No amendment is needed to add a commodity section or change the total estimated value of a commodity section unless the grand total value of all shipments shown in the statement of estimated amounts needed will be exceeded.

(4) *Action by Office of Export Control on extensions or amendments to project licenses*—(i) *Approval.* When a request to amend or extend a project license is approved, the Form FC–957 or IA–763 will be validated as described in §§ 372.11 and 372.12, and a copy returned to the licensee. The approved form will show any changes that may have meen made in the licensee's request, or any special conditions that may have been added. The Office of Export Control will notify customs offices of the approval action.

(ii) *Rejection.* When a request for extension is rejected, the original of Form FC–957 or IA–763 will be held in the Office of Export Control; the duplicate and triplicate copies will be returned to the applicant. The reason for rejection will be given, either on Form FC–204–A, Notification of Rejection, or by letter.

(f) *Export clearance*—(1) *General.* The Office of Export Control usually notifies all customs offices of the approval of a project license within 15 days after dispatch of the license to the licensee. An exporter should not plan to clear an export at an earlier date unless he has verified that notification has reached the customs office at the intended port of exit. In unusual circumstances, the exporter may request earlier notification to one customs office in order to clear a specific emergency shipment(s).

(2) *Presentation of license, extension, or amendment.* The license, extension, or amendment is not required to be filed with the customs office. However, when clearing shipments, the licensee shall on demand, show the Customs Officer either the original or a photocopy of the license or amendment.

(3) *Shipper's Export Declaration.* The Shipper's Export Declaration covering an export made under a project license shall be prepared in accordance with standard instructions. Although the project license and amendments describe the commodities only in broad descriptive categories, commodity descriptions on the declaration shall show specifically the commodity description conforming to the applicable Commodity Control List description and incorporating any additional information where required by Schedule B; (e.g., type, size, name of specific commodity, etc.). In addition, (i) the declaration shall include the project license number; (ii) the symbol "DL" shall be entered in the upper right corner of the declaration; and (iii) one additional copy shall be filed with the customs office.

(4) *Mail shipments.* Shipments by mail shall be made in accordance with the instructions contained in § 386.1(c).

(5) *Shipments exportable under General License GLV.* Notwithstanding any statement appearing on a project license, a project license holder may use either his project license or General License GLV to export commodities which meet the provisions of General License GLV. The project license, however, may not be used for shipments which can be made under any other general license.

(g) *Reexports.* Commodities and technical data exported under a project license may be reexported between ultimate consignees covered by the terms of the project license without obtaining specific approval from the Office of Export Control.

(h) *Application for other validated licenses*—(1) *Exporter holding a project license.* An exporter holding a project license shall not apply for, nor will the Office of Export Control issue to him, an individual or any other type of validated license for any transaction involving the licensed project, except for export of shipments described in (b) of this section.

(2) *Other exporters.* Where a valid project license is in force, the Office of Export Control will not issue another project license to cover shipments to the licensed project or program. If an exporter intends to make shipment to a project or program for which another exporter already holds a project license, he may apply to the Office of Export Control for an individual license or any other appropriate type of validated license except a project license.

§ 373.3 Distribution license.

A distribution license procedure is established that authorizes exports, during a period of 1 year, of certain commodities under an international marketing program to consignees that have

been approved in advance as foreign distributors or users.

(a) *Eligible countries.* Exports may be made under the distribution license procedure from the United States to approved consignees in the following countries of destination only:

Australia.	Italy.
Belgium.	Japan.
Denmark.	Luxembourg.
The Federal Republic of Germany.	The Netherlands.
France.	Norway.
Greece.	The United Kingdom.

(b) *Eligible commodities.* Any commodities requiring a validated license for export to the countries listed above qualify for the distribution license procedure; except:

(1) Commodities related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in § 378.1; and

(2) Commodities listed in Supplement No. 1 to this Part 373.

(c) *Eligible exporters and consignees*—(1) *Applicant-consignee relationship.* The ultimate consignee of a distribution license must be:

(i) A subsidiary, affiliate, or branch of the U.S. exporter serving as the distributor of the commodities to be exported. The subsidiary, affiliate or branch must be under the full and active control of the exporter and a majority of any voting stock in the subsidiary, affiliate, or branch must be owned by the exporter; or

(ii) An agent, representative, or any other person or firm distributing the commodities to be exported under this license pursuant to a written agreement with the U.S. exporter or its wholly owned subsidiary that effectively assures compliance with U.S. export control regulations, including the provisions set forth in paragraph (1) of this section; or

(iii) An end-user importing the commodities for his own use or for use in the production or manufacture of commodities.

(2) *Duration and evidence of relationship.* The U.S. exporter generally shall have had a continuous business relationship with each ultimate consignee named in his application for a period of not less than 2 years immediately preceding the date of filing the application for a distribution license. This restriction does not apply to an ultimate consignee that is a subsidiary, affiliate, or branch. At the time the appliaction is filed, the applicant for a distribution license shall have in his possession, documentary evidence of the existence of the relationship with each ultimate consignee, as described above. These documents and records shall be kept and made available for inspection in accordance with the provisions of § 387.11.

(3) *Prerequisite volume of business.* Within the calendar year immediately preceding the date of filing of the application for a distribution license, the U.S. exporter shall have exported to the distributor(s) and end-user(s) commodities covered by the application in a grand total value of not less than $100,000 for the entire list of proposed consignees in all the proposed countries of destination. In addition, the exporter shall have a reasonable expectation that this business volume will continue for the next year in an amount of not less than $100,000. The exporter also shall have a reasonable expectation that the distribution license, if granted, will replace not less than 40 individual validated export licenses that would otherwise be required.

(4) *Order requirement.* An applicant for a distribution license need not hold an order as defined in § 370.2 from the ultimate consignee(s) for the commodities subject to this procedure at the time he applies for the license.

(d) *Application for Distribution License*—(1) *Prior consultation.* The preparation of an initial application for a distribution license requires a substantial amount of work by the exporter. Therefore, a prospective applicant may wish to consult the Office of Export Control in advance to obtain a preliminary determination of the applicability of the distribution license procedure and to obtain advice as to any special information that may be required.

(2) *Documents required.* Each application for a distribution license shall include the following documents:

(i) Form FC–420, Application Processing Card;

(ii) Form FC–419, Application for Export License;

(iii) Form FC–1143,[1] Distribution License Consignee Statement. (See Supplement S–15 for facsimile of form.); and

(iv) Comprehensive narrative statement by the exporter.

An application for a distribution license need not be supported by the import certificate or consignee statement otherwise required under § 375.1 or § 375.2.

(3) *Preparation of documents*—(i) *Form FC–420.* The applicant shall prepare Form FC–420, Application Processing Card, in accordance with the provisions of § 372.4(a)(5) except that the applicant shall:

(*a*) Write "Distribution License" in the Export Control Commodity Number space;

(*b*) Leave the Processing Number space blank; and

(*c*) Enter "Various" in the commodity description space.

(ii) *Form FC–419.* The applicant shall prepare and submit the application in accordance with the provisions of § 372.4 except that the applicant shall:

(*a*) Write "Distribution License," as well as the date, in the space entitled, "Date of Application".

(*b*) Where there is more than one ultimate consignee, insert "See attached list" in the space entitled "Ultimate Consignee in Foreign Country."

(*c*) Attach a duplicate list of the country(ies) of ultimate destination, in alphabetical order, followed by the name(s) of the ultimate consignee(s) in each country, also in alphabetical order.

(*d*) List separately on the application or on an attachment thereto, all commodities identified by the symbol "A" in the last column of the Commodity Control List (§ 399.1) or, if feasible, describe them in related product groups. Examples of acceptable product groups are "Semiconductors, A type"; "electronic testing instruments, A type"; etc. All commodities not identified by either the symbol "A" or the symbol "B" on the Commodity Control List having Export Control Numbers with the same first two digits may be combined into a single entry. The commodity description for each entry shall be in terms of broad descriptive categories corresponding with the commodity sections and subheadings on the Commodity Control List.

(*e*) Enter the estimated total value of each "A" commodity or "A" product group and of each group of non-"A" commodities to be exported during the 1 year validity period of the Distribution License in the space provided for the total selling price, with the grand total for all.

(*f*) Enter the following statement at the bottom of the commodity description space: "No commodity excluded from the Distribution License Procedure under the Export Control Regulations will be exported to any consignee in any destination under this Distribution License if this application is approved."

(*g*) Leave blank the spaces entitled "Export Control Commodity No. and Processing No.," "Unit Price," and "Quantity To Be Shipped".

(iii) *Form FC–1143.* Three copies of Form FC–1143 shall be manually signed by the consignee or by a responsible official of the consignee who is authorized to bind the consignee to all of the terms, undertakings, and commitments set forth on the form. All copies shall be cosigned by the applicant and submitted with the application to the Office of Export Control.

(iv) *Comprehensive narrative statement.* A comprehensive narrative statement shall be submitted by the applicant in support of the application. This statement shall set forth the scope of the applicant's marketing program pertinent to the application and shall detail the nature and duration of the business relationship existing between the applicant and each consignee. The statement shall fully explain the distributorship agreement (i.e., the form of ownership or other control existing between the U.S. exporter and his distributor, for other consignees, the sales relationship). In addition, it shall show clearly that the relationship meets the qualifications in paragraph (c) of this section anl shall include, for each consignee, the volume of business in the commodities involved for the preceeding year, describing the commodities in the same detail as on the license application.

(e) *Action on License applications*—(1) *Approved license application.* When an application for a distribution license

[1] Form FC–1143 may be obtained at all U.S. Department of Commerce Field Offices (see list of addresses on page 1 under Field Office addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

is approved, a Form FC–628, Export License, is issued by the Office of Export Control authorizing, subject to the provisions of the Export Control Regulations and to the terms and provisions of the license, the export of commodities covered during a validity period of 1 year.

(i) *Validation.* The license will be validated in the license number space with a stamp that includes a fascimile of the U.S. Department of Commerce seal, the letter "H" and a series of numbers to indicate the year, month, and day on which the license was validated. For an explanation of the coded dates shown on the license see § 372.9.

(ii) *Distribution license number.* The Distribution License number will be indicated immediately below the validation stamp. This will be a four-digit number prefixed by the letter "V," and suffixed by a one-letter code indicating the Office of Export Control licensing division to which the license was assigned (that is: "C" for Capital Goods Division; "P" for Production Materials and Consumer Products Division; and "S" for Scientific and Electronic Equipment Division).

(iii) *Special conditions.* If any other special conditions are imposed with respect to the use of a specific distribution license more restrictive than the general conditions set forth in the Export Regulations, these conditions will be set forth on the license document at the time of issuance, or the licensee will be advised by other means.

(iv) *Table of denial and probation orders.* The licensee under a distribution license is responsible for furnishing promptly to all of his ultimate consignees current reprints of the "Table of Denial and Probation Orders Currently in Effect" and each addendum thereto. Copies of these reprints, issued April 1 and October 1, may be obtained without charge from the Office of Export Control.

(2) *Notification to customs offices.* The Office of Export Control will notify all customs offices of the issuance of the distribution license.

(3) *Applications returned without action.* When a distribution license application is returned without action, the application together with related documents will be returned to the applicant with the Form FC–204–B, Advice on Application Returned Without Action. This form will state the reason for return of the license application and will explain the corrections and additional information required if the application is to be resubmitted for further consideration by the Office of Export Control.

(4) *Applications not approved.* When an application for a distribution license is not approved, the applicant will be notified and the notice will explain the reason. The applicant may apply for an individual or other appropriate type of validated license for transactions covered by the distribution license application that was not approved.

(f) [Reserved]

(g) *Action on Form FC–1143.* (1) Concurrently with the approval of a distribution license application, two validated copies of each approved Form FC–1143 will be sent to the U.S. exporter. One copy shall be retained by the exporter, and one copy shall be sent by the exporter to the approved consignee.

(2) The letter of transmittal to the approved consignee shall notify (i) the consignee that he will be receiving from the exporter reprints of the U.S. Department of Commerce "Table of Denial and Probation Orders Currently in Effect" and addendum thereto listing individuals and firms to whom the consignee may not sell or otherwise dispose of the U.S. commodities received under the distribution license, and (ii) advise the consignee that, in addition to the other requirements set forth in this procedure, he may not sell or otherwise dispose of any such U.S.-origin commodities when he has reason to believe the commodities will be used in designing, developing, or fabricating nuclear weapons or nuclear explosive devices, or in devising, carry out, or evaluating nuclear weapons tests or nuclear explosions. If a consignee is not approved, the form will be returned to the U.S. exporter with a rider stating the reason for this action.

(h) *Export clearance*—(1) *Notification to customs.* The Office of Export Control usually notifies customs offices of the approval of a distribution license within 15 days after dispatch of the license to the licensee. Therefore, an exporter should not plan to clear an export at an earlier date unless he has verified that notification has reached the customs office at the intended port of exit.

(2) *Presentation of license or other approval action.* When clearing shipments for export under a distribution license, the licensee shall, on demand, show to the Customs Officer or Postmaster either the original or a photocopy of the license or amendment. The distribution license or amendment however is not required to be filed with the Customs Office or Post Office. When exporting by mail, the distribution license number shall be entered on the address side of the wrapper on the package.

(3) *Limit on amount shipped.* Exports under a distribution license of any commodity identified in the last column of the Commodity Control List by the symbol "A" are limited for each entry, during the entire validity period of the license, to the amount shown on the license for that entry. This limitation does not apply to commodities not identified by the symbol "A". Exports of an entry not identified by the symbol "A" may exceed the amount shown for that particular entry provided the total of all such shipments does not exceed the grand total authorized for all of the commodities not identified by the symbol "A" on the license.

(4) *Shipper's export declaration.* As set forth in the standard instructions for preparing shipper's export declarations, the validated license number must be shown on the declaration. In the case of a distribution license the license number is prefixed by the letter "V" (see paragraph (e)(1)(ii) of this section). Although the distribution license may describe the commodities in broad terms, commodity descriptions on the declaration shall be specific. The description shall (i) conform to the applicable Commodity Control List description, and (ii) incorporate any additional information where required by Schedule B; for example, the type, size, or name of specific commodity.

(5) *Destination control statement.* The following destination control statement shall be entered on the shipper's export declaration and other relevant documents as prescribed in § 386.5 covering exports made under a distribution license:

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

Use of this statement does not preclude the consignee from reexporting to any of the exporter's other approved consignees or to other countries for which specific prior approval has been received from the Office of Export Control. In such instances, diversion (i.e., reexport) is not contrary to U.S. law and hence is not prohibited.

(i) *Reexports*—(1) *Distributor.* A distributor who is an approved consignee under a distribution license may not reexport any commodity received under a distribution license without the specific prior authorization of the U.S. Government, except, that reexports of these commodities may be made to any of the exporter's other consignees who have been approved under the distribution license procedure.

(2) *End-user.* An end-user who is an approved consignee under a distribution license is not precluded from exporting manufactured products incorporating U.S. commodities received under a distribution license to any destination he has listed on the Form FC–1143 that has been approved by the U.S. Government. However, reexport of the U.S.-origin commodity in the form received is prohibited, unless specifically authorized in writing by the U.S. Government.

(j) *Direct shipment to distributor's customer.* If a distributor requests that commodities be delivered directly to his customer in the same country of destination or in another country to which reexport is authorized in accordance with paragraph (i) of this section, the U.S. exporter may do so under his distribution license by showing on the shipper's export declaration, the name and address of the customer as ultimate consignee followed by a footnote. The related footnote shall read, "by order of (name of distributor and his address)", and shall appear below the commodity description. Unless the name of the distributor appears in this manner on the declaration, direct shipment may not be made to the distributor's customer under the distribution license.

(k) *Amendment of license.* If the exporter desires to add new consignees to

this license, or if the amount licensed under a distribution license proves insufficient to meet his requirements, he may file new Forms FC–1143 and/or request an increase in the value authorized for export under the license at any time during the validity period of the license. Requests for amendment shall be submitted on Form IA–763, Request for and Notice of Amendment Action (see Supplement S–4 for facsimile of form), in accordance with the provisions of § 372.11. An amendment request for the addition of a new consignee shall be supported by Forms FC–1143, prepared as required by the provisions of paragraph (d)(3) of this section. Amendment of a distribution license to extend the validity period will not be granted. A new license application with supporting Forms FC–1143 shall be filed for such purpose.

(l) *Records.* (1) The U.S. exporter shall retain one copy of each validated Form FC–1143, or each form not approved, for a period of 3 years from the date of a validation or rejection.

(2) All other forms, documents, correspondence, memoranda, books, and other records relating to any export from the United States under a distribution license shall be kept and made available for inspection in accordance with the recordkeeping requirements of § 387.11.

(3) All records regarding a sale or reexport by a distributor who is an approved consignee under a distribution license shall be retained by the distributor for a period of 3 years from the date of sale or reexport. As a minimum, these records shall contain for each sale or reexport the following:

(i) Full name and address of individual or firm to whom sale or reexport was made;

(ii) Full description of each commodity sold or reexported;

(iii) Units of quantity or value of each commodity sold or reexported; and

(iv) Date of sale or reexport.

All of the above-mentioned records shall be made available for inspection, upon request, by the U.S. Department of Commerce, by a U.S. Foreign Service Post, or by any other accredited representative of the U.S. Government. (For further recordkeeping requirements see § 387.11.)

(m) *Reports.* The exporter shall prepare and submit, on a monthly basis, a report on all exports made during the preceding month under the distribution license. The report shall cite the license number indicated on the export license and, as a minimum, show, for each consignee, a separate aggregate value for each commodity category as shown on his license (i.e., for each "A" commodity or "A" product group, and for each non-"A" commodity category). The report shall be submitted in original only and transmitted to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

(n) *Exceptions.* In the event that a U.S. exporter is unable to meet any of the requirements of this distribution license procedure, but believes that unusual circumstances warrant a waiver or an exception to one or more of these requirements, he may consult with or write to the Office of Export Control explaining the circumstances in full and requesting a waiver or exception.

§ 373.4 Foreign-based warehouse procedure.

A foreign-based warehouse procedure is established that authorizes an exporter (a) to stock commodities abroad at a central location for distribution to customers where the country where the stock is located or in other countries; (b) to ship commodities directly from the United States to these customers to fill an urgent need or a specialized requirement that cannot be filled from the foreign-based stock; or (c) to ship directly from the United States to these customers parts or components not stocked abroad to be used to repair equipment originally exported by the U.S. exporter. The documentation usually required in support of an application for an export license (see Part 375) and prior specific reexport authorization (see Part 374) are waived under this procedure.

(a) *Definitions.* As used in this § 373.4, the following terms are defined as described in this paragraph:

(1) *"Subsidiary."* A subsidiary is any foreign-based subsidiary affiliate, or branch of the U.S. exporter's firm: (i) in which the majority of any existing voting stock in such subsidiary, affiliate, or branch is owned by the U.S. exporter; and (ii) over which the U.S. exporter exercises full and active control.

(2) *Foreign-based stock.* A "foreign-based stock" consists of U.S.-origin commodities not identified by the symbol "B" in the last column of the Commodity Control List (see § 399.1), which have been licensed by the Office of Export Control to be stocked outside the United States by a U.S. exporter or his subsidiary for distribution in one or more countries to customers approved by the Office of Export Control.

(3) *Distributor.* A "distributor" is a subsidiary of the U.S. exporter not located in Country Group S, W, Y, or Z that distributes or sells the U.S. commodities exported under this procedure exclusively to customers approved by the Office of Export Control and delivery is (i) from foreign-based stocks; (ii) directly from the United States, based on the distributor's instructions, to fill an urgent need or a specialized requirement for a commodity covered by the procedure but not available for shipment from the foreign-based stock; or (iii) directly from the United States to an approved customer for use in repairing equipment originally manufactured by the U.S. exporter.

(4) *Customer.* A person or firm in a country other than Country Group S, W, Y, or Z, who is supplied with U.S.-origin commodities through a distributor as defined above.

(b) *Exports to the foreign-based warehouse.* A U.S. exporter who qualifies under this procedure may apply for and obtain licenses for exports to an approved destination for the purpose of maintaining a foreign-based stock of any commodity(ies) not identified by the symbol "B" in the last column of the Commodity Control List, except the following commodties:

Export Control Commodity Number and Commodity Description	
71420	Electronic computers.
72620	X-ray machines, and specially designed parts therefor, and flash discharge type X-ray tubes.
72952	Vibration testing equipment.
72952 and 86198	Mass spectrometers.
72970	Neutron generators and specially designed parts therefor, and neutron generator tubes.

(c) *Application to participate in the foreign-based warehouse procedure*—(1) *Form FC–143.* To be considered for participation under the foreign-based warehouse procedure, a U.S. exporter shall complete and submit to the Office of Export Control six copies of Form FC–143, Request for Authorization to Distribute U.S.-Origin Commodities Stocked Abroad to Approved Customers. (See Supplement S–9 for facsimile.) This form contains a certification by the exporter, on his own behalf and on behalf of his distributor, that distribution from foreign-based stocks will be made only to approved customers, none of whom may be in Country Group S, W, Y, or Z.

(2) *Form FC–243.* Each customer to whom distribution is proposed, whether or not in the country where the foreign-based stock is located, must complete and submit to the distributor or to the U.S. exporter six copies of Form FC–243, Multiple Transactions Statement by Customer of Distributor of United States Commodities Stocked Abroad. (See Supplement S–10 for facsimile.) The U.S. exporter shall submit these forms to the Office of Export Control either with or subsequent to his filing the form FC–143.

(3) *Letter Request.* Form FC–243 need not be obtained in any case where the customer is an agency of the U.S. Government or of a foreign government, provided the commodities are to be distributed to the government agency. In such instances the name and address of the foreign government agency shall be submitted to the Office of Export Control by letter in six copies. It is not necessary to request the approval of the Office of Export Control where the customer is a U.S. Government agency.

(4) *Other documents.* In addition to the Forms FC–243 required above, if the customer is located in Switzerland or Yugoslavia, the exporter or his distributor must obtain for each transaction a Swiss Blue Import Certificate or a Yugoslav End-Use Certificate showing the United States as the country of origin of the commodities to be distributed. The Swiss Blue Import Certificate need not be submitted to the Office of Export Control but shall be retained in accordance with the record keeping provisions described in paragraph (h) of this section. The original of each Yugoslav End-Use Certificate issued, or a reproduced copy if the original is required by the government of the country in which the distributor is located, shall be immediately

forwarded by the distributor to the U.S. exporter. The originals or reproduced copies received from the distributor shall be submitted by the U.S. exporter, on a monthly basis, to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, with a letter identifying the customer's assigned "C" number. This number is entered by the Office of Export Control on the reverse of approved Forms FC-243 immediately below the U.S. Department of Commerce validation stamp in the "Validation" box.

(d) *Action on application to participate in the foreign-based warehouse procedure*—(1) *U.S. exporter.* If a Form FC-143 is approved two validated copies will be sent to the U.S. exporter containing the validation number and the expiration date. The exporter shall keep one copy and send the other to his distributor. Generally, the expiration date is June 30 of the year following the date on which the Form FC-143 is signed by the U.S. exporter, unless an earlier termination date is requested. If the Form FC-143 is not approved it will be returned with a notice informing him of the reason for this action.

(2) *Customer of distributor.* If a Form FC-243 is approved two validated copies will be sent to the U.S. exporter. The exporter shall keep one copy and shall send the other copy to the foreign office from which the distribution is controlled. These forms shall be used in assuring that distribution under the warehouse procedure will be made only to customers the Office of Export Control has approved. If the customer is not approved, the Form FC-243 will be returned with a notice informing the exporter of the reason he was not approved. Generally, the expiration of a Form FC-243 is June 30 of the year following the date on which the form is signed by the customer, unless an earlier expiration date is requested.

(3) *Use of other procedures.* (i) Where a commodity, customer, distributor, or destination is not approved under the foreign-based warehouse procedure, the exporter is not precluded from using any other applicable export procedure, authorization, or provision. Persons or firms located in Country Group S, W, Y, or Z will not be approved as distributors under the foreign-based warehouse procedure. Customers in Country Group S, W, Y or Z may be approved only on an individual transaction basis with the prior written approval of the Office of Export Control for each shipment from the foreign-based stock.

(ii) Where a commodity, customer, distributor, or destination is not approved under the foreign-based warehouse procedure, the exporter is not precluded from using any other applicable export procedure, authorization, or provision. Persons or firms located in Country Group S, W, Y, or Z will not be approved as distributors under the foreign-based warehouse procedure.

(e) *Application for license to export under approved Form FC-143*—(1) *Application form.* Except for the commodities listed in paragraph (b) of this section, a qualified U.S. exporter may apply for a license to export any commodity necessary to maintain foreign-based stocks in an approved destination. The application shall be made on Form FC-419 in accordance with the provisions of § 372.4 with the following modifications:

(i) More than one commodity may be included on a single application if the first two digits of the processing number are the same for each.[1] However, Commodity Control List descriptions and Export Control Commodity Numbers must be shown for each commodity.

(ii) The applicant is not required to provide any supporting document other than Form FC-143 and Form FC-243.

(2) *Types of shipments.* A qualified U.S. exporter may apply for export licenses covering any of three different types of shipments under the provisions set forth below. All such license applications must be received in the Office of Export Control within the validity period of the supporting Forms FC-143 and/or 243.

(i) If a shipment is to be made to a distributor for subsequent distribution under this procedure the application shall contain the following statement in the space entitled "Additional Information" on the application form, or on an attachment thereto:

The ultimate consignee named in this application is an approved distributor of U.S. commodities stocked abroad and has been assigned validation number (insert Form FC-143 validation No.).

(ii) If an urgent direct shipment to a distributor's customer is to be made, an application may be submitted provided that the distributor has notified the U.S. exporter that he has an order from an approved customer for an approved commodity which is not in the distributor's foreign-based stock and for which the customer has an urgent need or specialized requirement. Upon receipt of this license, the U.S. exporter may ship the commodity direct from the United States to his distributor's customer. The license application shall include the following statement in the space entitled "Additional Information" or on an attachment thereto:

The ultimate consignee named in this application is an approved customer of our foreign distributor. Our distributor (insert Form FC-143 validation number) requests that shipment be made directly from the United States to fill an urgent need or specialized requirement.

(iii) If a shipment of parts and components is to be made direct to a distributor's customer, an application may be submitted, if all of the conditions set forth in (*a*) through (*c*) below are met. Each order received from the distributor's customer should, whenever possible, include a certification from the customer that he will comply with all the provisions of (*a*) and (*b*) below. Regardless of whether the certification appears on the order, the U.S. exporter will, at the time of filling the order, transmit a written notification to the customer setting forth these restrictions.

(*a*) The commodities are included on the customer's validated Form FC-243 and represents parts and components that are either for use by the distributor's customer to repair equipment originally manufactured by the U.S. exporter or are used by another party exclusively for this purpose. The parts and components may be authorized for reexport only to the countries listed on the customer's validated Form FC-243. Reexports will not be authorized to Country Group S, W, Y, or Z.

(*b*) The commodities will not be used to repair equipment owned or controlled by, or leased or chartered to, a country in Group S, W, Y, or Z or a national thereof.

(*c*) The commodities are in a quantity which the exporter expects to ship to the customer during the next six calendar months for use in repairing equipment originally manufactured by the exporter's firm.

If the licensed quantity proves insufficient, a request for an amendment to increase the quantity may be submitted in accordance with the provisions of Part 372. However, no amendment will be granted to extend the validity period of such a license. Instead, the exporter should submit a new application for license 30 days prior to the expiration date of the outstanding license, accompanied by a statement showing the total quantity and value of each commodity shipped under the previous license as of the date of the new application.

(*d*) The license application includes the following statement in the space entitled "Additional Information" or on an attachment thereto:

The ultimate consignee named in this application is an approved customer of our foreign distributor (insert Form FC-143 validation number). Before making any shipment under this license, if granted, I (we) shall: (1) Obtain an export order from the ultimate consignee, (2) wherever possible, obtain a written certification from the ultimate consignee on the export order with regard to the restrictions set forth in paragraph 373.4(e)(2)(iii) of the Export Control Regulations, and (3) for each shipment notifying the ultimate consignee, in writing, of these restrictions.

(f) *Exports and redistribution.* (1) In no case may an export, reexport, distribution, or resale be made under the foreign-based warehouse procedure to any person or firm until the exporter has received a validated Form FC-243 showing the Office of Export Control approval of that person or firm as a customer (except as provided in paragraph (c)(3) of this section for Government agencies).

(2) The permissive reexport provisions of the Export Control Regulations relating to the reexport of commodities within the established GLV dollar value limits shown on the Commodity Control List (see § 374.2) shall not apply to exports, reexports, or distributions under this procedure.

[1] For license applications covering aircraft and equipment, parts, components and accessories therefor, see § 376.8.

(3) *Special destination control statement*—(i) *Shipments to distributors.* The U.S. exporter shall enter one of the two following destination control statements on the shipper's export declaration, commercial invoice, and bill of lading covering exports to his distributor under the foreign-based warehouse procedure:

(*a*) "These commodities licensed by the United States for ultimate destination (name of country where the foreign-based stock is located). Diversion contrary to United States law prohibited."

(*b*) "These commodities licensed by the United States for ultimate destination (name of country where the foreign-based stock is located) and for distribution or resale in (name(s) of country(ies) where approved customers are located) Diversion contrary to United States law prohibited."

Use of statement "(*a*)" in this subdivision in no way prohibits distribution of the commodities to customers in other countries if they have been approved by the Office of Export Control on a Form FC–243.

(ii) *Shipments to customers.* The distributor is permitted until the expiration or revocation of his validated Form FC–143, to distribute or reexport the commodities stocked abroad, without obtaining prior Office of Export Control approval for each separate individual transaction, to any customer who has been approved by the Office of Export Control, whether such customer is in the country where the foreign-based stock is located or in any other country. Where shipment to an approved customer is made by the distributor, a destination control statement shall be entered on each commercial invoice and bill of lading. When shipment is made by the U.S. exporter, a destination control statement shall be entered on the shipper's export declaration, commercial invoice, and bill of lading. The correct statement to use is as follows:

The statement in subdivision (i) (*b*) of this subparagraph shall be used if reexport has been authorized on the approved Form FC–243. The customer's country of location shall be entered in the first blank space and the country(ies) to which reexport is authorized in the second blank space.

If reexport has not been authorized on the approved Form FC–243, statement "(*a*)" or "(*b*)" in subparagraph (3) (i) may be used. If "(*b*)" is used, the customer's country of location shall be entered in the first space of the statement and the word "none" in the second.

(g) *Extension of validity period.* (1) New form required. The validity period of a Form FC–143 or FC–243 may be extended by submitting a new form (in six copies) to the Office of Export Control prior to the expiration date of a current form.

(2) "C" Number or "D" Number required. In addition to the information furnished on a new Form FC–143 or FC–243 submitted to extend the validity period of a current form, there must be set forth in the "Reference" box on Form FC–243 the customer's assigned "C" Number, and in the "Reference" box on Form FC–143 the distributor's assigned "D" Number. These are the numbers entered by the Office of Export Control on the reverse of the previously approved forms, immediately below the U.S. Department of Commerce validation stamp in the "Validation" box.

(h) *Records and reports.* (1) The U.S. exporter shall retain for 3 years from the date of validation or return one copy of each validated Form FC–143 and FC–243, or any such form that was not approved by the Office of Export Control, at his office in the United States and one copy at his distributor's office abroad from which the distribution of the foreign-based stock is controlled.

(2) All other forms, documents, correspondence, memoranda, books, and other records, as required to be retained by this procedure relating to any export from the United States under the foreign-based warehouse procedure shall be kept and made available for inspection in accordance with the recordkeeping requirements of § 387.11. For each export of parts and components under paragraph 373.4(e)(2)(iii) above, the U.S. exporter shall retain records which shall include, as a minimum, the following:

(i) Validated license number;

(ii) Validated Form FC–243 number assigned to the customer;

(iii) A full description of each commodity shipped directly from the United States;

(iv) Units of quantity or value of each commodity shipped;

(v) Date of shipment; and

(vi) A copy of the export order.

(3) All records regarding a distribution, sale, or reexport from a foreign-based stock under this procedure (including distributions to Government agencies under the provisions of paragraph (c)(3) of this section) shall be retained at the office from which the distribution is controlled for a period of 3 years from the date of distribution. In addition, the original of the Swiss Blue Import Certificates and reproduced copies of the original Yugoslav End-Use Certificates obtained in accordance with the requirements of this procedure shall also be retained by the distributor for a period of 3 years from the date the commodities are distributed. As a minimum, these records shall contain for each distribution the following:

(i) Validated Form FC–243 number assigned to the customer;

(ii) Full description of each commodity distributed from the foreign-based stock;

(iii) Units of quantity or value of each commodity distributed; and

(iv) Date of shipment.

(4) All of the above-mentioned records shall be made available for inspection, upon request, by the Office of Export Control or any other accredited representative of the U.S. Government. In the event that a foreign governmental regulation or statute prohibits a U.S. Government representative from inspecting these records in the foreign country, the exporter shall, upon instruction from the Office of Export Control, obtain these records from his distributor and forward them, in original form or in duplicate or reproduction, to his U.S. office or directly to the Office of Export Control. However if it is necessary to forward records to the United States, copies of validated Forms FC–143 and FC–243 need not be forwarded unless specifically requested.

§ 373.5 Periodic requirements (PRL) license.

A periodic requirements (PRL) license procedure is established under which commodities may be exported for a period of 1 year from issuance of the license to one or more ultimate consignees in a single country of destination.

(a) *Destinations.* The PRL licensing procedure is applicable to all destinations except Country Groups S, W, X, Y, and Z.

(b) *Commodities subject to PRL licensing procedure.* The commodities for which the issuance of a PRL license will be considered are identified in the last column of the Commodity Control List (§ 399.1) by PRL Commodity Group Numbers, consisting of an "E" followed by a number. However, a PRL license is not applicable to any export of commodities related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in § 378.1. An application may cover as much as 6-months estimated requirements of the named consignee(s) for the commodities included in the application. The PRL Commodity Groups are:

Group E–1—Rubber products.
Group E–2—Aircraft.
Group E–3—Plastics.
Group E–4—Petroleum products.
Group E–5—Refractories.
Group E–6—Electrical machinery and apparatus.
Group E–7—Metals and minerals, crude and semifinished.
Group E–8—Metals and minerals, mill products and manufactured products.
Group E–9—General industrial equipment.
Group E–10—Power generating machinery.
Group E–11—Construction equipment.
Group E–12—Petroleum equipment.
Group E–13—Industrial inorganic chemicals.
Group E–14—Organic chemicals.
Group E–15—Agricultural machinery.

(c) *Qualification for PRL license*—(1) *Applicant-consignee relationship.* (i) The applicant shall have had a business relationship with each ultimate consignee named on the application for a period of 2 years immediately preceding the date of filing the application; and

(ii) The applicant shall have exported to each named consignee a minimum of $2,000 worth of commodities in each PRL commodity group covered by the application during the 2-year period.

(2) *Records and recordkeeping.* At the time he files his application for a PRL license the applicant shall have in his possession documentary evidence of the existence of the 2-year business relationship with each ultimate consignee as described above. These documents and records shall be kept and made available for inspection in accordance with the provisions of § 387.11.

(3) *Minimum quantity.* Where shipments to any one consignee are expected to be less than $2,000 in value during the 1-year validity of the license, an individual or other appropriate license should be applied for.

(4) *Waiver of order requirements.* The provisions of paragraph 372.6(a) requiring an order in support of a license application are waived with respect to a PRL license.

(d) *Application for a PRL license.* An application for a PRL license shall be prepared and submitted on Form FC–419, Application for Export License (Rev. January 1966), with Form FC–420, Application Processing Card,[1] attached, in accordance with instructions contained in § 372.4(a); except as modified below:

(1) The words "Periodic Requirements License" shall be entered across the top of the Form FC–419, immediately above the printed words "United States of America."

(2) Only one country of ultimate destination may be entered on an application, but more than one commodity may be included provided all of the commodities have the same processing number on the Commodity Control List.

(3) If exports to more than one consignee within the same country of destination are included, a list, in triplicate, of the names and addresses of the proposed consignees shall be attached. "See attached list of consignees," shall be entered, in such cases, on the application in the space entitled "Ultimate Consignee in Foreign Country."

(4) The quantity of the commodities included in the application shall not exceed the estimated 6-months requirements. Total quantities and values shall be shown, but breakdown among consignees is not required. If no unit of quantity is indicated in the Commodity Control List for the commodity, only the value need be given on the application.

(5) The following certification shall be inserted on each PRL application in the space entitled "Additional Information" or on an attachment:

This is to certify that (I) (we) have had a business relationship with (the) (each) ultimate consignee named on this application extending over the 2-year period immediately preceding the date of submission of this application and, during this 2-year period, (I) (we) have exported to (the) (each) named consignee commodities included in PRL Commodity Group(s) E (enter all PRL Commodity Groups by E symbol and number), in a value totaling at least $2,000 for (the) (each) PRL Commodity Group(s).

(e) *Issuance of license*—(1) *Form of issuance.* A PRL license is issued on Form FC–628, Export License, and bears the identifying words "Periodic Requirements License" below the validation stamp. The list of approved ultimate consignees (see paragraph 373.5(d)(3) above) is attached to and becomes part of the license.

(2) *Validity period.* A PRL license is valid for 1 year from the last day of the month during which the license was issued. The expiration date will be shown on the license.

(3) *Deletion of consignees.* If the Office of Export Control finds that it will require an exended period of time to process a PRL license application because of the necessity for prolonged consideration of one of more proposed ultimate consignees, a PRL license will be issued excluding such consignees. The applicant will be notified that an individual license application may be submitted to cover each excluded consignee.

(f) *Export clearance*—(1) *Presentation of license to Customs.* The licensee shall deposit his PRL license with the Customs Office at the port of export through which the largest number of shipments will move. When requested by the licensee, Customs offices may authorize movement of the commodities from another port in accordance with the procedure established in paragraph 386.2(e).

(2) *Shipments by mail.* Shipments may be made by mail without obtaining additional licenses in accordance with the procedure described in § 386.1(c).

(g) *Amendments.* The licensee may request an increase in the quantity or value authorized for export under the license at any time during the first 6 months of its validity, using Form IA–763, Request for and Notice of Amendment Action (see Supplement S–4 for facsimile of form), in accordance with the provisions of § 372.11. A new license application shall be filed to ship additional quantities over those shown on the license during the last 6 months of the validity period. Extension of the validity period of a PRL license will not be granted, and a new license application shall be filed for such purpose.

(h) *Application for other validated licenses.* An exporter holding a PRL license shall not apply for, nor will the Office of Export Control issue to him, any other type of validated license for any transaction involving a commodity and consignee covered by the PRL license.

§ 373.6 Time limit (TL) license.

A time limit (TL) license procedure is established that authorizes for a period of 1 year the export of unlimited quantities of a commodity(ies) to one or more named ultimate consignees in Country Group T.

(a) *Eligibility for time limit license*—(1) *Commodities.* The commodities exportable under the time limit license procedure are identified on the Commodity Control List (§ 399.1), by the Country Group symbol T in the column headed "Validated License Required for Country Groups Shown Below," except:

(i) Commodities identified by the symbol "G" in the last column of the Commodity Control List; and

(ii) Commodities related to nuclear weapons, nuclear explosive devices or nuclear testing (see § 378.1).

The commodities covered on a time limit license must be intended for consumption or resale within the particular T country of destination, or for reexport by approved consignees to importers in other T countries in accordance with the provisions of paragraph (f) of this section.

(2) *Applicant-consignee relationship.* An applicant for a time limit license shall have:

(i) Had a business relationship with each ultimate consignee named on the application for a period of 2 years immediately preceding the date of filing the TL license application;

(ii) Exported to each consignee during that 2-year period, the commodities covered by the application in an amount totalling at least $2,000, part of which was exported during each of the 2 years.

(3) *Records and recordkeeping.* At the time of filing a time limit license application, the applicant shall have in his possession documentary evidence of the existence of the 2-year business relationship with each ultimate consignee as described above. These documents and records shall be kept and made available for inspection in accordance with the provisions of § 387.11.

(4) *Waiver of order.* The order requirement provisions of paragraph 372.6 (a) are waived with respect to an application for a time limit license.

(b) *Preparation of a TL license application*—(1) *Application form.* An application for a time limit license shall be prepared and submitted on Form FC–419, Application for Export License, together with Form FC–420, Application Processing Card, in accordance with instructions in § 372.4(a), except that the applicant shall:

(i) Enter the words "Time Limit License" across the top of the application form immediately above the words "United States of America";

(ii) Leave blank the spaces entitled "Quantity to be Shipped," "Unit Price," and "Total Price";

(iii) Where there is more than one ultimate consignee, attach a list, in duplicate, giving name and address of each consignee (plus an additional copy for each additional license required pursuant to paragraph 373.6(e)(2));

(iv) Insert "See attached List of Consignees" in the space entitled "Ultimate Consignee in Foreign Country"; and

(v) Insert the following certification in the space entitled "Additional Information" or on an attachment to the application:

This is to certify that (I) (we) have had a business relationship with (Name(s) of ultimate consignee(s)) extending over a period of 2 years preceding the date of submission of this application and have exported to the named consignee(s) the commodities applied for under this application in an amount totaling at least $2,000 during these 2 years, part of which was exported during each of the 2 years.

[1] Forms FC–419 and FC–420 may be obtained at all U.S. Department of Commerce Field Offices (see list of addresses on page 1 under Field Office addresses) and from the Office of Export Control (Attention 852), U.S. Department of Commerce, Washington, D.C. 20230.

(2) *Multiple transactions statement.* Each TL license application shall be supported by a Form FC–843, Multiple Transactions Statement by Consignee and Purchaser, completed by each ultimate consignee named on the application in accordance with § 375.2.

(c) *Issuance of TL license*—(1) *Form of issuance.* A TL license is issued on Form FC–628, Export License, bearing the identifying words "Time Limit License" below the validation stamp. Where more than one ultimate consignee is approved, the list of such ultimate consignees, submitted in accordance with the above instructions, is attached to and becomes a part of the license.

(2) *Validity period.* A TL license is valid for 1 year from the last day of the month during which the license is issued. The expiration date is shown on the license.

(3) *Deletion of consignees.* If the Office of Export Control finds it will require an extended period of time to process the license application because of the necessity for prolonged consideration of one or more proposed ultimate consignees, a TL license may be issued excluding such consignee(s). The applicant will be notified to that effect and advised to submit an individual license application for each excluded consignee.

(d) *Amendments*—(1) *Extension of validity period.* A TL license will not be extended. In order to assure the continuity of an outstanding TL license the exporter may submit an additional application for a TL license 30 days prior to the expiration date of the outstanding license. Where special circumstances exist (for example, lead time in long-cycle production commodities), an additional TL license application may be submitted 90 days prior to the expiration date of the outstanding license, provided that the reason(s) for such early submission is included with the application.

(2) *Addition of new ultimate consignee.* A request to amend an outstanding TL license to add a new ultimate consignee shall be submitted on Form IA–763, Request for and Notice of Amendment Action (see § 372.11). The amendment request shall be supported by a Form FC–843, Multiple Transactions Statement by Consignee and Purchaser (see paragraph 373.6(b)(2)), and a certification of applicant-consignee business relationship (see paragraph (a)(2) of this section).[1]

(e) *Export clearance*—(1) *Presentation of license to customs.* The licensee shall deposit his TL license in the customs office at the port of export through which the largest number of shipments will move.

(2) *Shipment through another port.* Upon request of the licensee, customs offices may authorize movement of the commodity from another port in accordance with § 386.2(e). As an alternative, the applicant may obtain an additional license for deposit with the customs office at each additional port of export through which substantial shipments will move, by listing these ports on his license application. If, subsequent to issuance of the license, additional licenses are required under the alternative procedure, the licensee may make such request by letter to the Office of Export Control, indicating the case number, name(s) of ultimate consignee(s), and port through which substantial shipments will move.

(3) *Shipments by mail.* Shipments may be made by mail without obtaining additional licenses, in accordance with § 386.1(c).

(f) *Reexports.* Reexport may be made between ultimate consignees named on outstanding TL licenses, issued to the same licensee, without the necessity of obtaining specific approval from the Office of Export Control. Approval for reexport to other importers in Country Group T may be obtained in accordance with the procedure described below. Requests for reexport approval may be made either with the license application or subsequent to the issuance of TL license. In order to obtain such approval the procedure on reexports described in Part 374 shall be followed.

§ 373.8 Aircraft and vessel repair station procedure.

An aircraft and vessel repair station procedure is established as an alternative procedure to the filing of supporting documents with applications to export aircraft or vessel repair parts to certain destinations.

(a) *Definitions*—(1) *Station number.* As used in this section, a "Station Number" is a number assigned by the Office of Export Control on Form FC–43, Statement by Foreign Importer of Aircraft or Vessel Repair Parts (see Supplement S–8 for facsimile of form), to an approved foreign importer of such parts.

(2) *Foreign importer.* As used in this section, a "Foreign Importer" is a person or firm located in any foreign country except Country Groups S, W, Y, or Z, that is either:

(i) engaged in the repair maintenance, or servicing of aircraft or vessels, either exclusively or as part of a related business; or

(ii) engaged in supplying U.S. origin parts, accessories, equipment or components, either exclusively or as part of a related business, directly to aircraft or vessels for use thereon. Such foreign person or firm need not maintain an aircraft repair hangar or ship repair yard.

(b) *Eligibility*—(1) *Eligible foreign businesses.* The types of foreign businesses that may be eligible to use the aircraft and vessel repair station procedure include, but are not limited to, the following:

(i) Repair of aircraft or vessels, for which repair U.S.-origin parts are used.

(ii) Repair of aircraft or vessels, using U.S.-origin parts and also sale of such parts directly to aircraft or vessels as spares or standby equipment; or

(iii) Sale of U.S.-origin parts directly to aircraft or vessels as spares or standby equipment, but not the repair of such aircraft or vessels.

(2) *Noneligible foreign businesses.* The following types of foreign businesses are not eligible to use the aircraft and vessel repair station procedure:

(i) A foreign importer who imports U.S.-origin parts for general resale (including resale to repairmen), or for reexport in the form received; or

(ii) A foreign importer whose normal business is the repair of components for aircraft or vessels, e.g., engines, radar, etc., unless he installs them on or returns them to the aircraft or vessels for use thereon.

(3) *Importers engaged in both eligible and noneligible businesses.* In some instances a foreign importer may be engaged in several types of businesses, but not all of them will be eligible to use the aircraft and vessel repair station procedure. For example, the importer may be engaged in repairing aircraft or vessels, as well as in selling commodities to other repairmen or in reexporting the commodities to other countries. These several types of businesses do not preclude him from eligibility under this procedure with respect to U.S.-origin commodities used by him in the repair, maintenance, or servicing of aircraft or vessels. However, for commodities which the importer purchases in the United States for end-uses not authorized under this procedure, both the importer and the exporter must meet the standard documentation and reexport provisions of the Export Control Regulations.

(c) *Authorizations and limitations of aircraft and vessel repair station procedure.* (1) A foreign importer is authorized to use U.S.-origin parts in the repair, maintenance, or servicing of any aircraft or vessel, provided the aircraft or vessel is not registered in, or not owned or controlled by, or not chartered or leased to a Group S, W, Y, or Z country or any national thereof.

(2) Unless otherwise authorized by the Export Control Regulations, a foreign importer may not reexport U.S.-origin commodities in the form received or dispose of them in any other manner without the prior approval of the Office of Export Control. The permissive reexport provisions of § 374.2 of the Export Control Regulations relating to reexports of commodities within allowable GLV dollar limits are not applicable to commodities exported under this aircraft and vessel repair station procedure.

(d) *How to obtain a repair station number*—(1) *Documentation.* The documentation provisions of the Export Control Regulations require that, under specified circumstances, a foreign importer must send his U.S. exporter an Import Certificate, a Hong Kong Import License, a consignee/purchaser statement, a Swiss Blue Import Certificate, or a Yugoslav End-Use Certificate to support

[1] Forms IA–763 and FC–843 may be obtained from all U.S. Department of Commerce field offices (see list on page 1 under Field Office Addresses), from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, and from U.S. consulates, embassies, and other posts in Country Group "T" countries.

an application for export license or a re-export request. Additionally, before U.S.-origin parts, accessories, equipment, or components may be used abroad in the repair, maintenance, or servicing of aircraft or vessels, authorization must be obtained from the Office of Export Control, either on the validated license or by other type of authorization. As an alternative to these requirements, a foreign importer may submit instead Form FC–43, Statement by Foreign Importer of Aircraft or Vessel Repair Parts, revised March 1, 1965, to the Office of Export Control in accordance with the procedure described below. Copies of Form FC–43 are available from the Department of Commerce in Washington, all of the Department's Field Offices and from U.S. diplomatic and consular offices. (Late revisions of the form include "Southern Rhodesia" in the "Certification" space. If it does not appear, it should be inserted following the name "Cuba.")

(2) *Submission of Form FC–43 by foreign importer.* To apply for qualification to operate under the aircraft and vessel repair station procedure, the foreign importer shall submit five copies of Form FC–43 to the Office of Export Control. All items on the form must be completed including the signature of an official of the foreign firm attesting to agreement to the terms and conditions of the form.

(3) *Office of Export Control action on Form FC–43.* If the Office of Export Control approves a Form FC–43, a validated copy is sent to the foreign importer. If the request is not approved, the importer is so advised. The validated Form FC–43 will contain a station number and an expiration date. (The expiration date generally is June 30 of the year following the date on which the form was signed unless an earlier termination is requested by the foreign importer.)

(e) *Use of repair station number.* (1) The approval of a foreign repair station under this procedure does not relieve the U.S. exporter of the requirement that he obtain a validated export license when applicable before making shipment to the repair station.

(2) Instead of submitting the supporting documents normally required as described above, an approved foreign importer shall advise his U.S. exporter of the station number assigned to his approved Form FC–43. The U.S. exporter shall then insert the following statement in the space entitled "Additional Information" on the license application or on an attachment thereto:

> The ultimate consignee named on this application is an approved foreign importer of aircraft or vessel repair parts and has been assigned Station Number (insert number).

A license application supported by a station number must be received in the Office of Export Control prior to the expiration date shown on the approved Form FC–43.

(f) *Records and reports.* (1) Any foreign importer approved under this procedure shall maintain records, in the detail set forth below, of commodities imported from the United States and supplied to aircraft or vessels. These records shall be kept for a period of 3 years from the date the commodities are supplied to such aircraft or vessel and shall be made available for inspection, upon demand, by the Office of Export Control or any accredited representative of the U.S. Government. In the event the foreign importer is prohibited by governmental regulation or statute from permitting a U.S. Government representative to inspect his records, the Office of Export Control will consider granting a waiver of this requirement and the substitution therefor of a calendar quarterly report setting forth the information contained in the records. Such request for waiver shall be part of the submission of Form FC–43 to the Office of Export Control, and shall include a citation to the governmental regulation or statute prohibiting the inspection of records, together with a certification that a calendar quarterly report, containing the information specified below, will be submitted to the Office of Export Control if the waiver request is granted.

(2) As a minimum, the records or reports shall include the following with respect to each aircraft or vessel on which United States origin parts, accessories, equipment, or components are supplied:

(i) Name, business address, and nationality of the owner;

(ii) Country of registry;

(iii) Type of aircraft and model number;

(iv) If a vessel, the name of the vessel or other identification, and type of vessel;

(v) Date the commodities are supplied to the aircraft or vessel; and

(vi) The commodity description and units of quantity or value of the commodities supplied to the aircraft or vessel.

(g) *Extension of validity period of Form FC–43.* (1) If there are no changes in the facts and commitments set forth in the Form FC–43 originally approved by the Office of Export Control, a foreign importer may request the extension of an expiring Form FC–43 by submitting a letter to the Office of Export Control, in an original and four copies, which includes the following certification. However, if there will be a change, to take effect upon validation of the extension, with respect to the facts originally certified on the approved Form FC–43, a new Form FC–43 must be submitted.

> I (We) certify that:
>
> (i) I (We) have reread the Form FC–43 which was executed on _____, and which expires on _____.
>
> (ii) The facts contained in that form have not changed to date and accurately and completely reflect the intended use and disposition of the commodities to be imported under Station No. _____ for the period ending (insert June 30 next year or an earlier termination date if desired).
>
> (iii) The commodities imported will not be used in the maintenance, repair, or servicing of vessels or aircraft under the registry, ownership, operation, charter, lease, or control of any country in the Soviet Bloc, Communist China, North Korea, the Communist-controlled area of Vietnam, Poland (including Danzig), Rumania, Cuba, or Southern Rhodesia, or a national of any of these countries, unless prior approval is received from the Office of Export Control.
>
> (iv) I (We) will maintain records, in the detail set forth in the U.S. Export Regulations, of commodities imported from the United States and supplied to aircraft or vessels, for a period of 3 years from the date the commodities are supplied to such aircraft or vessel. These records will be available for inspection, upon demand, by the U.S. Department of Commerce, or by a U.S. Foreign Service post.
>
> (v) I (We) shall obtain the approval of the Office of Export Control with respect to any change in the facts or intentions which may occur after the signing of this certification.
>
> _____ _____
> (Name of foreign firm) (Date of signing)
>
> _____ _____
> (Signature of officials of foreign firm) (Typed or printed signature)

(2) If the request for extension is approved, one copy of the foreign importer's letter will be returned to him imprinted with the seal of the U.S. Department of Commerce. Where the request for extension is not approved, the foreign importer will be advised by letter.

SUPPLEMENT NO. 1 TO PART 373

COMMODITIES EXCLUDED FROM DISTRIBUTION LICENSE PROCEDURE

Export Control Commodity Number	*Commodity Description*
23120	Carboxyl terminated polybutadiene; hydroxyl terminated polybutadiene; and cyclized 1.2-polybutadiene.
28311	Copper ores and concentrates.
28312	Copper matte.
28398	Beryllium ores and concentrates.
28398	Rhenium concentrates (salts).
28401	Copper bearing ash and residues.
28402	Copper or copper-base alloy waste and scrap.
33250	Lubricating oils wholly made of fluorocarbon polymers or copolymers.
51209	Guanidine nitrate; 3-nitraza-1, 5 pentane diisocyanate; bis 2 (2, 2' dinitropropyl) formal and acetal; and 2, 2' dinitropropanol.
51209	Tetrazene; and lead styphnate.
51209	Dibromotetrafluoroethane; polybromotrifluoroethylene; and trifluoromonochloroethylene.
51209	2 Cyanoacetamide; diethyl-methyl phosphonite; di-isopropyl amino ethyl chloride hydrochloride; di-osopropyl carbodiimide; 2-di-isopropyl aminoethanol; and dimethyl hydrogen phosphite.
51209	Lysergic acid diethyl amine; malononitrile; methyl dichlor phosphine; methyl isonicotenate; and methyl phosphonyl dichloride.
51209	N, N-diethyl ethylene diamine.
51209	Trichlorotrifluoroethane; and dichlorotetrafluoroethane.
51329	Lithium metal.
51329	Boron metal.
51329	Calcium metal containing less than one hundredth (0.01) percent by weight of impurities other than magnesium and less than 10 parts per million of boron.
51340	Chlorine trifluoride.
51369	Beryllium oxides, hydroxides, peroxides, and compounds.
51369	Monocrystalline gallium compounds.
51369	Hafnium oxides.
51369	Zirconium oxide containing less than one part hafnium to 500 parts zirconium.

51369 Other zirconium oxide, purity 97 percent or higher, or stabilized with lime and/or magnesia.
51470 Beryllium compounds, including, but not limited to, beryllium nitrate, beryllium sulfate, beryllium carbonate, zinc beryllium silicate.
51470 Hafnium compounds.
51470 Master alloys of copper containing 8 percent or more phosphor.
51470 Hydrides in which lithium is compounded with hydrogen or complexed with other metals or aluminum hydride.
51470 Zirconium compounds containing less than one part hafnium to 500 parts zirconium.
51500 Radioisotopes, cyclotron-produced or naturally occurring, and compounds and preparations thereof; and radium, radium salts and compounds.
51500 Deuterium and compounds, mixtures, and solutions containing deuterium, including heavy water and heavy paraffin.
51500 Polonium metal.
51500 Polonium-bearing salts and compounds.
51500 Lithium as follows: (a) Lithium 6 and 7 isotopes, (b) hydrides in which lithium enriched in the 6 isotope is compounded with hydrogen or its isotopes, or complexed with other metals or aluminum hydride, (c) alloys containing any quantity of lithium enriched in the 6 isotope, or (d) any other material containing lithium enriched in the 6 isotope, including compounds, mixtures and concentrates.
51500 Compounds enriched in lithium 7 isotopes.
58110 Resin (plastic) composites, unfinished or semifinished (including molding compounds, laminates and molded shapes), containing silica, quartz, carbon or graphite fibers in any form.
59972 Artificial graphite, whether or not containing other materials to give improved performance at high temperatures, having an apparent relative density of 1.90 or greater, except non-pyrolytic graphite of density between 1.90 and 1.95 when compared to water at 60° F. (15.5° C.).
59972 Artificial graphite in block, brick, plate, or rod form, smallest dimension 2 inches or over and having a boron content of one part per million or less, the total thermal neutron absorption cross section being less than, or equal to, 5 millibarns per atom.
59972 Carbon or graphite fibers in any form (including chopped or macerated) whether or not coated or impregnated; and products thereof.
65180 Continuous yarns and rovings suitable for use in filament wound structures, having all of the following characteristics: (a) Consisting of monofilaments 12 microns (0.00047 inch) or less in diameter, (b) modulus of elasticity greater than 11 times 10^6 p.s.i., and (c) tensile strength to density ratio (figure of merit) greater than 350,000 p.s.i.
65180 Continuous yarns and rovings made of glass fibers, having a modulus of elasticity of 10.5 times 10^6 p.s.i. or greater, or having a tensile strength to density ratio (figure of merit) of 300,000 p.s.i. or greater.
65180 Yarn, roving, and strand made from silica or quartz fibers, regardless of filament length, diameter, or strength, whether or not coated or impregnated.
66230 High temperature refractory cements or bonding mortars, brick and similar shapes, and other refractory construction materials, n.e.c., containing 97 percent or more by weight of magnesium oxide, beryllium oxide, or zirconium oxide, or containing zirconium oxide stabilized with lime and/or magnesium oxide.
66363 Artificial graphite products, n.e.c., in block, brick, plate, or rod form, smallest dimension 2 inches or over and having a boron content of one part per million or less, the total thermal neutron absorption cross section being less than, or equal to, 5 millibarns per atom.
66363 Carbon or graphite fibers in any form (including chopped or macerated) whether or not coated or impregnated; and products thereof.
66363 Artificial graphite products, n.e.c., whether or not containing other materials to give improved performance at high temperatures, having an apparent relative density of 1.90 or greater, except non-pyrolitic graphite of density between 1.90 and 1.95 when compared to water at 60° F. (15.5° C.).
66370 Refractory products wholly made of boron carbide or boron nitride.
66370 Crucibles containing 97 percent or more by weight of magnesium oxide, beryllium oxide, or zirconium oxide, or containing zirconium oxide stabilized with lime and/or magnesium oxide.
66370 Refractory products other than refractory construction materials, n.e.c., containing 97 percent or more by weight of magnesium oxide, beryllium oxide, or zirconium oxide, or containing zirconium oxide stabilized with lime and/or magnesium oxide.
66370 Crucibles and other refractories made of artificial graphite, whether or not containing other materials to give improved performance at high temperatures, having an apparent relative density of 1.90 or greater, except non-pyrolytic graphite of density between 1.90 and 1.95 when compared to water at 60° F. (15.5° C.).
66370 Artificial graphite refractory products, n.e.c., in block, brick, plate, or rod form, smallest dimension 2 inches or over and having a boron content of one part per million or less, the total thermal neutron absorption cross section being less than, or equal to, 5 millibarns per atom.
67160 Ferrozirconium containing more than 50 percent zirconium in which the ratio of hafnium content to zirconium content is less than one part to 500 parts by weight.
67850 Pressure tube and pipe fittings having a tube or pipe size connection of 8 inches or more inside diameter, for tube or pipe having a wall thickness of 8 percent or more of the inside diameter and made of (a) stainless steel, or (b) other alloy steel containing 10 percent or more nickel and/or chromium.
67860 Stainless pressure tube and pipe of 8 inches or more inside diameter, having a wall thickness of 8 percent or more of the inside diameter and
67860—Continued made of (a) stainless steel, or (b) other alloy steel containing 10 percent or more nickel and/or chromium.
68211 Blister copper and other unrefined copper.
68212 Refined copper, including remelted, in cathodes, billets, ingots, except copper-base alloy ingots, wire bars, and other crude forms.
68212 Copper-base alloy ingots.
68213 Master alloys of copper.
68221 Bars, rods, angles, shapes, sections, and wire of copper or copper-base alloy.
68222 Plates, sheets, and strips (including perforated) of copper or copper-base alloy.
68223 Copper or copper alloy foil, including paperbacked.
68224 Copper or copper alloy powders and flakes.
68225 Pressure tube and pipe, copper-nickel alloy, of 8 inches or more inside diameter and having a wall thickness of 8 percent or more of the inside diameter.
68225 Other tubes, pipes, and blanks therefor, and hollow bars of copper or copper-base alloy.
68226 Pressure tube fittings and pipe fittings, copper-nickel alloy, having a tube or pipe size connection of 8 inches or more inside diameter, for tube or pipe having a wall thickness of 8 percent or more of the inside diameter.
68321 Bars, rods, angles, shapes, and sections of porous nickel having a purity of 99 percent or more.
68321 Other bars, rods, angles, shapes, sections, and wire of nickel alloy containing 32 percent or more nickel, except nickel-copper alloys containing not more than 6 percent of other alloying elements.
68322 Nickel powders with a particle size less than 200 microns.
68322 Plates, sheets, strips, and foil of porous nickel having a purity of 99 percent or more.
68323 Tubes, pipes, blanks and fittings therefor, and hollow bars of porous nickel having a purity of 99 percent or more.
68323 Pressure tube and pipe fittings containing 32 percent or more nickel, having a tube or pipe size connection of 8 inches or more inside diameter, for tube or pipe having a wall thickness or 8 percent or more of the inside diameter.
68933 Beryllium metal or beryllium alloys containing more than 50 percent beryllium, wrought and unwrought, and waste and scrap.
68950 Hafnium metal and alloys containing more than 15 percent hafnium by weight.
68950 Rhenium metal and rhenium metal alloys, wrought and unwrought.
68950 Zirconium metal and zirconium alloys containing more than 50 percent zirconium in which the ratio of hafnium content to zirconium content is less than one part to 500 parts by weight, wrought and unwrought, and waste and scrap.
69892 Copper or copper-base alloy castings and forgings.
69899 Beryllium or beryllium alloy castings and forgings containing more than 50 percent beryllium; and articles wholly made of beryllium.
69899 Hafnium metal and hafnium alloy castings and forgings containing more than 15 percent hafnium by weight.

69899 Polonium metal castings and forgings.
69899 Rhenium or rhenium alloy castings and forgings.
69899 Zirconium or zirconium alloy castings, forgings, and other articles, n.e.c., containing more than 50 percent zirconium in which the ratio of hafnium content to zirconium content is less than one part to 500 parts by weight.
69899 Other articles wholly made of zirconium or zirconium alloys.
69899 Articles wholly made of beryllium.
69899 Wire mesh, all types, including electroformed, containing 95 percent or more nickel, with 60 or more wires per linear centimeter or the equivalent thereof.
71120 Heat exchangers and heat-exchanger type condensers specially designed for nuclear reactors; and specially designed parts and accessories, n.e.c.
71120 Tubular type heat exchangers designed to operate at pressures of 1,500 p.s.i. and above and with all flow contact surfaces made of or lined with 10 percent or more nickel and/or chromium; and specially designed parts and accessories, n.e.c.
71120 Heat exchangers and heat-exchanger type condensers, tubular, designed for use in steam power generation and to operate at pressures of 300 p.s.i. and over and with all flow contact surfaces made of any of the following materials: aluminum, nickel, titanium, zirconium, or alloys containing 60 percent or more nickel, either separately or combined, and specially designed parts and accessories, n.e.c
71130 Steam turbines designed for use of saturated steam for an output of 2,000 horsepower (1,500 kilowatts) up to and including 100,000 horsepower (75,000 kilowatts); and parts and accessories, n.e.c.
71170 Parts and accessories, n.e.c., specially fabricated for nuclear reactors, including mechanical devices designed to control or shut down a nuclear reactor.
71420 Advanced electronic computers, i.e., those with a bus rate of 50,000,000 bits per second or more.
71911 Electrolytic cells, and specially designed parts.
71919 Equipment specially designed for the production and/or concentration of deuterium oxide; and specially designed parts.
71921 Industrial pumps having *all* flow-contact surfaces made of any of the following materials: (a) 90 percent or more tantalum, titanium, or zirconium, either separately or combined, (b) 50 percent or more cobalt or molybdenum, either separately or combined, (c) polytetrafluoroethylene, or (d) polychlorotrifluoroethylene; and parts and attachments, n.e.c.
71921 Vertically shafted centrifugal pumps, glandless, hermetically sealed (canned) type or mechanical pressurized sealed type, having all flow contact surfaces made of or lined with 10 percent or more nickel and/or chromium and rated at 50 kilowatts or more; and parts and attachments, n.e.c.
71921 Other centrifugal pumps, glandless, hermetically-sealed (canned) type, having all flow-contact surfaces made of 10 percent or more chromium or nickel, either separately or combined; and parts and attachments, n.e.c.
71921 Pumps designed to move molten metals by electro-magnetic forces; and parts and attachments, n.e.c.
71922 Compressors and blowers (turbo, centrifugal, and axial flow types) having a designed capacity of 60 c.f.m. or more and all flow-contact surfaces made of aluminum, nickel, or alloy containing 60 percent or more nickel; and specially designed parts and attachments.
71923 Counter-current solvent extractors specially designed for the extraction of radioactive substances (for example, pulsed columns and mixer-settlers made of stainless steel); and specially designed parts.
71923 Equipment for filtering, purifying, separating or treating radioactive impurities from nuclear reactor coolant; and specially designed parts.
71923 Gas centrifuges capable of the enrichment or separation of isotopes; and specially designed parts.
71923 Other centrifuges, power-driven, bowl type, with all product contact surfaces of aluminum, nickel, or alloy containing 60 percent or more nickel; and parts.
71923 Centrifuge bowls, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel; and parts.
71980 Nuclear reactor fuel chopping, disassembling, or dejacketing machines; and specially designed parts and accessories, n.e.c.
71980 Hot or cold isostatic presses, as follows: (a) capable of achieving a maximum working pressure of 20,000 p.s.i. or greater and possessing a chamber cavity with an inside diameter in excess of 16 inches, or (b) capable of achieving a maximum working pressure of 5,000 p.s.i. or greater and having a controlled thermal environment within the closed cavity, except those possessing a chamber cavity with an inside diameter of less than 5 inches and which are also capable of achieving and maintaining a controlled thermal environment only between plus 176° F. (plus 80° C.) and minus 30° F. (minus 35° C.); and specially designed parts and accessories, n.e.c.
71992 Pipe valves having all of the following characteristics: a pipe size connection of 8 inches or more inside diameter, all flow contact surfaces made of or lined with alloys of 10 percent or more nickel and/or chromium and rated at 1,500 p.s.i. or more; and specially designed parts, n.e.c.
71992 Valves, 1 inch or more in diameter, fitted with bellows seal, and wholly made of or lined with aluminum, nickel, or alloys containing 60 percent or more nickel, except those having metal to metal seats; and specially designed parts.
71992 Valves, cocks, or pressure regulators with all flow contact surfaces made of or lined with polytetrafluoroethylene or polychlorotrifluoroethylene; and specially designed parts.
71992 Other valves fitted with bellows seal, and wholly made of or lined with aluminum, nickel, or alloys containing 60 percent or more nickel; and specially designed parts.
72210 Generators and turbine-generator sets specially designed for use with nuclear reactors; and specially designed parts and accessories, n.e.c.
72210 Other turbine-generator sets specially designed for use of saturated steam; and parts and accessories, n.e.c.
72310 Wire and cable coated with or insulated with polyvinyl fluoride.
72310 Wire and cable coated with or insulated with other fluorocarbon polymers or copolymers.
72310 Coaxial-type communications cable as follows: (a) Containing fluorocarbon polymers or copolymers, (b) using a mineral insulator dielectric, (c) using a dielectric aired by discs, beads, spiral, screw, or any other means, (d) designed for gas pressurization for the purpose of withstanding external overpressure or for raising the maximum voltage rating of the cable, or (e) intended for submarine laying.
72310 Other coaxial cable.
72310 Communications cable containing more than one pair of conductors as follows: (a) Submarine cable, or (b) cable containing fluorocarbon polymers or copolymers.
72310 Other communications cable containing more than one pair of conductors and containing any conductor, single or stranded, exceeding 0.9 mm. in diameter.
72310 Insulated nickel or nickel alloy wire as follows: (a) Insulated thermocouple nickel chrome wire containing less than 95 percent nickel and within a diameter range of 0.2 mm. to 5 mm. both inclusive, or (b) other insulated nickel or nickel alloy wire containing 32 percent or more nickel, except nickel copper alloy wire containing not more than 6 percent of other alloying elements.
72310 Other copper or copper-base alloy insulated wire and cable.
72620 Flash discharge type X-ray tubes; and specially designed parts and accessories, n.e.c.
72620 X-ray machines having any of the following characteristics: (a) Peak power exceeding 500 megawatts, (b) output voltage exceeding 500 kilovolts, or (c) output current exceeding 2,000 amperes with pulse width of 0.2 microsecond or less; and specially designed parts and accessories, n.e.c.
72911 Electro-chemical and radioactive devices for the conversion of chemical energy to electrical energy, having any of the following characteristics: (a) Fuel cells, including regenerative cells (i.e., cells for generating electric power, to which all the consumable components are supplied from outside the cells), (b) primary cells possessing a means of activation and having an open circuit storage life in the unactivated condition, at a temperature of 70° F. (21° C.), of 10 years or more, (c) primary cells capable of operating at temperatures from below minus 13° F. (minus 25° C.) to above plus 131° F. (plus 55° C.), including cells and cell assemblies (other than dry cells) possessing self-contained heaters, or (d) power sources other than nuclear reactors based on radioactive materials systems, except those having a power output of less than 0.5 watt in which the ratio of output (in watts) to weight (in pounds) is less than 1 to 2; and specialized parts, components, and subassemblies therefor.

72930 Image converter tubes specially designed for light shutter applications and having shutter speeds of less than 100 nanoseconds.

72930 Cold cathode tubes and switches, as follows: (a) Triggered spark-gaps, having an anode delay time of 15 microseconds or less and rated for a peak current of 3,000 amperes or more; or (b) cold cathode tubes, whether gas filled or not, operating in a manner similar to a spark gap, containing three or more electrodes and having all of the following characteristics: (i) rated for an anode peak voltage of 2,500 volts or more, (ii) rated for peak currents of 300 amperes or more, (iii) an anode delay time of 10 microseconds or less, and (iv) an envelope diameter of less than 1 inch (25.4 mm.).

72930 Other cold cathode tubes operating in a manner similar to a spark gap, containing three or more electrodes and rated for a peak anode current of 30 amperes or more.

72952 Nuclear radiation detection and measuring instruments designed to measure neutron flux in connection with the determination of the power level of an operating nuclear reactor.

72952 Other nuclear radiation dosimeters capable of measuring dosages above 5 roentgens in one exposure.

72952 Vibration testing equipment.

72952 Control equipment specially designed for hot or cold isostatic presses (No. 71980) requiring a validated license to all Country Groups.

72952 Mass spectrographs and mass spectrometers, except mass spectrometer typeleak detectors.

72970 Neutron generators employing the electrostatic acceleration of ions; and specially designed parts.

72970 Accelerators, as follows: (a) Betatrons, synchrotrons, cyclotrons, synchrocyclotrons and linear accelerators, (b) electron accelerators capable of imparting energies in excess of 500,000 electron-volts, and (c) other electro nuclear-machines capable of imparting energies in excess of 1,000,000 electron-volts to a nuclear particle or ion; and specially designed parts.

72970 Neutron generator tubes designed for operation without external vacuum system, and utilizing eletcrostatic acceleration to induce a tritium deuterium nuclear reaction; and specially designed parts.

72991 Magnets specially designed for electronuclear machines capable of imparting energies in excess of 1,000,000 electron-volts to a nuclear particle or ion.

72992 Electric cold crucible-vacuum induction furnaces designed to operate at pressures lower than 0.1 millimeter of mercury and at temperatures higher than 2012° F. (1100° C.).

72996 Electrical carbons, except carbon brushes, artificial graphite, whether or not containing other materials to give improved performance at high temperatures, having an apparent relative density of 1.90 and greater, except non-pyrolytic graphite or density between 1.90 and 1.95 when compared to water at 60° F. (15.5° C.).

72996 Electrical carbons, except carbon brushes, artificial graphite, smallest dimension 2 inches or over and having a boron content of one part per million or less, the total thermal neutron absorption cross section being less than, or equal to, 5 millibarns per atom.

72996 Other electrical carbons, except carbon brushes, artificial graphite, smallest dimension 2 inches or over.

73410 Nonmilitary helicopters, aircraft, and ground effects machines (GEMS), including surface effect machines and other air cushion vehicles.

73410 Military aircraft, demilitarized (not specifically equipped or modified for military operations), the following only: (i) Cargo, "C–45 through C–118," and "C–121;" (ii) trainers, bearing a "T" designation and using piston engines; (iii) utility, bearing a "U" designation and using piston engines; and (iv) liaison, bearing an "L" designation.

86140 Streak cameras capable of recording events which are not initiated by the camera mechanism; and specially designed parts and accessories, n.e.c.

86140–86150 High-speed cameras having any of the following characteristics: (a) Using film widths 35 mm. or narrower and capable of recording at rates in excess of 3,000 frames per second when using a steady light flow as the lighting source, and 10,000 frames per second when using flash equipment connected to the unwinding system as the light source, (b) using film width greater than 35 mm. and capable of recording in excess of 64 frames per second, or (c) capable of recording in excess of 250,000 frames per second; and specially designed parts and accessories, n.e.c.

86198 Mass spectrographs and mass spectrometers, except mass spectrometer type leak detectors; and specially designed parts, n.e.c.

86199 Parts (including positive ion sources), assemblies, components, and accessories, n.e.c., for mass spectrographs and mass spectrometers under No. 72952 which require a validated license to all Country Groups.

86199 Parts and accessories, n.e.c., for nuclear radiation dosimeters.

89927 Wire cloth sieves, all types, including electroformed, containing 95 percent or more nickel, with 60 or more sieves per linear centimeter or the equivalent thereof.

PART 374—REEXPORTS

Sec.

374.1 Prohibited exports and reexports.
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374.9 Effect on foreign laws.

AUTHORITY: The provisions of this Part 374 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.

§ 374.1 Prohibited exports and reexports.

Unless the reexport of a commodity previously exported from the United States has been specifically authorized by the Office of Export Control, in writing, prior to its reexport, or is otherwise authorized under the provisions of § 374.2 or is otherwise authorized under any other provision of the Export Control Regulations, no person in the United States or in a foreign country (including Canada) may:

(a) Reexport such commodity directly or indirectly, in whole or in part, from the country or countries of ultimate destination shown on the export license or in the destination control statement on the shipper's export declaration, bill of lading, or commercial invoice; or

(b) Export such commodity from the United States with the knowledge that it is to be reexported, directly or indirectly, in whole or in part, from the country or countries of ultimate destination shown on the export license or in the destination control statement appearing on the shipper's export declaration, bill of lading, or commercial invoice.

§ 374.2 Permissive reexports.

The following reexports of U.S. origin commodities[1] may be made without obtaining prior written authorization from the Office of Export Control:

(a) Reexports of any commodity that, at the time of reexport, may be exported directly from the United States to the new country of destination (1) under General License G–DEST, or (2) where the value of the reexport does not exceed the GLV value on the Commodity Control List for the new country of destination.[2]

(b) Reexports of any commodity from Canada that, at the time of reexport, may be exported directly from the United States to the new country of destination under any general license.

(c) Reexports between:

(1) Switzerland and Liechtenstein.

(2) Italy and the area of Trieste under Italian Civil administration.

(3) Yugoslavia and the area of Trieste under Yugoslav administration.

(d) Reexports between ultimate consignees as provided by the terms of the project license procedure, see § 373.2 or the terms of the Time Limit license, see § 373.6(f).

(e) Reexports between an exporter's approved consignees as provided in the terms of the distribution license procedure, see § 373.3(i).

(f) Reexports to customers of a distributor as provided by the terms of the

[1] For reexport of technical data, see § 379.8.

[2] The permissive reexport provisions set forth above relating to the reexport of commodities within the established GLV dollar value limits do not apply to exports, reexports, or distributions made under the Form FC–43 procedure or the Form FC–243 procedure. (See §§ 373.8 and 373.4.)

Warehousing procedure, see § 373.4(e)(2)(iii)(*a*).

§ 374.3 How to request reexport authorization.

(a) *Requests for reexport authorization for commodities exported under general license.* In order to obtain prior authorization to reexport commodities previously exported from the United States under a general license, a request shall be submitted by letter, in duplicate, to the Office of Export Control (Attention: 852) U.S. Department of Commerce, Washington, D.C. 20230. The letter shall identify the original country of destination, the general license under which shipment was made from the United States, the commodity, and the quantity proposed for reexport to each country. If a reexport is to be made to any of the countries listed in paragraph (d)(1) of this section, the information and documentation required by paragraph (d)(1)(i) and (ii) of this section shall also be submitted with the letter request.

NOTE: Optional ports of unlading. When an export is being made to Country Group T, V, or W under the provisions of General License G-DEST and the exporter does not know, prior to the departure of the exporting carrier, which of several countries is the country of ultimate destination, he may name optional ports of unlading on the declaration and bill of lading, even when more than one foreign country is involved, as provided by paragraph 386.3(e)(4).

(b) *Requests for reexport authorization accompanying license application.* In addition to specifying the country to which the reexport will be made, the application shall include the information required by paragraph (d)(1) and (2) of this section, if applicable. In order to obtain prior authorization to reexport commodities at the time of submission of the application for a license to export from the United States, the reexport request shall be included on the license application. If it is stated on an individual export license application that the commodity to be exported is intended for distribution or resale in a country (ies) other than the named country of ultimate destination, authorization for such distribution or resale will be granted or withheld by an appropriate statement on the face of the validated license, as follows:

(1) "Distribution or resale of the commodities listed above is permitted in the country of ultimate destination only"; or

(2) "Distribution or resale of the commodities listed above is permitted in (name of country of ultimate destination) and (names of other approved countries)."

Other methods for obtaining reexport authorization are set forth in the special licensing procedures. (See Part 373.)

(c) *Requests for reexport authorization subsequent to submission of license application*—(1) *Before shipment.* If prior authorization to reexport commodities is requested while the license application is still pending with the Office of Export Control, or, if the export license has been issued and the proposed shipment has not been cleared for export by the U.S. Customs Office, Form IA-763, Request for and Notice of Amendment Action, shall be submitted to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, in accordance with the procedure described in paragraph 372.11(h). On the Form IA-763, in the space headed "Amend license to read as follows," the applicant should state, "Add permission to reexport to (name of countries)." (See paragraph (d)(1) and (2) of this section below for special provisions for specified countries.)

(2) *After shipment cleared for export.* If prior authorization to reexport commodities is requested after the shipment has been cleared for export by U.S. Customs Office, a letter request shall be submitted to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. The letter request shall identify both the application case number and export license number (if known) and include the commodity description and quantity proposed for distribution or resale in each country of distribution or resale. (See paragraph (d)(1) and (2) of this section for special provisions for specified countries.)

(d) *Special requirements.* In addition to the provisions of paragraphs (a), (b), and (c) of this section, the request for authorization to reexport shall include the following:

(1) *Reexports to certain countries.* If the reexport is to be made to a destination specified below, regardless of the country to which the commodities were originally shipped from the United States, additional information shall be furnished as set forth in subdivisions (i) and (ii) of this subparagraph (1).

Cambodia.	Sweden.
Laos.	Switzerland.
Lebanon.	Thailand.
Liechtenstein.	Vietnam (Republic of).
Malaysia.	Yugoslavia.
Singapore.	
South Africa (Republic of).	

Any destination in Country Group S, W, X, Y, or Z (see Supplement No. 1 to Part 370 for the countries included in each country group).

(i) The name and address of each person or firm to whom reexport will be made, and the commodity description, quantity, and value of the commodities which will be reexported to each, and

(ii) Consignee/purchaser statement or other documentation from the new ultimate consignee which would be required by Part 375 if the reexport were a direct export from the United States to the new country. Where this document is a Yugoslav End-Use Certificate or a Swiss Blue Import Certificate, and the same document must be furnished to the export control authorities of the country from which reexport will be made, the Office of Export Control will accept a reproduced copy of the document being furnished to the country of reexport. If the required documentation cannot be obtained, waiver may be requested in accordance with the applicable provisions of the Export Regulations. (See § 375.2(b)(4) for waiver of a Consignee/Purchaser Statement; § 375.1(d) for waiver of an Import Certificate; § 375.3(c) for waiver of a Swiss Blue Import Certificate; and § 375.4(c) for waiver of a Yugoslav End-Use Certificate.)

(2) *Reexports from Switzerland and Liechtenstein.* If export from the United States was made, or will be made, to Switzerland or Liechtenstein under a validated export license, the request to reexport from Switzerland or Liechtenstein shall include the name and address of each person or firm to whom reexport will be made, the quantity and value of the commodities to be reexported to each, and the number and date of the Swiss Blue Import Certificate(s) submitted in support of the application(s) for license to export the commodities from the United States.

§ 374.4 Notice to consignee.

Where the Office of Export Control has authorized a type of reexport described in § 374.2(d) (1) or (2), the U.S. exporter shall advise his foreign consignee of the amount of reexport authorized and the name of the person or firm to whom the reexport has been authorized. In those cases where the Office of Export Control has disapproved a reexport authorization request, in whole or part, the exporter may wish to advise his foreign consignee of this rejection decision in advance of the notification he is required to include in the destination control statement on the bill of lading and commercial invoice (see § 386.6).

§ 374.5 Validity period.

(a) *Limitation on validity period.* Generally, only authorizations to reexport to Country Group W, Y, or Z are restricted to a limited validity period. Any authorization to reexport or redistribute commodities to Country Group W, Y, or Z whether authorized on the validated export license or separately, expires on the last day of the sixth month following the month in which the reexport is authorized unless otherwise specified. The U.S. exporter shall, in connection with each such authorization, furnish written notification to the ultimate consignee of this limitation on the validity period of the reexport authorization.

(b) *Request for extension of validity period.* A request for an extension of the validity period of a reexport or redistribution authorization shall be submitted in the same manner as a request for the reexport authorization, except that the documentation required by § 374.3(d)(1) need not be resubmitted if the original documents remain valid. In addition the request for extension shall identify the

original authorization, the date of the authorization, the names of the countries covered, the commodities and quantities originally authorized for reexport, and the commodities and quantities remaining to be reexported.

§ 374.6 Presentation of shipper's export declaration to Canadian customs.

When an export to a foreign country is made in transit via Canada, the U.S. exporter shall submit an authenticated copy of the U.S. shipper's export declaration to the Canadian customs authorities at the Canadian port of entry. [See § 386.1(d).]

§ 374.7 Retention of documents.

The document authorizing reexport shall be kept and made available for inspection in accordance with the provisions of § 387.11. (For further record keeping requirements, see § 387.11.)

§ 374.8 Revocation of authorization to reexport.

All export licenses and other authorizations to reexport are subject to revision, suspension, or revocation without notice.

§ 374.9 Effect on foreign laws.

Any reexport or distribution authority granted by the U.S. Office of Export Control does not relieve any person from complying with foreign laws.

PART 375—DOCUMENTATION REQUIREMENTS

Sec.

375.1 International Import Certificate and Delivery Verification Certificate.
375.2 Ultimate consignee and purchaser statement.
375.3 Swiss Blue Import Certificate.
375.4 Yugoslav End-Use Certificate.
375.5 Documents accompanying applications.

Supplement No. 1. Authorities administering Import Certificate/Delivery Verification System in foreign countries.

AUTHORITY: The provisions of this Part 375 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.

§ 375.1 International Import Certificates and Delivery Verification Certificates.

(a) *Scope.* The provisions of this § 375.1 shall apply whenever a validated license is required for the export of certain commodities to certain destinations as set forth below. Additionally, in certain exceptional instances, an International Import Certificate may be required for transactions not involving an export from the United States under a validated license. (See § 368.2(a)(8).)

(1) *Commodities.* The International Import Certificate requirement applies only to those commodities identified by the symbol "A" in the last column of the Commodity Control List (§ 399.1). (See paragraph (e)(3) of this section for commodities from which the symbol "A" is deleted after the import certificate has been submitted.) The Delivery Verification Certificate requirement applies to all commodities for which a validated license is required.

(2) *Destinations.* The following destinations apply the International Import Certificate/Delivery Verification Certificate System:

Austria.
Belgium.
Denmark.
France.
Greece.
Hong Kong (see 375.1(b)(4) below).
Italy (including the area of Trieste under Italian civil administration).
Japan.
Luxembourg.
Netherlands.
Norway.
Portugal.
Turkey.
United Kingdom.
West Germany (Federal Republic of Germany, western sectors of Berlin and Saar).

(See Supplement No. 1 to this Part 375 for list of addresses in the above destinations where foreign importers may obtain International Import Certificates.)

Facsimiles of International Import Certificates issued by each of the above destinations may be inspected at any U.S. Department of Commerce field office (see list on page i under Field Office Addresses), or at the Office of Export Control, Exporters' Service Section, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. The provisions of this § 375.1 do not apply to any overseas territories of the above destinations unless specifically listed.

(3) *Effective dates of changes.* Whenever the scope of this § 375.1 is extended by adding a commodity or country, the change shall become effective 45 days from the date of such addition.

(b) *Documentation provisions.*—(1) *Terms used.* As used in this § 375.1 the terms "International Import Certificate," "Delivery Verification Certificate," "Hong Kong Import License," and "Landing Certificate," refer to the documents issued by governments of the destinations listed in paragraph (a)(2) above to importers in such destinations, and are equivalent documents to the Form FC–826, International Import Certificate, and Form FC–908, U.S. Delivery Verification Certificate, issued to U.S. importers (see §§ 368.2 and 368.3).

(2) *Content of documents.* These documents contain an undertaking by the issuing government to exercise legal control over the disposition of the commodities covered. This control is in addition to conditions and restrictions placed on the export by the Office of Export Control. The laws and regulations of the United States are in no way modified, changed, or superseded by the issuance of an Import Certificate or Delivery Verification Certificate.

(3) *Triangular symbol.* In accordance with international practice, the government issuing office may stamp a triangular symbol on the Import Certificate. This symbol is a notification that the importer does not intend to import or retain the commodities in the country issuing the import certificate, but that, in any case, the commodities will not be delivered to any destination except in accordance with the export regulations of the issuing country.

(4) *Special provisions for Hong Kong.* With regard to exports to Hong Kong, the term "Import Certificate" means the duplicate copy of Form 3, Hong Kong Import License, containing one of the following stamped endorsements signed by an official of the Hong Kong Government:

For consumption in Hong Kong. Diversion en route prohibited. Reexport not permitted except under special license and subject in addition to general or specific concurrence of government of supplying country concerned.

or

For reexport to (Approved destination). Diversion en route prohibited. To be delivered by shipping or airline company concerned to Government-designated godown. Overside delivery not permitted. Release from godown subject to approval of export license.

The term "Delivery Verfication Certificate" means the C&I Form 229, Hong Kong Delivery Verification, or the C&I Form 42, Hong Kong Landing Certificate. C&I Form 42 is acceptable only where the Hong Kong Government does not issue its C&I Form 229. (See paragraph (k) of this section for delivery verification certificate requirements.)

(c) *Exemptions.* The import certificate requirements shall not apply to:

(1) A license application filed under the project license procedure (see § 373.2);

(2) A license application to export commodities classified in a single entry on the Commodity Control List the total value of which, as shown on the export order, is less than $500, except where a multiple transactions import certificate is filed in accordance with paragraph (f)(2) of this section;

(3) A license application to export commodities to a foreign government or government agency that actually placed the order with the applicant and will take delivery of the commodities when received in the importing country (see § 375.2(b)(2)(iv) for definition of "government agency");

(4) A license application filed by a relief agency registered with the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, for export of commodities to a member agency in the foreign country;

(5) A license application supported by Form FC–43, Statement by Foreign Importer of Aircraft or Vessel Repair Parts; Form FC–143, Request for Authorization to Distribute U.S. Origin Commodities Stocked Abroad to Approved Customers; the current station number or validation number of any of these forms; or Form FC–1143, Distribution License Consignee Statement (see §§ 373.3, 373.4, and 373.8).

(6) A license application to export commodities for exhibition, demonstration, or testing purposes (see § 372.8(c)); or

(7) A request for authorization to make temporary exports of video tape (see § 376.11).

(d) *Exceptions*—(1) *Grounds for exception.* Favorable consideration of a request for exception generally will be given where the import certificate requirement:

(i) Imposes an undue hardship on the applicant and/or ultimate consignee (e.g., refusal by the foreign government to issue an import certificate and such refusal constitutes discrimination against the U.S. exporter); or

(ii) Cannot be complied with (e.g., the commodities will be held in a foreign trade zone or bonded warehouse for subsequent distribution in one or more countries); or

(iii) Is not applicable to the transaction (e.g., the commodities will not be imported for consumption into the named country of destination).

An exception will not be granted if contrary to the objectives of the U.S. export control program.

(2) *Types of requests.* A request for exception may involve either a single transaction or, where the reason necessitating the request is continuing in nature, multiple transactions.

(i) The single transaction exception relates to a single export order and, if granted, will cover the application(s) which the exporter submits to ship the single export order; or

(ii) The multiple transactions exception relates to multiple export orders and, if granted, will cover all applications submitted by the exporter during all or any part of the period ending not later than June 30 of the year following the year during which the request is submitted, unless an earlier termination date is requested.

(3) *How to submit request.* The request for exception shall be submitted with the application to which it relates. Where the request relates to more than one application, it shall be submitted with the first application and referred to in the "Additional Information" item on any subsequent applications. Each request for exception shall be by letter, in duplicate, addressed to the Office of Export Control (Attention: 854), U.S. Department of Commerce, Washington, D.C. 20230. It shall be accompanied by an ultimate consignee and purchaser statement in accordance with § 375.2, unless such statement is already on file in the Office of Export Control. As a minimum, the letter request shall include:

(i) Name and address of ultimate consignee;

(ii) Name and address of purchaser if different than ultimate consignee;

(iii) Location of foreign trade zone or bonded warehouse if the commodities will be exported to a foreign trade zone or bonded warehouse;

(iv) Type of request, i.e., whether for a single transaction or multiple transactions;

(v) Full explanation of the reason(s) for requesting the exception;

(vi) Nature and duration of the business relationship between the applicant and importer shown on the license application;

(vii) Whether the exporter has previously submitted to the Office of Export Control any Import Certificate issued in the name of the importer and a listing of the case number(s) to which the certificate(s) applied;

(viii) Whether a statement from the consignee/purchaser, in accordance with § 375.2, is on file with the Office of Export Control;

(ix) Requested date of expiration if a multiple transactions exception is requested and the exporter wishes the exception period to expire before June 30 of the next year; and

(x) Any other facts to justify granting an exception.

(4) *Action by Office of Export Control*—(i) *Single transaction request.* Where a single transaction is involved, the Office of Export Control will act on the request for exception at the same time as the license application with which the request is submitted. In those instances where the related application is approved, the issuance of the export license will serve as an automatic notice to the exporter that the exception is also approved. However, if any restrictions are placed on the approval, or if the request is disapproved, the Office of Export Control will advise the exporter by letter.

(ii) *Multiple transactions request.* Where multiple transactions are involved, the Office of Export Control will advise the exporter by letter of the action taken on the exception request. The letter will contain any conditions or restrictions which the Office of Export Control finds necessary to impose. In addition, a written acceptance of these conditions or restrictions will be required from the parties to the transaction.

(5) *Additional applications.* On any additional license application that is subject to an approved request for exception to the import certificate requirement, the following certification shall be inserted on the application in the space entitled "Additional Information" or on an attachment:

I (We) certify that the circumstances shown in the original request for exception to submission of an Import Certificate (or Hong Kong Import License) also exist with respect to this application. The request for exception was submitted in support of application number. (Insert case number or, if case number is unknown, the applicant's reference number; date of submission of the application to which the request for exception was attached; and Export Control Commodity Numbers and Processing Number Shown on that application.)

(6) *Relationship to reexports.* The granting of an exception to the import certificate requirement in no way relieves the applicant or any other party to the transaction from obtaining reexport authorization from the Office of Export Control when so required by the Export Control Regulations.

(e) *Relationship to consignee/purchaser statement.* (1) The requirement of a consignee/purchaser statement (§ 375.2) is not applicable where an import certificate is required by this § 375.1.

(2) Where an import certificate is not specifically required by this § 375.1, an export to a destination listed in paragraph (a)(2) of this section is subject to the requirement of a consignee/purchaser statement and an import certificate may not be substituted for that statement.

(3) When the symbol "A" is deleted from an entry on the Commodity Control List, the commodities covered by that entry are removed from the Import Certificate/Delivery Verification requirements of this § 375.1. Neither a new Import Certificate nor an Import Certificate previously submitted to the Office of Export Control will be accepted in lieu of the required consignee/purchaser statement in support of a license application which is submitted to the Office of Export Control after the deletion of the symbol "A."

(f) *Submission of Import Certificate*—(1) *Single transaction Import Certificate.* (i) The applicant shall attach to his license application covering a proposed export the original Import Certificate, bearing the official authentication of the government authorities in the importing country, issued to the named importer or his agent and covering the commodity (ies) described in the application. A reproduced copy (photocopy or other type) of the Import Certificate will not be accepted by the Office of Export Control.

(ii) The exporter should furnish his consignee the commodity description shown on the Commodity Control List and advise him to use this description when applying for the Import Certificate from his government. In addition, where the commodity is a new or highly technical product, it is advisable also to furnish a manufacturer's catalog or bulletin, or printed pages describing the commodity. This will be helpful to the foreign government in determining whether the commodity meets the criteria for the issuance of an Import Certificate.

(iii) Where the single transaction Import Certificate covers commodities for which more than one license application is submitted, the original certificate shall be attached to the first such application, and each subsequent application shall show the following certification in the space entitled "Additional Information" or on an attachment:

I (We) certify that the quantities of commodities shown on all export licenses based on the (name of country) Import Certificate (or Hong Kong Import License) Number ------, when added to the quantities shown on all additional applications pending in the Office of Export Control based on the same Import Certificate, including the present application, do not total more than the quantities shown on that Import Certificate. This Import Certificate was submitted in support of application number. (Insert case

number or, if case number is unknown, the applicant's reference number; date of submission of the application to which the Import Certificate or Hong Kong Import License was attached; and Export Control Commodity Numbers and processing Number shown on that application.

Failure to supply the case number or other identifying information may result in delay in processing the application.

(2) *Multiple transactions Import Certificate.* A multiple transactions Import Certificate is an officially authenticated original of an Import Certificate which covers more than one proposed transaction. If a multiple transactions Import Certificate specifies the amount of the commodities (in terms of either quantity or value), all export licenses, including those covering a commodity valued at less than $500, will be charged against the amount specified. The applicant shall attach the original multiple transactions Import Certificate, bearing the official authentication of governmental authorities in the importing country, to his first application the certificate is intended to support. A reproduced copy (photocopy or other type) of the Import Certificate is not acceptable. On each subsequent application submitted against that certificate, one of the following certification, as appropriate, signed by the applicant, shall be inserted in the space entitled "Additional Information" or on an attachment:

(i) If quantity or value is shown on the certificate:

I (We) certify that the quantities (values) of commodities shown on all export licenses based on the (name of country) Import Certificate (or Hong Kong Import License Number ------, when added to the quantities (values) shown on all additional applications pending in the Office of Export Control based on the same Import Export Control based on the same Import Certificate, including the present application, do not total more than the quantities (values) shown on that Import Certificate. This Import Certificate was submitted in support of application number (Insert case number or, if case number is unknown, the applicant's reference number, date of submission of the application to which the Import Certificate or Hong Kong Import License was attached, and Export Control Commodity Numbers and Processing Number shown on that application).

or

(ii) If quantity or value is not shown on the certificate:

I (We) certify that this application is supported by the (name of country) multiple transactions Import Certificate (or Hong Kong Import License) Number ------, which was submitted in support of application number (Insert case number of, if case number is unnown, the applicant's reference number, date of submission of the application to which the Import Certificate or Hong Kong Import License was attached, and Export Control Commodity Numbers and Processing Number shown on that application).

(iii) The exporter should furnish his consignee the commodity description shown on the Commodity Control List and advise him to use this description when applying for the Import Certificate from his government. In addition, where the commodity is a new or highly technical product, it is advisable also to furnish a manufacturer's catalog or bulletin, or printed pages describing the commodity. This will be helpful to the foreign government in determining whether the commodity meets the criteria for the issuance of an Import Certificate.

(g) *Requirements applicable to both single and multiple transactions Import Certificates*—(1) *Translation requirements.* All abbreviations, coded terms, or other expressions in the Import Certificate having special significance in the trade or to the parties to the transaction shall be explained. Quantities not shown in Commodity Control List units shall be converted to such units. Documents in a foreign language shall be accompanied by an accurate English translation, which, if not made by a translating service, shall be certified by the applicant to be a correct translation. An explanation or translation of an Import Certificate shall be submitted on a separate document attached to the certificate. (See § 387.8 with regard to an alteration of an export control document.)

(2) *Purchase order.* The Import Certificate may cover more than one purchase order and more than one commodity, but shall relate only to purchase orders placed by a single importer located in a single foreign country with a single U.S. exporter.

(3) *Parties named on Import Certificate.* The Import Certificate may be accepted from either the ultimate consignee or the purchaser if they are different parties located in the same country. If they are not located in the same country, an Import Certificate, a consignee/purchaser statement, or other applicable equivalent document is required from the party located in the country of ultimate destination. The U.S. exporter named in the Import Certificate must appear as applicant, supplier, or order party on license applications submitted to the Office of Export Control.

(4) *Validity period.* The Import Certificate must be submitted to the Office of Export Control within the period shown thereon, which in no case will exceed 6 months from the date it is issued by the foreign government. In addition, any license application supported by such certificate must be submitted within 12 months from the date the certificate was initially submitted to the Office of Export Control. The expiration of an Import Certificate will in no way affect the validity period of the resultant export license(s).

(5) *Applicant's responsibility for full disclosure.* In submitting an Import Certificate, the applicant is responsible for full disclosure of any other information concerning the ultimate destination and end use of which he has knowledge or belief, even if inconsistent with the representations set forth in the certificate. In accordance with the provisions of § 387.5, the applicant shall promptly notify the Office of Export Control of any changes in facts set forth in the certificate that are brought to his attention after the date the certificate is issued.

(6) *Triangular transactions.* Whenever an Import Certificate bearing a triangular symbol is submitted to the Office of Export Control, the U.S. exporter shall advise the Office of Export Control of all parties to the transaction, including parties located outside the country that issued the Import Certificate. If the importer objects to giving this information to the U.S. exporter, he may submit it directly to the Office of Export Control through a U.S. Foreign Service post or in a sealed envelope to the exporter, marked "To be opened by the Office of Export Control only."

(7) *Reexports.* Submission of an Import Certificate does not relieve the parties to the transaction from compliance with the reexport provisions (Part 374).

(8) *Alterations.* After an Import Certificate is issued by the foreign government, no corrections, additions, or alterations may be made in such certificate by any person. (See § 387.8 on unauthorized use and alterations of export control documents.) If the exporter desires to explain any information on the certificate, he may attach thereto a signed statement to that effect.

(h) *Import Certificate as a factor in licensing.* The Office of Export Control reserves the right in all respects to determine to what extent any license shall be issued covering commodities for which a foreign government has issued an Import Certificate. The certificate is only one of the many considerations upon which licensing action will be based. Generally, commodities licensed on the basis of dollar value will not be licensed in excess of the dollar value shown on the certificate, and commodities licensed on the basis of units of quantity will not be licensed in excess of the units shown.

(i) *Return of Import Certificate.* A U.S. exporter may be requested by his foreign importer to return an unused or partially used Import Certificate. In such case, the exporter shall do so as soon as he determines that the certificate will not be used with a new or resubmitted license application, or an appeal. Failure on the part of the exporter to comply with his importer's request will result in the importer's inability to fulfill his obligations to his government and may result in the importer being denied further Import Certificates and possibly being subjected to other penalties. The Office of Export Control will not return a certificate where the total quantity has either been shipped or is covered by an outstanding export license(s), except as indicated in paragraph (3) below concerning unshipped quantities. An unused or partially used certificate on file in the Office of Export Control, appropriately marked to show the amount cancelled, will be returned to the exporter in accordance with the procedures described below:

(1) *Import Certificate quantity greater than license application.* Where an Import Certificate covers a quantity greater than that shown on the related license application, or names no quantity at all, the certificate will be

retained by the Office of Export Control unless the exporter formally requests its return. Such a request should be submitted in writing, to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, showing the name and address of the named importer, case numbers to which the Import Certificate applies, the certificate number, and a statement that the certificate will not be used in connection with a new or resubmitted license application.

(2) *Import Certificate quantity same as license application.* The Office of Export Control will retain the Import Certificate if the application is approved for the same quantity as covered by the certificate. The certificate will usually be returned to the exporter if the application is approved in a reduced quantity or is rejected. In some instances, however, the Import Certificate covering a rejected application will be returned directly to the foreign issuing government, in which case the exporter will be so advised by the Office of Export Control. In the event the Office of Export Control should decide to retain the certificate for its files, it will advise both the exporter and the foreign government.

(3) *Unshipped quantities.* Where the exporter does not intend to ship all of the commodities for which a license has been issued and wants the Import Certificate returned, he shall submit his request in writing to the Office of Export Control, as follows:

(i) *Unexpired export license.* If the license has not expired but no further shipment is to be made, the written request for return of the certificate shall either be accompanied by the license or include the name of the port where the license is filed. In the latter event, the exporter shall request the customs office to forward the license to the Office of Export Control for cancellation. If further shipment(s) is intended, the letter shall be accompanied by a request on Form IA–763 for amendment of the license to show the actual total quantity to be shipped against the license. (See § 372.11 for regular amendment procedure.)

(ii) *Expired export license.* If the license has expired, the written request for return of the Import Certificate shall either be accompanied by the license or include the name of the port where the license is filed. Form IA–763 is not required.

(j) *Requests for amendment of export license.* A request to amend a license (also see § 372.11) to increase the quantity over that originally covered by the Import Certificate, or for a change in any party to the transaction to one who has not appeared on the original certificate, must be accompanied by a new or appropriately amended certificate. However, if a proposed quantitative amendment is in accordance with the original certificate, then the following certification shall appear on the amendment request form, IA–763, or on a signed attachment:

I (We) certify that this request for amendment of export license number ------, if granted, will not exceed the total quantity authorized under the (name of country) Import Certificate (or Hong Kong Import License) Number ------.

(k) *Delivery Verification Certificate*—(1) *Notification of requirement.* (i) Delivery Verification Certificates are required by the Office of Export Control on a selective basis. They may be required for exports of any commodities exported under a validated license to any of the destinations listed in paragraph (a)(2) of this section including commodities not identified by the symbol "A" and commodities for which an exemption or exception to the Import Certificate requirement has been established in accordance with paragraph (c) or (d) of this section. Where verification of delivery is required, the words "Delivery Verification required, see attached Form IA–863" will be stamped on the face of the export license. In addition, Form IA–863, Notification of Delivery Verification Requirement (see Supplement S–20 for facsimile), will be attached to the license.[1] Where the license is sent directly to an agent or freight forwarder of the licensee, it is the responsibility of that agent or freight forwarder to notify the licensee that a Delivery Verification Certificate is required. (See Supplement No. 1 to this Part 375 for list of addresses where importers may obtain Delivery Verification Certificates. Facsimiles of Delivery Verification Certificates issued by each of these destinations may be inspected at any U.S. Department of Commerce field office or at the Office of Export Control, Exporters Service Section, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C.)

(ii) The Delivery Verification Certificate requirement for a particular export transaction is canceled automatically if, subsequent to the issuance of a license, (a) the symbol "A" is removed from the last column of the Commodity Control List, and (b) the exporter returns the original copy of Form IA–863 to the Office of Export Control with a statement that the symbol "A" has been removed.

(2) *Submission to the Office of Export Control.* When notified to do so by the Office of Export Control, any person issued a license covering a shipment within the scope of this § 375.1 shall:

(i) Transmit to the foreign importer a written request for a Delivery Verification Certificate at the time of making each shipment under the license (whenever possible, this request shall be submitted together with the related bill of lading or air waybill). The request shall include the number of the Import Certificate for the transaction referred to in Form IA–863, and notify the foreign importer that this same Import Certificate number should be shown on the Delivery Verification Certificate;

(ii) Obtain from the named importer a Delivery Verification Certificate which has been issued to the importer by his government covering the commodities described on the export license, or as much thereof (when complete shipment against the license will not be made) as the licensee has shipped; and

(iii) Send the original copy of the Delivery Verification Certificate to the Office of Export Control within a reasonable time after the last shipment has been made against the license. If verification of delivery is required for commodities covered by a license against which partial shipments have been made, the licensee shall obtain the required verification for each partial shipment. When all the Delivery Verification Certificates have been received, the original of each shall be forwarded in one package to the Office of Export Control. (See Supplement No. 1 to Part 375 for list of addresses where foreign consignees may obtain Import Certificates and Delivery Verification Certificates.)

(3) *Inability to obtain Delivery Verification Certificate.* If an exporter is unable to obtain the required Delivery Verification Certificate from his importer, he shall promptly notify the Office of Export Control and, upon request, make available to that office all information and records, including correspondence, regarding his attempt to obtain the required document.

§ 375.2 Ultimate consignee and purchaser statement.

(a) *Scope.* The provisions of this § 375.2 (unless exempted in paragraph (b)(2) of this section) apply to all proposed shipments of commodities for which validated export licenses are required where the country of ultimate destination is in Country Group S, V, W, X, Y, or Z, and to all proposed shipments to Country Group T under the Time Limit (TL) license procedure (see § 373.6).

(b) *Statements required from ultimate consignee and purchaser*—(1) *General.* The applicant shall furnish a statement from the ultimate consignee and purchaser named in the license application, certifying to certain facts relating to the proposed transaction. This statement shall be submitted on Form FC–842, Single Transaction Statement by Consignee and Purchaser, or on Form FC–843, Multiple Transactions Statement by Consignee and Purchaser (see Supplements S–6 and S–7 for facsimiles[1]). In either instance, every item on the form must be completed. More detailed instructions are given in paragraph (e) of this section. Such statement is required by the Office of Export Control to assure that foreign consignees and purchasers are fully aware

[1] In certain instances the licensee may be requested to submit a Delivery Verification Certificate under alternative procedures.

[1] Forms FC–842, and FC–843 may be obtained from all U.S. Department of Commerce Field Offices (see list on page i under Field Office Addresses), and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. Foreign importers may obtain copies of these forms from their U.S. exporter or from diplomatic and Consular offices.

of their responsibility for the representations made to the Office of Export Control and for the disposition of the licensed commodities only in those foreign countries where the Office of Export Control has specifically authorized disposition.

(2) *Exemptions.* The provisions of this § 375.2 do not apply if the license application covering the proposed shipment shows that any of the following conditions are present:

(i) An Import Certificate (§ 375.1), a Swiss Blue Import Certificate (§ 375.3), or a Yugoslav End-Use Certificate (§ 375.4) is required in support of the application;

(ii) The total value, as shown on the export order covering the application, of the commodity(ies) classified in a single entry on the Commodity Control List is less than $500. However, the exemption does not apply to an application supported by a Form FC–843 or to an application covering a shipment to the Republic of Vietnam of any copper commodity described in § 377.3;

(iii) Shipment will be made under a Project License (§ 373.2);

(iv) Both the ultimate consignee and purchaser are a foreign government(s) or foreign government agency(ies). However, if either is not a foreign government or government agency, then a statement from the nongovernmental party is required. For the purpose of this regulation, the term "government agency" is construed as follows:

(*a*) National governmental departments operated by government-paid personnel performing governmental administrative functions; e.g., Finance Ministry, Ministry of Defense, Ministry of Health, etc. Municipal or other local government entities must submit consignee statements.

(*b*) National government-owned public service entities; e.g., nationally owned railway, postal, telephone, telegraph, broadcasting, and power systems, etc.

(*c*) The term "government agency" does not include government corporations, quasi-government agencies, and State enterprises engaged in commercial, industrial, and manufacturing activities, such as petroleum refineries, mines, steel mills, retail stores, automobile manufacturing plants, airlines, or steamship lines which operate between two or more countries, etc.;

(v) Shipment will be made by a relief agency registered with the Advisory Committee on Voluntary Foreign Aid, U.S. Agency for International Development, to a member agency in the foreign country;

(vi) The license applicant is the same person as the ultimate consignee provided he furnishes on the license application all the applicable information that would be required in a consignee/purchaser statement. This exemption does not apply where the applicant and the consignee are separate entities, such as parent and subsidiary, or affiliated or associated firms;

(vii) The license application is supported by a Form FC–43, Statement by Foreign Importer of Aircraft or Vessel Repair Parts; Form FC–143, Request for Authorization to Distribute U.S. Origin Commodities Stocked Aboard to Approved Customers; the current station number or validation number of either of these forms; or Form FC–1143, Distribution License Consignee Statement (see §§ 373, 373.4, and 373.3 for explanations, and Supplements S–8, S–9, and S–15 for facsimiles;[1]

(viii) The export will be made for display at a trade fair or exhibition, or for demonstration or testing purposes (see § 372.8(c)); or

(ix) The request is for authorization to make a temporary export of video tape (see § 376.11).

(3) *Grace period.* Whenever the requirement for a consignee/purchaser statement for any commodity is extended by reason of the addition of a country group(s) in the column on the Commodity Control List headed "Validated License Required for Country Groups Shown Below," or by removal of the symbol "A" in the column on the Commodity Control List headed "Special Provisions," an export license need not conform to the requirements of this § 375.2 for a period of 30 days after the date that the commodity becomes subject to the new requirement. In lieu thereof, applications filed during the 30-day grace period shall be accompanied by any evidence available to the applicant which will support his representations concerning the ultimate consignee, ultimate destination, and end-use, such as copies of the order, letters of credit, correspondence between the exporter and ultimate consignee, or other documents received from the ultimate consignee.

(4) *Applications filed without statements.* Where an application requiring a consignee/purchaser statement is not accompanied by such statement, the application will be returned without action to the applicant. However, if an applicant can show that he has made diligent efforts to obtain such statement and has been unable to get it, he may so advise the Office of Export Control in a letter attached to his application, giving the reasons stated by the ultimate consignee or purchaser for failing or refusing to supply the statement. If satisfied by the evidence presented, the Office of Export Control will consider the application for approval.

(c) *Difference in use of Forms FC–842 and FC–843*—(1) *When to use Form FC–842, Single Transaction Statement by Consignee and Purchaser.* Form FC–842 may be used to support an application(s) covering a single purchase order placed with one exporter by one ultimate consignee (and only one purchaser if different from ultimate consignee) for one or more commodities. In the event of an emergency, the statement may be submitted in the form of a cable or wire from the consignee and purchaser, provided the cable or wire contains the same information as required on the form.

(2) *When to use Form FC–843, Multiple Transactions Statement by Consignee and Purchaser.* (i) *Continuing business relationship.* Form FC–843 may be used when the exporter has a continuing and regular business relationship with the ultimate consignee (including but not limited to foreign branches, subsidiaries, or distributors under franchise with the applicant), involving recurring orders from the same consignee and/or purchaser for the same commodity(ies) to the same destinations and for the same end uses. However, an exporter may not submit a Form FC–843 in support of an application for a validated license to export any copper commodity described in § 377.3 to the Republic of Vietnam. Such an application, regardless of value, shall be supported by a Form FC–842, Single Transaction Statement by Consignee and Purchaser.

(ii) *Time Limit License.* Form FC–843 must be used with an application for a Time Limit (TL) License (§ 373.6). A statement must be submitted for each ultimate consignee and purchaser named on the application and will not be accepted on any form other than Form FC–843.

(d) *Responsibility of parties to transaction*—(1) *Applicant responsible for full disclosure.* Submission of a Form FC–842 or FC–843 from the ultimate consignee and foreign purchaser does not relieve the applicant of responsibility for full disclosure of any other information concerning the ultimate destination and end use of which he has knowledge or belief, even if inconsistent with the representations of the consignee or purchaser. In accordance with the provisions of § 387.5, the applicant shall promptly bring to the attention of the Office of Export Control any changes in the facts set forth in the first or any supplementary statement from the ultimate consignee or purchaser which are subsequently brought to his notice by any source.

(2) *Order party must sign in some cases.* If the applicant for license is not named on the consignee/purchaser statement, the order party provisions of paragraph 372.6(c) must be observed.

(3) *Ultimate consignee and purchaser.* In accordance with the certification on the Forms FC–842 and FC–843, the consignee and/or purchaser must submit information that is true and correct to the best of their knowledge and belief and must promptly send a supplemental statement to the U.S. exporter if changes in the facts or intentions as set forth in their statement(s) occur after the statement has been forwarded. Further, no commodities covered by the statement may be disposed of contrary to the representations made in the statement, or contrary to the limitations on countries of distribution indicated on the bill

[1] Forms FC–43, FC–143, and FC–1143 may be obtained from all U.S. Department of Commerce Field Offices (see list on page i under Field Office Addresses) and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. Foreign importers may obtain copies of these forms from their U.S. exporter or from diplomatic and Consular offices.

of lading, commercial invoice, or other comparable documents, without obtaining approval of the Office of Export Control, through the U.S. exporter, prior to such disposition. Misrepresentations, either through failure to disclose facts, concealing a material fact, or furnishing false information, will subject the ultimate consignee and/or purchaser to administrative action by the Office of Export Control, which may include suspension, revocation, or denial of licensing privileges and denial of other participation in exports from the United States.

(e) *Information required on form.* All of the information required by this paragraph 375.2(e), or by Form FC–842 or Form FC–843, shall be furnished if applicable to the transaction. If such information is unknown, that fact should also be disclosed. The printed name, address, or nature of business of the ultimate consignee or purchaser appearing on his letterhead or order form shall not constitute evidence of either his identity, the country of ultimate destination, or end use of the commodities described in the application. Any additional facts which the consignee or purchaser believes will be of value to the Office of Export Control in the consideration of license applications submitted in his behalf by the U.S. exporter should be entered in the item entitled "Additional Information" or on an attachment.

(1) *Assistance in preparing form.* The applicant or his agent may assist in completing the form prior to its being signed by the consignee and purchaser, if necessary and appropriate. If so, the name of the person assisting shall be shown in the item entitled "Assistance in Preparing Statement."

(2) *Commodity description.* The commodities to which the statement applies shall be described in terms which will enable the Office of Export Control to determine readily that the commodities on a license application are adequately covered by the commodity description on the related consignee/purchaser statement. If not, the applicant should add an explanatory note on the application in the item entitled "Commodity Description," or on an attachment, to make the relationship clear.

(i) On Form FC–842, the commodities shall be described in detail. If possible, the commodities should be described in accordance with the Commodity Control List (§ 399.1), giving such particulars as the name, basic ingredients, composition, type, size, gauge, grade, and horsepower.

(ii) On Form FC–843, the commodity description shall be stated in terms sufficiently definite to identify the commodities clearly but broad enough to include all commodities to which the statement applies; e.g., a commodity description title set forth in a bold-faced capitalized subsection under a main section of the Commodity Control List (also listed in § 399.1), such as "Medicinal and pharmaceutical products" or "Electrical machinery, apparatus, and appliances," usually would be a satisfactory description for any or all of the commodities included under that subsection.

(3) *Commodities to be reexported.* Forms FC–842 and FC–843 require information as to whether the commodities will be reexported in the form received from the country indicated on the statement as ultimate destination. It is emphasized that acceptance of a Form FC–842 or FC–843 as a supporting document shall not be construed as an authorization by the Office of Export Control to reexport the commodities to which the consignee/purchaser statement applies without the approval of specific countries from the Office of Export Control. Such authorization to reexport is not granted on the basis of information on these forms but as a result of a specific request by the U.S. exporter on the license application, or upon request of the consignee through the U.S. exporter after the license is issued (see Part 374 on reexports).

(4) *Commodities to be used as components in a foreign manufacture.* Forms FC–842 and FC–843 require information as to the specific end use of the commodities. If the ultimate consignee will use the commodity(ies) to produce other end products, he should show in the item entitled "Specific End Use" the names of the end products, the country(ies) where the production or manufacture will take place, and the country(ies) in which the end product will be distributed, if these facts are known.

(5) *Quantity and value on Form FC–842.* The quantity and (if known) the value of commodities ordered shall be shown in the appropriate items of Form FC–842. If actual value is not known, an estimated value should be shown and labeled "estimate." If it is impossible to determine an estimated value, the word "Unknown" shall be shown, together with an explanation of the reason why an actual or estimated value cannot be provided. If the commodity is licensed in terms of dollar value and the statement indicates that the value is "unknown," the Office of Export Control will consider the approval of one application against the related Form FC–842, provided the applicant states on the license application that the transaction described on the application is the same as that described on the Form FC–842. An application for an export license will not be approved for a quantity significantly in excess of the actual or estimated value shown on the Form FC–842. On Form FC–843, it is not necessary to show either quantity or value since the form will cover all transactions between the named parties for a period of as much as 6 to 8 months.

(6) *Validity period.* A single transaction statement shall be submitted to the Office of Export Control with the first applicable license application. The period within which the statement may be submitted to the Office of Export Control is limited to 90 days after it is signed by the consignee or purchaser, whichever date is later. There is no specific time limit for submitting the multiple transactions statement to the Office of Export Control. However, the period during which such statement may be used to support license applications is limited to June 30 of the year following the year in which the statement is signed by the consignee and purchaser (unless an earlier termination date is specified on the form by the consignee and purchaser). For example, a statement signed any time between January 1, 1969, and December 31, 1969, could be used to support license applications filed on or before June 30, 1970. During its validity period, a multiple transactions statement will be deemed as supporting all exports of the specified commodities from the U.S. exporter to the named consignee and purchaser for which license applications are submitted to the Office of Export Control, including those that are based on export orders of less than $500 and would therefore not be subject to this same requirement under the single transaction (FC–842) procedure.

(7) *Number of copies of Form FC–843.* The exporter shall attach to Form FC–843 a list, in original only, of the Office of Export Control licensing divisions responsible for licensing those commodities listed on the multiple transactions statement, and shall submit the original plus one additional copy of the statement for each division on the list. Since there are only three divisions in the Office of Export Control which license commodities, a maximum of an original plus three additional copies of the form will be required. (See § 399.1(e) for list of divisions and commodities licensed.)

(8) *Signatures.* The consignee/purchaser statement must be manually signed either by (i) the ultimate consignee (the person abroad who is actually to receive the material for the designated end use), and by the purchaser (the person abroad who has entered into the export transaction with the applicant to purchase the commodities for delivery to the ultimate consignee) if the purchaser is not the same party as the ultimate consignee, or (ii) by responsible officials representing the ultimate consignee and purchaser, respectively, who have personal knowledge of the information included in the statement, who have authority to bind the ultimate consignee and purchaser for whom they sign, and who have the power and authority to control the use and disposition of the licensed commodities in the country of ultimate destination. The authority to sign this statement may not be delegated to any person (agent, employee, or other) whose authority to sign is not inherent in his official position with the ultimate consignee or purchaser for whom he signs. The official signing the statement may be located in the United States or in a foreign country; his official title shall be included with his signature. Where the purchaser is different from the ultimate consignee, the purchaser may execute a separate statement if more convenient. The purchaser's statement shall meet the same requirements with respect to content, signatures, etc., as are required for the ultimate consignee statement.

(9) *Coded terms and translation requirements.* All abbreviations, coded terms, or other expressions on the Forms

FC–842 and FC–843 having special significance in the trade or to the parties to the transaction shall be explained on an attachment to the form. Documents in a foreign language shall be accompanied by an attachment giving an accurate English translation, either made by a translating service or certified by the applicant to be correct. Exporters may provide foreign customers with Forms FC–842 and FC–843 translated into the customers' language but foreign language copies will not be provided by the Office of Export Control. Do not enter explanations or translations on the consignee/purchaser statement itself, as such action constitutes an alteration of the document (see paragraph (f) of this § 375.2 on alteration of an export control document).

(10) *Special requirement for Vietnam.* A single transaction statement shall be submitted in support of a license application to export any copper commodity described in § 377.3 to the Republic of Vietnam, regardless of value, and shall be endorsed by the designated representative of the U.S. Agency for International Development Mission, Saigon, Vietnam, as set forth in § 377.3.

(f) *Corrections, additions, or alterations.* After a consignee/purchaser statement, Form FC–842 or FC–843, has been signed by the consignee or purchaser, no corrections, additions, or alterations may be made by any person other than the consignee or purchaser. (The signing of the exporter's certification on the form is not construed to be a correction, addition, or alteration of the form within the meaning of this paragraph (f).) If the signed statement is incomplete or incorrect in any respect, the applicant shall obtain a corrected statement from the consignee and/or purchaser. Where the statement contains corrections, additions, or alterations that appeared on the statement at the time of receipt from the ultimate consignee or purchaser, the applicant shall sign the certification in Item 11 of the form or attach the following certification to the statement:

I (We) certify that no corrections, additions, or alterations were made on the attached form (FC–842) (FC–843) by me (us) after the form was signed by the (ultimate consignee) (purchaser).

If the applicant or agent makes any corrections, additions, or alterations on the form when assisting in its preparation (as explained in paragraph (e)(1) of this § 375.2) the applicant shall advise the Office of Export Control in writing of the change(s) made and reason(s) for making them. The letter shall also include the certification shown above.

(g) *Amendment of consignee/purchaser statement.* Where a consignee/purchaser statement, Form FC–842 or FC–843, is on file in the Office of Export Control, an amendment to the statement may be submitted in the form of an additional Form FC–842 or FC–843 or the original or copy of a wire or cable from the ultimate consignee. Sufficient information shall be submitted with the amendment to permit the Office of Export Control to identify it with the statement already on file, such as form number (Form FC–842 or FC–843); name of consignee or purchaser; date of signing; case number of the license application with which the statement was submitted to the Office of Export Control; applicant's reference number; etc.

(h) *Extension of validity period of multiple transactions statement.* The validity period of a multiple transactions statement may be extended by the submission of a new Form FC–843 prior to the expiration of a current form.

(i) *License applications supported by consignee statements—(1) Relationship of information on consignee/purchaser statement to license application and export license.* Information supplied by a consignee or purchaser on a consignee/purchaser statement, Form FC–842 or FC–843, cannot be construed as extending or expanding the specific information on a license application or an export license resulting therefrom. With regard to disclosure of facts pertaining to an individual export transaction, the license application covering the transaction must be self-contained. The authorizations contained in the resulting export license are not extended by the general information contained in the consignee/purchaser statement with regard to reexport from the country of destination or with regard to any other facts relative to the transaction as reported on the application.

(2) *Applications supported by a multiple transactions statement.* A license application supported by a Form FC–943, Multiple Transactions Statement by Consignee and Purchaser, shall contain the following statement in the item entitled "Additional Information" or on an attachment:

This application is supported by the Multiple Transactions Statement dated ---------- from the named consignee to this applicant.

(3) *Applications supported by single transaction statement.* Where a Form FC–842, Single Transaction Statement by Consignee and Purchaser, covers a purchase order for a commodity(ies) that requires more than one license application, each application supported by the single transaction statement shall contain the following certification by the applicant in the item entitled "Additional Information" or on an attachment:

I (We) certify that the quantities of commodities shown on all export licenses based on the Single Transaction Statement dated ----------, when added to the quantities shown on all additional applications pending in the Office of Export Control based on the same Single Transaction Statement, including the present application, do not total more than the quantities shown on that statement. This Single Transaction Statement was submitted in support of application number: (Insert case number, or if case number is unknown, the applicant's reference number, date of submission of the application to which the Single Transaction Statement was attached, and Export Control Commodity Numbers and Processing Numer shown on that application.)

(j) *Request for Amendment of Export License.*[1] A new consignee/purchaser statement, Form FC–842 or FC–843, shall accompany a request for an amendment of an export license that proposes a change in the consignee or purchaser in the transaction named in the export license if the proposed amendment is not in accordance with the consignee and purchaser statement previously submitted to the Office of Export Control. A new Form FC–842, Single Transaction Statement by Consignee and Purchaser, or a letter, wire, or cable from the ultimate consignee and purchaser (if applicable) confirming the change, shall accompany a request for an amendment of an export license that proposes any increase in the quantity set forth in the export license if the proposed amendment is not in accordance with the single transaction statement previously submitted to the Office of Export Control. If a proposed quantitative amendment is in accordance with the previously submitted single transaction statement, the amendment request shall include the following certification:

I (We) certify that this request for amendment of export license number ------, if granted, will not exceed the total quantity covered by the Single Transaction Statement by Consignee and Purchaser against which this export license was issued.

Where the export license is based on a Form FC–843, Multiple Transactions Statement by Consignee and Purchaser, an additional Statement is not required for the consignee or purchaser to support a proposed license amendment for increase in quantity. In lieu thereof, the following certification shall be placed on the amendment request:

I (We) certify that the license listed above is supported by a Multiple Transactions Statement.

§ 375.3 Swiss Blue Import Certificate.

(a) *Requirement—(1) Submission of certificate.* A license application for export of commodities to Switzerland or Liechtenstein, regardless of value, must be accompanied by the original Swiss Blue Import Certificate. This certificate is issued to the importer by the Swiss Federal Department of Public Economy, Division of Commerce, Import and Export Control, covering the proposed export from the United States. Where the Swiss Blue Import Certificate includes commodities for which more than one license application is submitted, the original certificate shall be attached to the first such application. Each subsequent application shall include the following certification in the item entitled "Additional Information" or on an attachment:

I (We) certify that the quantities of commodities shown on all export licenses based on the Swiss Blue Import Certificate No. ------, when added to the quantities shown on all additional applications pending

[1] Section 372.11(1) contains other provisions applicable to amendments of licenses covered by a consignee/purchaser statement.

in the Office of Export Control based on the same Certificate, including the present application, do not total more than the quantities shown on that Certificate. This Swiss Blue Import Certificate was submitted in support of application number: (Insert case number or, if case number is unknown, the applicant's reference number, date of submission of application to which the Swiss Blue Import Certificate was attached, and Export Control Commodity Numbers and Processing Number shown on that application.)

(2) *Coded terms and translation requirements.* All abbreviations, coded terms, or other expressions in the Import Certificate having special significance in the trade or to the parties to the transaction shall be explained. Commodities shown in quantities other than Commodity Control List units shall be converted into such units. Documents in a foreign language shall be accompanied by an accurate English translation which, if not made by a translating service, shall be certified by the applicant to be a correct translation. Any translation or explanation of a Swiss Blue Import Certificate shall be submited on an attachment to the certificate. (See § 387.8 with regard to altering an export control document.)

(3) *Relationship to purchase order.* The Swiss Blue Import Certificate may cover more than one purchase order and more than one commodity. However, it shall relate only to purchase orders placed by a single importer with a single U.S. exporter.

(4) *Applicant's responsibility for full disclosure.* In submitting a Swiss Blue Import Certificate, the applicant is not relieved of his responsibility for full disclosure of any other information concerning the ultimate destination and end use of which he has knowledge or belief, even if inconsistent with the representations set forth in the certificate. In accordance with the provisions of § 387.5, the applicant shall promptly notify the Office of Export Control of any change in the facts set forth in the certificate which comes to his attention subsequent to the date of issuance of the certificate.

(5) *Certificate as a factor in licensing.* The Office of Export Control reserves the right in all respects to determine to what extent any license shall be issued covering commodities for which the Swiss Government has issued an Import Certificate. Generally, commodities licensed by the Office of Export Control on the basis of dollar value will not be licensed in excess of the dollar value shown on the Swiss Blue Import Certificate, and commodities licensed on the basis of units of measure will not be licensed in excess of the units shown on the certificate. The Office of Export Control will not seek or undertake to give consideration to recommendations from the Government of Switzerland or of Liechtenstein as to the U.S. exporter whose license application should be approved. An Import Certificate will be used by the Office of Export Control as only one of the considerations upon which licensing action will be based, since quotas, end uses, and other considerations are important factors in export licensing.

(b) *Exemptions.*—(1) *Grace period.* Whenever the requirement for a Swiss Blue Import Certificate is extended to any commodity by the addition of Country Group V to the column on the Commodity Control List entitled "Validated License Required for Country Groups Shown Below," a license application for such commodity need not conform to this requirement for 45 days from the date such commodity becomes subject to the requirement.

(2) *Shipments to government agencies.* A license application to export commodities to a Swiss or Liechtenstein Government agency, as defined in § 375.2 (b)(2)(iv), is exempted from the Swiss Blue Import Certificate requirement if the government agency actually placed the order with the applicant and will accept delivery of the export.

(3) *Approved Form FC–43 or FC–143.* A license application to export commodities to Switzerland or Liechtenstein is exempted from the Import Certificate requirement if such license application is supported by Form FC–43, Statement by Foreign Importer of Aircraft or Vessel Repair Parts; Form FC–143, Request for Authorization to Distribute U.S. Origin Commodities Stocked Abroad to Approved Customers; or the current station number or validation number of either of these forms. However, this exemption does not relieve an exporter or his distributor from the requirement under the foreign-based warehouse procedure that a Swiss Blue Import Certificate be obtained and held available for inspection. (See § 373.4.)

(4) *Other exemptions.* Neither a license application to export commodities for temporary exhibition, demonstration, or testing purposes in Switzerland or Liechtenstein (see § 372.8(c)), nor a request for authorization to make temporary exports of video tape under § 376.11, require a Swiss Blue Import Certificate.

(c) *Exceptions.* An applicant for an export license subject to the requirement for a Swiss Blue Import Certificate in accordance with the provisions of paragraph (a) of this § 375.3 may request an exception to this requirement.

(1) *Grounds for exception.* Favorable consideration of a request for exception generally will be given where the Swiss Blue Import Certificate requirement:

(i) Imposes an undue hardship on the applicant and/or ultimate consignee (e.g., the Swiss Government refuses to issue an Import Certificate and such refusal constitutes discrimination against the U.S. exporter);

(ii) Cannot be complied with (e.g., the commodities will be held in a foreign trade zone or bonded warehouse in Switzerland or Liechtenstein for subsequent distribution in one or more countries); or

(iii) Is not actually applicable to the transaction (e.g., the commodities will not be imported for consumption into Switzerland or Liechtenstein).

An exception will not be granted if contrary to the objectives of the U.S. export control program.

(2) *Types of requests.* A request for exception may involve either a single transaction or, where the reason necessitating the request is continuing in nature, multiple transactions.

(i) The single transaction exception relates to a single export order and, if granted, will cover the application(s) which the exporter submits to ship the single export order.

(ii) The multiple transactions exception relates to multiple export orders and, if granted, will cover all applications submitted by the exporter during all or any part of the period ending not later than June 30 of the year following the year during which the request is submitted, unless an earlier termination date is requested.

(3) *How to submit request.* The request for exception shall be submitted with the application to which it relates. Where the request relates to more than one application, it shall be submitted with the first application and referred to in the "Additional Information" item on any subsequent applications. Each request for exception shall be by letter, in duplicate, addressed to the Office of Export Control (Attention: 854), U.S. Department of Commerce, Washington, D.C. 20230. It shall be accompanied by a statement from the ultimate consignee and purchaser in accordance with § 375.2, unless such statement is already on file in the Office of Export Control. As a minimum, the letter request shall include:

(i) Name and address of ultimate consignee;

(ii) Name and address of purchaser if different than ultimate consignee;

(iii) Location of foreign trade zone or bonded warehouse if the commodities will be exported to a foreign trade zone or bonded warehouse in Switzerland or Liechtenstein;

(iv) Type of request, i.e., whether for a single transaction or multiple transactions;

(v) Full explanation of the reason(s) for requesting the exception;

(vi) Nature and duration of the business relationship between the applicant and importer shown on the license application;

(vii) Whether the exporter has previously submitted to the Office of Export Control any Swiss Blue Import Certificate issued in the name of the importer and a listing of the case numbers to which these certificates applied;

(viii) Whether a statement from the ultimate consignee and purchaser, in accordance with § 375.2, is on file with the Office of Export Control;

(ix) Requested date of expiration if a multiple transactions exception is requested and the exporter wishes the exception period to expire before June 30 of the next year; and

(x) Any other facts to justify an exception.

(4) *Action by Office of Export Control*—(i) *Single transaction request.* Where a single transaction is involved, the Office of Export Control will act on the request for exception at the same time as the license application with which the request is submitted. In those instances where the related application is approved, the issuance of the export license will serve as an automatic notice to the exporter that the exception is also approved. However, if any restrictions are placed on the approval, or if the request is disapproved, the Office of Export Control will advise the exporter by letter.

(ii) *Multiple transaction request.* Where multiple transactions are involved, the Office of Export Control will advise the exporter by letter of the action taken on the exception request. The letter will contain any conditions or restrictions which the Office of Export Control finds necessary to impose. In addition, a written acceptance of these conditions or restrictions will be required from the parties to the transaction.

(5) *Additional license applications.* On any additional license application that is subject to an approved request for exception to the Swiss Blue Import Certificate requirement, the following certification shall be inserted on the application in the item entitled "Additional Information" or on an attachment:

I (We) certify that the circumstances shown in the original request for exception to submission of a Swiss Blue Import Certificate also exist with respect to this application. The request for exception was submitted in support of application number: (Insert case number or, if case number is unknown, the applicant's reference number, date of submission of the application to which the request for exception was attached, and Export Control Commodity Numbers and Processing Number shown on that application.)

(6) *Relationship to reexports.* The granting of an exception to the Swiss Blue Import Certificate requirement in no way relieves the applicant or any other party to the transaction from obtaining reexport authorization from the Office of Export Control when so required by the Export Control Regulations.

(d) *Requests for amendments to export licenses.* A new or appropriately amended Swiss Blue Import Certificate shall accompany a request for amendment of an export license that proposes a change in any party to the transaction named in the export license or any increase in the quantity licensed, if the proposed amendment is not in conformity with the Import Certificate previously submitted. If a proposed quantitative amendment is in accordance with the original certificate, the amendment request shall include the following certification on Form IA-763, Request for and Notice of Amendment Action, or on a signed attachment:

I (We) certify that this request for amendment of export license No. ------, if granted, will not exceed the total quantity authorized under Swiss Blue Import Certificate No. ------

(e) *Return of Swiss Blue Import Certificate.* The Swiss Blue Import Certificate certifies that the importer has pledged himself to import the commodities directly into Swiss customs territory and that any reexport of these goods is prohibited. If the importer is unable to obtain the commodities covered by a certificate, he is required by the Swiss Government to produce evidence of such inability. Therefore, U.S. exporters may be requested by their foreign importers to return unused or partially used certificates. In such instances, the U.S. exporter should forward the certificate to his importer as soon as he determines that the certificate will not be used with a new or resubmitted license application or an appeal. To meet such requests, certificates on file in the Office of Export Control will be returned to exporters in accordance with the following procedures:

(1) *Import Certificate quantity more than quantity on application.* When an Import Certificate covers a quantity in excess of the license application(s) submitted against it, the Office of Export Control will retain the certificate unless the exporter requests its return. To request the return of the certificate, the exporter should write to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, giving the name and address of the importer, the case numbers to which the certificate applies, the certificate number, and a statement that the certificate will not be used in connection with a license application. Appropriate notation will be placed on the Import Certificate by the Office of Export Control before it is returned.

(2) *Import Certificate and license application in same quantities but not licensed in full.* The Office of Export Control will automatically return an Import Certificate to the U.S. exporter whenever a license application covers the same type and amount of the commodity as that shown on the certificate but such application is rejected or approved in a reduced quantity. Appropriate notation will be placed on the Import Certificate by the Office of Export Control.

(3) *Quantities licensed but not shipped.* Where the U.S. exporter does not intend to ship all of the commodities for which a license has been issued and desires the return of the Swiss Blue Import Certificate, he shall submit his request in writing as follows:

(i) *Unexpired export license.* If the license has not expired but no further shipment will be made, the written request for return of the certificate shall either be accompanied by the license or include the name of the port where the license is filed. In the latter event, the exporter shall request the customs office to forward the license to the Office of Export Control for cancellation. If a further shipment(s) is contemplated, the request for return of the certificate should be accompanied by a request to amend the license to show the total quantity to be shipped against it. The amendment request shall be submitted on Form IA-763. (See § 372.11 for regular amendment procedure.)

(ii) *Expired export license.* If the license has expired, the written request shall either be accompanied by the license or include the name of the port where the license is filed, but Form IA-763 need not be submitted. Appropriate notation will be placed on the Import Certificate by the Office of Export Control before it is returned.

§ 375.4 Yugoslav End-Use Certificate.

(a) *Requirement*—(1) *Request for certificate.* A license application to export commodities to Yugoslavia (including the area of Trieste under Yugoslav civil administration), regardless of value, must be accompanied by the original end-use certificate issued to the Yugoslav importer by the Federal Economic Chamber in Belgrade covering the proposed export.[1] Where the certificate includes commodities for which more than one license application is submitted, the original of the certificate shall be attached to the first such application. Each subsequent application shall include the following certification in the item entitled "Additional Information" or on an attachment:

I (We) certify that the quantities of commodities shown on all export licenses based on the Yugoslav End-Use Certificate No. ------, when added to the quantities shown on all additional applications pending in the Office of Export Control based on the same End-Use Certificate, including the present application, do not total more than the quantities shown on that Certificate. This End-Use Certificate was submitted in support of application number. (Insert case number or, if case number is unknown, the applicant's reference number, date of submission of the application to which the End-Use Certificate was attached, and Export Control Commodity Numbers and Processing Number on that application.)

(2) *Coded terms and translation requirements.* All abbreviations, coded terms, or other expressions in the certificate having special significance in the trade or to the parties to the transaction shall be explained. Commodities shown in quantities other than Commodity Control List units shall be converted into such units. Documents in a foreign language shall be accompanied by an accurate English translation which, if not made by a translating service, shall be certified by the applicant to be a correct translation. Any translation or explanation of a Yugoslav End-Use Certificate shall be submitted on an attachment to the certificate. (See § 387.8 with regard to altering an export control document.)

(3) *Relationship to purchase order.* The Yugoslav End-Use Certificate may cover more than one purchase order and more than one commodity. However, it shall relate only to purchase orders placed by a single importer with a single U.S. exporter.

(4) *Applicant's responsibility for full disclosure.* In submitting a Yugoslav End-Use Certificate, the applicant is not relieved of his responsibility to disclose fully any other information concerning

[1] Foreign consignees may obtain End-Use Certificates from the Yugoslav Federal Economic Chamber, Knez Mihailova 10, Belgrade.

the ultimate destination and end use of which he has knowledge or belief, even if inconsistent with the representations set forth in the certificate. In accordance with the provisions of § 387.5, the applicant shall promptly notify the Office of Export Control of any change in the facts set forth in the certificate which comes to his attention after the date of issuance of the certificate.

(5) *Certificate as a factor in licensing.* The Office of Export Control reserves the right in all respects to determine to what extent any license shall be issued covering commodities for which the Yugoslav Government has issued an end-use certificate. Generally, commodities licensed by the Office of Export Control on the basis of dollar value will not be licensed in excess of the dollar value shown on the certificate, and commodities licensed on the basis of units of measure will not be licensed in excess of the units shown on the certificate. The Office of Export Control will not seek or undertake to give consideration to recommendations from the Yugoslav Government as to the U.S. exporter whose license application shall be approved. An end-use certificate will be used by the Office of Export Control as only one of the considerations upon which licensing action will be based, since quotas, end uses, and other considerations are important factors in export licensing.

(b) *Exemptions*—(1) *Grace period.* Whenever the requirement for a Yugoslav End-Use Certificate is extended to any commodity by the addition of Country Group V to the column on the Commodity Control List entitled "Validated License Required for Country Groups Shown Below," a license application for such commodity need not conform to this requirement for a period of 45 days from the date such commodity becomes subject to the requirement.

(2) *Shipments to government agencies.* A license application to export commodities to a Yugoslav Government agency, as defined in § 375.2(b)(2)(iv), is exempted from the Yugoslav End-Use Certificate requirement if the government agency actually placed the order with the applicant and will accept delivery of the export.

(3) *Approved Form FC–43 or Form FC–143.* A license application to export commodities to Yugoslavia is exempted from the requirement for a Yugoslav End-Use Certificate if such application is supported by Form FC–43, Statement by Foreign Importer of Aircraft or Vessel Repair Parts; Form FC–143, Request for Authorization to Distribute U.S. Origin Commodities Stocked Abroad to Approved Customers; or the current station number or validation number of either of these forms. However, this exemption does not relieve an exporter or his distributor from the requirement under the foreign-based warehouse procedure that a certificate be obtained and forwarded to the Office of Export Control, as required by § 373.4.

(4) *Other exemptions.* Neither a license application to export commodities for temporary exhibition, demonstration, or testing purposes in Yugoslavia (see § 372.8(c)), nor a request for authorization to make temporary exports of video tape under the provisions of § 376.1, require an end-use certificate.

(c) *Exceptions*—(1) *Grounds for exception.* The Office of Export Control will consider the granting of an exception to the Yugoslav End-Use Certificate requirement where the ultimate consignee has been unable to obtain the certificate and the granting of an exception will not be contrary to the objectives of the U.S. export control program. The Office of Export Control may also waive the certificate requirement where refusal by the Yugoslav Government to issue the certificate discriminates against the U.S. exporter, or for any other valid reason of similar importance.

(2) *How to submit request.* Each request for exception shall be by letter, in duplicate, accompanying the license application to which it applies, addressed to the Office of Export Control (Attention: 854), U.S. Department of Commerce Washington, D.C. 20230. The letter request should include, among other things:

(i) Nature and duration of the business relationship between the applicant and the importer shown on the license application;

(ii) Reason(s) for the foreign importer's inability to obtain the Yugoslav End-Use Certificate from his government;

(iii) A statement as to whether the U.S. exporter has previously submitted to the Office of Export Control any Yugoslav End-Use Certificate issued in the name of the importer and a listing of the case numbers to which these certificates applied; and

(iv) Any other facts to justify an exception. The applicant should also attach to his letter request, or have on file in the Office of Export Control, a statement from the consignee and purchaser in accordance with § 375.2. Request will be considered or granted unless such statement is submitted or is on file in the Office of Export Control.

(3) *Request relating to more than one license application.* Where the letter request relates to more than one license application, whether submitted at the same time or later, the original request shall be attached to one application and a copy thereof attached to each additional application to which it is equally applicable. Any application to which a copy of the request is attached shall refer to the application having the original request (cite case number if known, or applicant's reference number).

(d) *Request for amendment of export license.* A new or appropriately amended Yugoslav End-Use Certificate shall accompany a request for an amendment of an export license to show a change in any party to the transaction named in the license or any increase in the quantity originally licensed if the proposed amendment is not in accordance with the original certificate. If a proposed quantitative amendment is in accordance with the previously submitted certificate, the amendment request shall include the following certification on Form IA–763 or on a signed attachment:

I (We) certify that this request for amendment of export license No. ------, if granted, will not exceed the total quantity authorized under Yugoslav End-Use Certificate No. ------.

(e) *Return of Yugoslav End-Use Certificate.* In the Yugoslav End-Use Certificate the Yugoslav Federal Economic Chamber certifies that the commodities will be consumed in Yugoslavia and will not be reexported. If the Yugoslav importer is unable to obtain the commodities covered by the certificate, he may be required to produce evidence of such fact by the return of the unused certificate. When a U.S. exporter is requested by a Yugoslav firm to return an unused or partially used certificate, he should apply to the Office of Export Control for the return of such document in the same manner as established for return of Swiss Blue Import Certificates (see § 375.3(e)).

§ 375.5 Documents accompanying applications.

(a) *Copies in lieu of originals.* A document submitted in support of an application for an individual or other validated license will not be returned to the applicant or his agent, except when the application is returned without action or the provisions of this Part 375 provide for the return of an unused or partially used International Import Certificate, Swiss Blue Import Certificate, or Yugoslav End-Use Certificate. An original document, other than one required by this Part 375, which an exporter may subsequently require, need not be submitted unless it is specifically required by the provisions of another section of the Export Control Regulations. In lieu thereof, a photocopy or other copy of an original document is acceptable. An individual certification of a copy of an original document is not required by the Office of Export Control. By signing the application, the applicant certifies and represents that any copy of a document submitted with the application, or at any time before or after it is filed, is a true copy of the original document. His signature also certifies and represents that the information contained in such document is true, correct, and complete to the best of his knowledge and belief.

(b) *Availability of original.* The Office of Export Control may demand the original of any copy of a document submitted in support of a license application. Such original shall be kept and made available for inspection in accordance with the provisions of § 387.11. However, after a year from the beginning of the prescribed retention period, a reproduction of the original document may be substituted.

(c) *Identification of document.* Any document that is submitted separately from the application must be identified clearly as part of that application by the following statement:

This document is to be considered as a part of application number ----------
(Case No.)

(Signature of applicant)

Unless a document filed separately from the license application is so identified, it will not be accepted by the Office of Export Control.

(d) *Number of copies required.* A document submitted with an application and ultimately to become a part of the license, such as a proposed list of consignees, must be submitted in duplicate with the application. A copy of such document will become a part of the license, if issued, and must remain affixed thereto. Only one copy is required of a document that will not become a part of the license, such as evidence of an order.

(e) *Coded terms, foreign languages.* In the case of an original or copy of a document, all abbreviations, coded terms, or other expressions in the document having special significance in the trade or to the parties to the transaction must be explained. A document in a foreign language must be accompanied by an accurate English translation which, if not translated by a translating service, must be certified by the applicant to be a correct translation.

Supplement No. 1—Authorities Administering Import Certificate/Delivery Verification System In Foreign Countries [1]

Country	Authority	System administered [2]
Austria	Bundesministerium fur Handel und Wiederaufbau, Stubenring 1, Vienna I	IC
	Bundesministerium fur Handel und Wiederaufbau—Aussenstelle Metternichgasse 4, Vienna III.	DV
Belgium	Ministere des Affaires Economiques, Office Central des Contingents et Licences 11, Pare du Cinquantenaire, Bruxelles.	IC/DV
Denmark	Handelsministeriets Licenskontor, Montergade 21, Copenhagen K	IC/DV
	IC/DV also issued by Danmarks Nationalbank, Holmens Kanal 17, Copenhagen K, Custom-houses.	DV
France	Ministere de l'Economie et des Finances, Direction General des Douanes et droits indirects Division G—Autorisations Commerciales 8, Rue de la Tour des Dames, Paris 9e.	IC/DV
West Germany (Federal Republic of Germany).	Bundesamt für gewerbliche Wirtschaft, 6000 Frankfurt/Main 1 Bockenheimer Landstr. 38, Postfach 3031.	IC/DV
Western Sectors of Berlin.	Der Senator füe Wirtschaft, Referat I b B (ZGSt) 1000 Berlin 62 (Schöneberg), Martin-Luther-Strasse 105.	IC/DV
Greece	Banque de Grece, Direction des Transactions Commerciales avec l'Etranger, Athens.	IC/DV
Hong Kong	Import Control Branch, Department of Commerce and Industry, Fire Brigade Building, Hong Kong.	IC
	Department of Commerce and Industry, Connaught Road, Central, Hong Kong.	DV
Italy	Ministero del Commercio con l'Estero, Direzione Generale delle Importazioni e delle Esportazioni, Division III, Rome.	IC
	Dogana Italiana (of the town where the import takes place)	DV
Japan	Ministry of International Trade and Industry in Fukuoka, Hiroshima, Kanmon (Kitakyusyu-shi), Kobe, Nagoya, Osaka, Sapporo, Sendai, Shikoku (Takamatsu-shi), Shimizu, Tokyo, and Yokohama.	IC
	Japanese Customs Offices	DV
Luxembourg	Office des Licences, 21, rue Glesener, Luxembourg-Gare	IC/DV
Netherlands	Centrale Dienst voor In- en Uitvoer, van Stolkweg 14, The Hague	IC/DV
Norway	Handelsdepartmentet, Direktoratet for Eksport-og-Importregulering, Fr. Nansens plass 5, Oslo.	IC/DV
Portugal	Repartico do Comercio Externo, Direceao-Geral do Comercio, Secretaria de Estado do Comercio, Ministerio da Economia, Lisbon.	IC/DV
Turkey	Ministry of Commerce, Department of Foreign Commerce, Ankara, Head Customs Office at the point of entry.	IC DV
United Kingdom	Board of Trade	IC
	Export Licensing Branch, Hillgate House, 35 Old Bailey, London, E.C.4, H.M. Customs and Excise, Section 22, King's Beam House, Mark Lane, London, E.C.3.	DV

[1] Facsimiles of Import Certificates and Delivery Verifications issued by each of these countries may be inspected at any U.S. Department of Commerce field office listed on page i or at the Office of Export Control, Room 2805, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C.

[2] IC—Import Certificate.
DV—Delivery Verification.

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

Sec.

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376.12 Parts, components, and materials in foreign-made end products.

AUTHORITY: The provisions of this Part 376 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R 7003, 3 CFR 1959–1963 Comp.

§ 376.1 Purpose.

The special requirements for specific commodities set forth in this Part 376 are in addition to or modify other requirements applicable to exports requiring validated licenses as set forth elsewhere in the Export Control Regulations.

§ 376.2 Samples: Exports and reexports to Country Groups W and Y.

(a) *Scope.* A procedure is established under which a person may apply for an export license or reexport authorization covering shipment of samples of certain commodities to Country Groups W and Y. A license application or reexport request submitted under this sample procedure will be considered without the usual concurrent review to determine whether a commercial quantity of the sample commodity could also be approved. (See paragraph (c)(4) of this § 376.2.)

(b) *Applicability*—(1) *Sample.* As used in this § 376.2 the term "sample" means a small quantity of a commodity to be sent to a prospective buyer for examination, evaluation, or comparison in deciding on orders for commercial quantities. A sample shall be valued at $200 or less, sent in accordance with established business practices, and sent either without charge or at no more than the usual charge.

(2) *Commodities.* This sample procedure applies only to samples of commodities in the following categories:

(i) Chemicals, drugs, and pharmaceuticals;

(ii) Synthetic rubber;

(iii) Petroleum and petroleum products;

(iv) Lubricants, additives, and operational fluids; and

(v) Metals and minerals.

(3) *Commercial quantities.* (i) This sample procedure does not apply if the exporter requests an indication of the prospects for approval of a commercial quantity of the sample commodity. (See paragraph (c)(4) of this § 376.2.)

(ii) Neither an export license nor a reexport authorization issued under this procedure implies that the Office of Export Control intends or is committed to approve an export license application or reexport request for any further quantity of the sample commodity. All persons sending samples under this procedure are advised to include in any contract to sell the commodity a provision relieving themselves of liability in the event an export license or reexport authorization is not approved.

(c) *License application or reexport request.* The following provisions are in addition to the regular requirements for submitting an export license application or reexport request:

(1) *Identification.* The word "Sample" shall be entered across the top of the application, immediately over the printed words "United States of America," or across the top of the reexport request.

(2) *Value.* The value of the sample shall be indicated in each reexport request. On each license application, the value shall be indicated in the space provided for the commodity description if the value is not the same as the selling price.

(3) *Statement.* The following statement shall be entered after the description of the commodity:

> The commodity described above is a sample sent without charge or at no more than our usual price for examination, evaluation, or comparison by a prospective purchaser.

(4) *Commercial Quantities.* If the exporter wishes an indication of the prospects for approval of a commercial quantity of the sample commodity, he shall

(i) request this information specifically; and (ii) describe the proposed commercial transaction fully, giving the quantities, values, and uses, and all other information normally required in considering a license application or reexport request. The Office of Export Control will act upon such a request only where it appears the request is clearly warranted. However, in no case is an indication of the prospects for approval of a license application or reexport request binding on the Office of Export Control. Changing circumstances may require a different decision at the time the license application or reexport request is actually submitted.

(d) *Decision by Office of Export Control.* The Office of Export Control will act on a request to export or reexport a sample as promptly as possible. In some cases, however, the Office of Export Control may find that it is unable to avoid extended deliberation. This is usually necessary when the sample:

(1) Is not a commodity within any of the categories set forth in paragraph (a)(2) of this § 376.1;

(2) Is valued in excess of $200;

(3) Is identified by the symbol "A" in the last column of the Commodity Control List;

(4) Contains or incorporates unique or advanced extractable technical data that would make a significant contribution to the military or economic potential of the country of destination to the detriment of the national security and welfare of the United States; or

(5) Is to be sent only upon receipt of an indication from the Office of Export Control that there is a favorable prospect that a commercial quantity of the sample commodity would be approved for the same destination.

(e) *Notice to exporter.* An export license or reexport authorization issued under this procedure will be accompanied by a written notice that the license or other authorization is not a commitment by the Office of Export Control to approve a future export license application or reexport request for a commercial quantity of the approved sample. The notice will caution the applicant to include in any sales contract a provision relieving themselves of liability in the event that authorization to export or reexport a commercial quantity is not granted.

§ 376.3 Agricultural commodities and manufactures thereof.[1]

(a) *Wheat and wheat flour to Country Group Y.*—(1) *Percentage of participation.* Each U.S. exporter participating in the export of wheat and wheat flour to Country Group Y destinations is limited to a maximum of 25 percent of the total quantity expected to be purchased in the United States. License applications which meet all of the requirements for approval will be processed promptly if there is sufficient evidence that the 25 percent participation rule is met.

(2) *License Application.*—(i) *Certification.* The following certification shall be attached to the license application:

I (We) certify that with respect to the commodities described on this application (1) the price will be on the basis of the prevailing world price at the time the contract is concluded; (2) the payment will be made in U.S. dollars or gold; (3) the terms of sale will be cash or normal commercial credit; (4) the export from the United States will not be financed under Public Law 480; (5) the sale does not involve (me)(us) in any barter arrangement; (6) the commodities were produced in the United States; (7) at least 50 percent of the commodities exported under any export license resulting from this application will be exported in U.S. flag ocean carriers; and (8) promptly upon entering into a charter or other shipping arrangement for each shipment of commodities to be exported under any export license resulting from this application, the U.S. Maritime Administration will be notified of the name of the ship, the name of the ship operator, the ship's flag of registration, the quantity of such shipment, and the export license number under which the shipment is made.

(Notifications of shipping arrangements, referred to in the above certification should be addressed to the U.S. Maritime Administration, Office of Ship Operations, 441 G Street NW., Washington, D.C. 20235.)

(ii) *Additional information.* The applicant shall enter the following in the "Additional Information" space, or on an attachment:

(*a*) The proposed shipping date, if known;

(*b*) The specific terms of sale, i.e., cash, credit, and credit terms, if applicable;

(*c*) Complete details of the financing arrangements, including the names of the financing institutions or facilities participating in the financing. If the financing arrangements are not completed at the time the application is submitted, the applicant shall state that he will forward the information to the Office of Export Control as soon as the financing arrangements are completed. Such notification shall include the application case number, or if the case number is unknown, the license number, the applicant's reference number, and/or the date the application was submitted; and

(*d*) The name and address of the firm which registered the export sale transaction with the U.S. Department of Agriculture, together with the assigned registration number. If the transaction has not been registered with the U.S. Department of Agriculture at the time the application is submitted, the applicant shall state that he will notify the Office of Export Control as soon as registration is made. Such notification shall include the application case number, or if the case number is unknown, the license number, the applicant's reference number, and/or the date the application was submitted.

(iii) *Supplier's name not required.* The applicant need not complete the space titled "If applicant is not the producer of the commodity to be exported, give name and address of supplier."

(3) *Consignee/purchaser statement.* Each application shall be supported by a Single Transaction Statement, Form FC–842, completed in accordance with § 375.2.

(4) *Reexports.* In accordance with Part 374, reexports of wheat and wheat flour to Country Group Y require specific authorization from the Office of Export Control.

(b) *Agricultural commodities and manufactures thereof, other than wheat or wheat flour, to Country Group Y.*—(1) *License application.*—(i) *Certification.* A certification shall be attached to the license application as follows:

(*a*) *Certain grains to the U.S.S.R.* For an export of any of the following grains to the Union of Soviet Socialist Republics, the certification in (1)(i)(*a*)(2) of this paragraph (b) shall be attached.

(*1*) *Grains.* The following grains, except for seed chemically treated and colored for use as seed, but including inbred seed grain, that require a validated license for Country Group Y.

Export Control Commodity Number	*and Commodity Description*
042	Rice, unmilled or milled.
04300	Barley, unmilled.
04400	Corn, unmilled, except fresh corn.
04510	Rye, unmilled.
04520	Oats, unmilled.
04590	Grain sorghums, unmilled.
04590	Cereal grains, unmilled, n.e.c.

(*2*) *Certification:*

I (We) certify that with respect to the commodities described on this application (1) the terms of sale will be cash or normal commercial credit; (2) the export from the United States will not be financed under Public Law 480; (3) the commodities were produced in the United States; (4) the sale will not involve (me) (us) in any barter arrangements; (5) at least 50 percent of the commodities exported under any export license resulting from this application will be exported in U.S.-flag ocean carriers; and (6) promptly upon entering into a charter or other shipping arrangement for each shipment of commodities to be exported under any export license resulting from this application, the U.S. Maritime Administration will be notified of the name of the ship, the name of the ship operator, the ship's flag of registration, the quantity of such shipment, and the export license number under which the shipment is made.

(*b*) *Other agricultural exports to Country Group Y.* The following certification shall be attached to a license application covering:

(*1*) An export to the U.S.S.R. of any agricultural commodity, or manufacture thereof, except for wheat, wheat flour, or a grain listed in (1)(i)(*a*)(*1*) of this paragraph (b); or

(2) An export to any other country in Country Group Y of any agricultural commodity, or manufacture thereof, except for wheat or wheat flour:

I (We) certify that with respect to the commodities described on this application

[1] Exports of tobacco seed and plants are under the jurisdiction of the U.S. Department of Agriculture. (See § 370.10.)

(1) the terms of sale will be cash or normal commercial credit; (2) the export from the United States will not be financed under Public Law 480; (3) the commodities were produced in the United States; and (4) the sale will not involve (me) (us) in any barter arrangement.

(ii) *Additional information.* The following information shall be entered in the "Additional Information" space, or on an attachment:

(*a*) The specific terms of sale, i.e., cash, credit, and credit terms, if applicable; and

(*b*) Complete details of the financing arrangements, including the names of the financing institutions or facilities participating in the financing. If the financing arrangements are not completed at the time the application is submitted, the applicant shall state that he will forward the information to the Office of Export Control as soon as the financing arrangements are completed. Such notification shall include the application case number, or if the case number is unknown, the license number, the applicant's reference number, and/or the date the application was submitted.

(2) *Consignee/purchaser statement.* Each application shall be supported by a Single Transaction Statement, Form FC–842, completed in accordance with § 375.2.

(3) *Reexports.* Requests for authority to reexport agricultural commodities, and manufactures thereof, other than wheat or wheat flour, will be considered if:

(i) The export from the United States was not financed under the Public Law 480 program or the Agency for International Development program; and

(ii) The terms of sale of the export from the United States were cash or normal commercial credit.

(iii) Such reexport requests shall be submitted in accordance with Part 374 and shall contain the following certification:

I (We) certify that with respect to the commodities described herein (1) the export from the United States was not financed under the Public Law 480 program, or the Agency for International Development program; and (2) the terms of sale of the export from the United States were cash or normal commercial credit.

(Reexport or distribution authority does not relieve any person from complying with foreign laws. See § 374.9 and paragraphs 373.1(a) and 379.8(d).)

§ 376.4 Nickel commodities.

(a) *Special provisions—(1) Export order requirement.* An export license application covering any of the following commodities shall be accompanied by a copy of the export order placed, or the contract entered into, by the foreign consignee or purchaser with the U.S. exporter or with his order party (see § 372.5 (b) and (c) for order party provisions):

Export Control Commodity Number and Commodity Description	
28200	Alloy steel scrap containing 5 percent or more nickel by weight.
28401	Nickel bearing residues and dross.
28403	Other nickel or nickel alloy waste and scrap.
51369	Nickel oxide.
51470	Nickel sulfate.
67160	Ferronickel containing 90 percent or less nickel.
68310	Nickel based magnetic materials, unwrought.
68310	Other nickel or nickel alloys, unwrought.
68324	Nickel or nickel alloy electroplating anodes.

(2) *Validity period.* All licenses to export the above commodities will be valid for 90 days from the date of issuance.

(3) *Export clearance.* An extra copy of the Shipper's Export Declaration, bearing the code "862" in the upper right corner, shall be filed with the customs office for each shipment of the above commodities under a validated license.

(b) *Commodities supplied from the U.S. National Stockpile—(1) Licensing policy.* Except in unusual circumstances an export license application covering any of the following commodities that are supplied from the U.S. National Stockpile will be denied.

Export Control Commodity Number and Commodity Description	
51369	Nickel oxide.
67160	Ferronickel containing 90 percent or less nickel.
68310	Nickel based magnetic materials, unwrought.
68310	Other nickel or nickel alloys, unwrought.

(2) *Information required.* On a license application covering any of the above commodities, the applicant shall include the following information, as appropriate, in the "Additional Information" space or on an attachment:

(i) If the commodity has not been or will not be supplied from the National Stockpile, enter the following certification:

I (We) certify that the (name of commodity) described in this application has not been, and will not be supplied from the U.S. National Stockpile.

(ii) If the commodity has been or will be supplied from the National Stockpile, so state, naming the commodity and giving the date it was or will be purchased from the National Stockpile.

(iii) If the applicant does not know or is unable to determine whether the commodity has been or will be supplied from the National Stockpile, so state, naming the commodity and giving the reason(s) why this information is not available.

(c) *Nickel alloy waste and scrap containing 50 percent or more copper.* Nickel alloy waste and scrap containing 50 percent or more copper, irrespective of nickel content (Export Control Commodity No. 28403), is considered for export control purposes to be copper scrap, and therefore is subject to the provisions of paragraph 377.3(b).

§ 376.5 Molybdenum commodities: Certification by supplier.

An export license application covering any of the commodities listed below shall include or be accompanied by the following certification by the supplier of the commodities, regardless of whether the supplier is the applicant.

(a) *Commodities.*

Export Control Commodity Number and Commodity Description	
28393	Molybdenum ores and concentrates.
51369	Molybdenum oxide.
51470	Molybdenum disulfide, 86 percent content or higher.
51470	Ammonium, calcium, potassium, and sodium molybdates.
67160	Ferromolybdenum.
68942	Molybdenum or molybdenum alloys, unwrought.
68942	Molybdenum or molybdenum alloy waste and scrap.
68942	Molybdenum or molybdenum alloy metal powders.

(b) *Certification.*

I (We) certify that the following molybdenum commodities, which are available to (name of applicant) for export, have not been and will not be supplied from commodities released from the U.S. National Stockpile:

Export Control Commodity No.	*Commodity description*	*Quantity*

(Name of supplier)

As used in the above certification, a commodity is "available" only if the supplier or the applicant has present legal title to the commodities and has access to such commodities for export purposes. If the applicant is not the producer of the commodities, the certification shall be signed by the supplier shown on the application in the space entitled "If applicant is not the producer of commodity to be exported, give name and address of supplier."

§ 376.6 Chemicals.

Export license applications covering chemicals, medicinals, and pharmaceuticals shall state such facts relating to grade, form, concentration, mixtures, or ingredients as may be necessary to identify the commodity accurately.

§ 376.7 Machinery, equipment, and parts.[1]

(a) *Information on license applications.* Export license applications for machinery, equipment, and parts for machinery and equipment shall include the following additional identifying information:

(1) A copy of the manufacturer's current catalog or bulletin, or pertinent pages describing the commodity, unless previously furnished.

(2) The maximum rating of commodities having a rated capacity.

(3) For exports of ball or roller bearings (Export Control Commodity No. 71790) to Country Group W, Y, or Z:

[1] Parts, accessories, and equipment which are to be scrapped are classified as scrap; e.g., Export Control Commodity Nos. 28200, 28402, 28403, 28404, etc. See § 399.2, Interpretation 10.

(i) The name of the manufacturer;

(ii) The bearing number as listed in the manufacturer's catalog; and

(iii) The inner bore diameter of the bearing.

(4) For exports of balls for bearings (Export Control Commodity No. 71790) to Country Group W, Y, or Z:

(i) The type of metal;

(ii) The grade of the ball (in accordance with standards adopted by the Anti-Friction Bearing Manufacturer's Association); and

(iii) The basic size of the ball.

(b) *Validity period of export licenses.* If the production and export of machinery, equipment, or parts cannot be completed within 6 months, the Office of Export Control will consider issuing a license with a validity period of 1 year. The applicant shall enter his request for a longer validity period in the "Additional Information" space on the license application, or on an attachment, explaining the circumstances on which he bases his request and giving the approximate date of availability for export.

§ 376.8 Aircraft and equipment, parts, accessories, and components therefor.

(a) *Spare parts accompanying aircraft.* For an export of aircraft and accompanying spare parts for such aircraft to any destination except Country Group W, Y, or Z, the applicant may:

(1) Include both the aircraft and parts on a single license application even though they do not have the same processing numbers; and

(2) Show the total value of all the accompanying spare parts without indicating the value of each Commodity Control List entry if, at the time the application is submitted, the applicant cannot determine the separate values for the parts under each entry. The applicant shall, however, classify and describe the commodities in accordance with their respective Commodity Control List entries.

(b) *Loan or sale of aircraft equipment, parts, accessories, and components by airlines*—(1) *Authority.* Any airline[1] operating abroad which receives commodities from the United States for maintenance, repair, or operation of its aircraft may, for the purpose of maintaining in operation aircraft of another airline lend or sell such commodities to that airline, without written authorization from the Office of Export Control, provided that:

(i) The transaction is subject to an agreement or arrangement (*a*) that the lender will not receive any monetary profit from the transaction and that either the same or like commodities will be returned to the lender, or (*b*) that payment for the commodities will be limited to no more than the original purchase price to the lender plus any expenses incurred in handling the commodities, e.g., transportation costs, warehousing costs, etc.;

(ii) The commodities will not be supplied for use on any aircraft registered in, or owned or controlled by, or chartered or leased to, a country in Country Group S, W, Y, or Z, or a national of one of these countries; and

(iii) The commodities will not be supplied for use on any aircraft located in Country Group S, W, Y, or Z.

(iv) Transactions meeting the above provisions are authorized notwithstanding any restrictions upon reexport set forth in the applicable destination control statement, on the validated export license, on any supporting documentation, or in the general license provisions relating to the original export from the United States.

(2) *Records.* The airline that provides the U.S. commodities shall maintain records in the detail set forth below, for a period of 3 years from the date of the transaction. These records shall be available for inspection, upon demand, by the U.S. Department of Commerce, a U.S. Foreign Service post, or any other accredited representative of the U.S. Government. In the event the airline is prohibited by foreign government regulation or statute from permitting a U.S. Government representative to inspect its records, the airline shall submit a report of such transactions at the end of each calendar quarter during which one or more transactions occur. The report shall be sent to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. As a minimum, the records and reports shall include the following information for each transaction:

(i) Date the commodities are provided;

(ii) Name, business address, and nationality of the airline which received the commodities;

(iii) If the aircraft is leased or chartered, the name, business address, and nationality of the owner of the aircraft which received the commodities;

(iv) Country of the aircraft's registry and location of the aircraft at time the commodities were installed thereon; and

(v) Description of the commodities provided, including quantity and value thereof.

(For further recordkeeping requirements see § 387.11.)

§ 376.9 Ship stores, plane stores, supplies, and equipment.

(a) *Exports requiring validated license.* A validated license shall be obtained to cover the export of any commodities (1) to be used on operating vessels and aircraft if the commodities are not authorized for export under the provisions of §§ 371.9, 371.10, 371.111, or 371.12; or (2) for vessels under construction if not authorized for export under any general license.

(b) *Preparation of license applications*—(1) *Vessels under construction.* A license application for export of any commodity or technical data, including ship stores, supplies, and equipment, to a vessel under construction shall be prepared on Form FC–419 in accordance with Supplement No. 1 to Part 372, with the following modifications:

(i) *Country of ultimate destination.* Show country in which vessel is being constructed.

(ii) *Ultimate consignee in foreign country.* Show name and address of shipyard where vessel is being constructed.

(iii) *Commodity description.* For a vessel under 40 feet in length, include a statement as to the length of the vessel. For a vessel 40 feet in length or over, show the following information in this item or on an attachment:

(*a*) Hull number and name of vessel (if unknown, state "unknown");

(*b*) Type of vessel;

(*c*) Name and business address of prospective owner, and his nationality (if unknown, state "unknown");

(*d*) Country of registry or intended country of registry (if unknown, state "unknown").

(iv) *Identification of parties to transaction.* In each case, all parties to the transaction, including the United States or foreign purchaser, shall be identified with a clear statement of the capacity or function of each, as provided in § 372.3.

(2) *Aircraft under construction.* A license application for export of any commodity or technical data, including plane stores, supplies, and equipment, to an aircraft under construction shall be prepared on Form FC–419 in accordance with Supplement No. 1 to Part 372, with the following modifications:

(i) *Country of ultimate destination.* Show country in which the aircraft is being constructed.

(ii) *Ultimate consignee in foreign country.* Show name and address of the plant where the aircraft is being constructed.

(iii) *Commodity description.* Show the following information in this item or on an attachment:

(*a*) Type of aircraft and model number (if unknown, state "unknown");

(*b*) Name and business address of prospective owner and his nationality (if unknown, state "unknown");

(*c*) Country of registry or intended country of registry (if unknown, state "unknown").

(iv) *Identification of parties to transaction.* In each case, all parties to the transaction, including the United States or foreign purchaser, shall be identified with a clear statement of the capacity or function of each, as provided in § 372.3.

(3) *Operating vessels and aircraft.* A license application for export of commodities or technical data, including ship or plane stores, supplies, and equipment (except as provided in paragraph (c) of this § 376.9 to an operating vessel or aircraft, whether in operation or being repaired, shall be prepared on Form FC–419 in accordance with Supplement No. 1 to Part 372, with the following modifications:

(i) *Country of ultimate destination.* Show country where the vessel or aircraft will take on the commodities or technical data. If, at the time of filing the license application, it is uncertain

[1] See paragraph 370.2 for definition of airline.

where the vessel or aircraft will take on the commodities or technical data, but it is known that the commodities or technical data will not be shipped to Country Group S, W, X, Y, or Z, enter the following statement in this item:

Uncertain; however, shipment(s) will not be made to Country Group S, W, X, Y, or Z.

An export license issued under this circumstance will bear the following destination restriction:

Shipment(s) may be made to the named (vessel) (aircraft) at any port in any country except Country Group S, W, X, Y, or Z.

(ii) *Ultimate consignee in foreign country.* Show name of owner and port or place where the commodities or technical data will be taken aboard. Also, if a vessel, show name of vessel. If the port or place where the commodities or technical data will be taken aboard is unknown, enter the statement shown in subparagraph (3)(i) of this paragraph (b).

(iii) *Commodity description.* For a vessel under 40 feet in length, include a statement as to the length of the vessel. For a vessel 40 feet in length or over, show the following information in this item or on an attachment:

(*a*) Type of vessel;

(*b*) Business address of owner and his nationality;

(*c*) Country of registry;

(*d*) Name of charterer and the terms and type of charter, if under charter.

(iv) *Identification of parties to transaction.* In each case, all parties to the transaction, including the United States or foreign purchaser, must be identified with a clear statement of the capacity or function of each as provided in § 372.3.

(4) *Subsequent applications.* After the additional information required by paragraphs (b) (1), (2), and (3) of this § 376.9 has been supplied to the Office of Export Control, a subsequent application for an additional license to export commodities to the same vessel or hull number under construction or the same operating vessel may incorporate the required additional information by reference to the previous application containing that information. In this event, each subsequent application shall include, in the "Additional Information" space or on an attachment: (i) A certification that the information previously submitted to the Office of Export Control has not changed; and (ii) the appropriate case number of the previously submitted application, or if the case number is unknown, the applicant's reference number, date of submission, and Export Control Commodity numbers shown on that application. (Whenever possible, the case number should be indicated on the subsequent application, since failure to supply this number may result in delay in processing.)

(5) *Additional information.* Where necessary, the Office of Export Control may require the exporter to submit a letter of confirmation or amplification of the information specified in this paragraph (b).

(c) *Exports of petroleum and petroleum products, including bunker fuel, for use on vessels and aircraft departing from the United States.* License applications to export petroleum or petroleum products, including bunker fuel, for vessels or fuel for aircraft departing from the United States, may be included on a single Form FC–419. Such application shall indicate, at the top of the form, the word "Bunker" in the case of exports for the use of vessels, or "Plane Fuel" in the case of exports for the use of aircraft. The application shall be prepared in accordance with Supplement No. 1 to Part 372, with the following modifications:

(1) *Country of ultimate destination.* Show the country in which the carrier is registered.

(2) *Ultimate consignee in foreign country.* Show the name of the carrier and the port or point where petroleum or under control of, a party other than aboard.

(3) *Purchaser in foreign country.* Show name and address of owner of carrier. If carrier is under charter to, or under control of, a party other than owner, show names and addresses of both owner and party otherwise in control of carrier.

(4) *Commodity description.* In addition to a description of the commodities to be exported, list for each of the carrier's calls at any point under Far Eastern Communist control[1] within 180 days prior to the date of application (or 30 days in the case of aircraft), the dates of each call, and a statement, or a copy of the manifest, showing the cargo loaded or discharged. (If the carrier was in ballast, so state.) Also submit the carrier's proposed calls at any point under Far Eastern Communist control for the next 120 days in the case of vessels (30 days in the case of aircraft) from the anticipated date of departure from the last port in the United States. If the carrier's itinerary for all of the next 120 days in the case of vessels (or 30 days in the case of aircraft) is not known and cannot be ascertained, the itinerary shall be stated so far as it may be known or ascertainable. In addition, all other available information as to future destinations and areas of operation shall be submitted. If the carrier (i) will call at a point under Far Eastern Communist control within the next 120 days in the case of vessels (30 days in the case of aircraft) from the date of departure, or (ii) is registered in Country Group W, Y, or Z, or (iii) is under charter to, or under control of, a national of a Group W, Y, or Z country, state whether any commodities not identified by the symbol "B" in the last column of the Commodity Control List (§ 399.1), included on the U.S. Munitions List (Supplement No. 2 to Part 370) or subject to the Atomic Energy Act (§ 370.10(e)) are carried on board the vessel or aircraft and destined directly or indirectly to any point under Far Eastern Communist control. If the answer is in the affirmative, indicate where such commodities will be discharged.

(5) *Additional information.* State the reasons why a general license is inapplicable to the proposed export unless the reasons are already indicated elsewhere on the application or on an attachment. If additional space is required, an attachment may be used. Also state the gross registered tonnage (GRT), type of main engines and rated horsepower, with daily fuel consumption rate, total fuel capacity, and fuel supply on board, indicating specifically the number of days' running supply from the port where additional supplies are requested. In the case of aircraft, state make and model.

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

§ 376.10 Electronic computers.

(a) *Information required on license application.* An application for a license to export electronic computers, analog or digital (including digital differential analyzers), Export Control Commodity No. 71420, shall include the following information, as applicable:

(1) *Analog computers.* (i) The quantity and accuracy rating of each type of summer, integrator, multiplier, or function generator employed; and

(ii) A description of any capability for automatic insertion or alteration of problem setup and of any incorporated device functioning solely as a memory.

(2) *Digital computers.* (i) The internal memory read-write cycle time;

(ii) The size of internal memory (bits) to be supplied with the computer being exported;

(iii) The maximum internal memory (designed capability in bits); and

(iv) The theoretical maximum main memory access rate calculated by multiplying the maximum number of memory accesses per second by the number of bits per word in one access times the number of over-laps. "Word" as used herein includes all data, checking, sign, parity, and other bits handled by the computer as a unit.

(3) *Peripheral equipment, magnetic recording equipment, and magnetic recording media.* (i) The quantity, type, and specification for each peripheral or magnetic recording device;

(ii) The maximum data transfer rate (where applicable);

(iii) The maximum packing density (where applicable);

(iv) The maximum data storage capacity per unit (where applicable);

(v) The maximum, minimum, and average access times (where applicable); and

(vi) The design specifications or pertinent military specifications if specially designed for mobile, marine, or airborne operation.

(b) *Alternative means of furnishing information.* Instead of including the

above information on each application, the applicant may furnish the Office of Export Control with technical specifications and other related data for his line of electronic computers keeping these current by supplementing technical bulletins or other similar publications as they are released. In such cases, an exporter can comply with the requirements of this § 376.10 by identifying the model number and entering the following statement in the "Commodity Description" space on the application, or on an attachment:

The current technical information relating to the commodity(ies) described on this application, as required by § 376.10 of the Export Control Regulations, has been previously furnished the Office of Export Control.

§ 376.11 Temporary exports of video tape.

(a) *Scope.* A procedure is established under which blank video tape (raw stock) and video tape containing program material (Export Control Commodity No. 89120) may be temporarily exported, from any U.S. port, to Country Groups T and V for an indefinite period without obtaining an individual validated license for each shipment. This procedure is restricted to video tape that either (1) is intended for use in recording program material abroad for broadcasting abroad and in the United States, or (2) contains program material recorded in the United States for broadcasting in a foreign country(ies). In any case, such video tape shall be returned to the United States, unless prior authorization to dispose of the tape abroad is obtained from the Office of Export Control.

(b) *Submission of request*—(1) *Information required.* A request for authority to make temporary exports of video tape under this procedure shall be made by letter, in original and two copies, to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, and shall include:

(i) A full description of the nature of the business in which the exporter is engaged;

(ii) A statement as to whether the request covers blank video tape, video tape containing program material, or both;

(iii) A general description of the types of program material, i.e., news events, sports events, entertainment, educational, etc., which will be recorded in the United States or in a foreign country(ies);

(iv) The name(s) and address(es) of the consignee(s) who will use the video tape (if U.S. exporter, so state); and

(v) The following certification:

I (We) certify that if this request is approved, shipments will be made only in accordance with the provisions of § 376.11 of the Export Control Regulations.

(2) *Waiver of supporting Documentation.* A request submitted under this procedure need not be supported by: an International Import Certificate; a single transaction statement, Form FC–842; a multiple transactions statement, Form FC–843; a Swiss Blue Import Certificate; or a Yugoslav End-Use Certificate.

(c) *Action by the Office of Export Control.* The Office of Export Control will: (1) Stamp an approved letter request with the validation stamp of the U.S. Department of Commerce, return one validated copy to the applicant, and furnish customs offices with the names of exporters approved under this procedure; or (2) where the request is not approved, advise the applicant by letter.

(d) *Export clearance.* The exporter shall furnish the customs office with an additional copy of the Shipper's Export Declaration covering each shipment made under these provisions. The Declaration shall show the code "864" in the upper right corner, the words "Temporary Export," and the following certification in the commodity description space:

I (We) certify that the video tape described in this Declaration will be returned to the United States or authorization will be obtained from the Office of Export Control before it is disposed of abroad, and (contains program material recorded in the United States) (will be used to record program material abroad).

§ 376.12 Parts, components, and materials in foreign-made end products.

Parts, components, materials, or other commodities exported from the United States and used abroad to manufacture or produce a foreign-made end product are subject to the export control laws of the United States. The U.S. Department of Commerce exercises vigilance over exports and reexports of these commodities in order to prevent such exports or reexports from being used for a purpose detrimental to the national security or foreign policy of the United States.

PART 377—SHORT SUPPLY CONTROLS

Sec.

377.1 General provisions.
377.2 Past participation in exports licensing method.
377.3 Copper and copper products.

Supplement No. 1. Commodities subject to short supply quota controls.

AUTHORITY: The provisions of this Part 377 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.

§ 377.1 General provisions.

The Export Control Act requires the control of commodities to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the inflationary impact of abnormal foreign demand. Commodities currently subject to quantitative licensing quotas pursuant to the above requirement are listed in Supplement No. 1 short supply quota controls to this Part 377. Generally, exporters' shares of any quantitative quota established under a short supply program will be allocated in accordance with the past participation in exports method described in § 377.2.

§ 377.2 Past participation in exports licensing method.

(a) *General.* The past participation in exports licensing method helps to maintain a normal pattern of export trade during periods of short supply and to assure an equitable distribution of the available export quota among exporters. This procedure allocates the bulk of the export quota to firms that have participated in exports during a representative base period, but reserves a small portion of the quota for exporters who do not have this trade history.

(b) *Participation in quota allotments*—(1) *Restrictions.* A single firm is entitled to participate only once in each quota established for each commodity or category of commodities. For this purpose, the term "single firm" includes all persons or firms associated in business with a person or firm claiming or receiving an allocation from the same export quota. Claiming an additional participation through any device whatsoever, including the transfer or assignment of an export order, is prohibited and may result in the imposition of sanctions provided for in Parts 387 and 388.

(2) *Order party.* Generally, any quantity licensed under a quota is charged to the quota share allocated to the licensee. Where the licensee received the export order from another person or firm in the United States (the "order party," as defined in § 372.3) or from a foreign subsidiary, branch, affiliate, or agent of such order party, any quantity licensed will be charged to the quota share of the order party. Therefore, if the applicant did not receive directly the initial order from the foreign ultimate consignee or purchaser, the signature of the order party is required on his license application in accordance with § 372.3.

(c) *Submission of statement of past participation*—(1) *Requirements.* To claim a share of an export quota for a commodity, or category of commodities, an exporter shall submit a statement of his exports of the commodity(ies) during the specified base period. This statement shall be submitted, in duplicate, to the Office of Export Control (Attention: 854), U.S. Department of Commerce, Washington, D.C. 20230. The statement shall include:

(i) All information required by the applicable commodity sections of this Part 377; and

(ii) The name of each person or firm engaged in the export of the commodity (ies) that (*a*) is directly or indirectly owned or controlled by the exporter submitting the statement, or (*b*) directly or indirectly owns or controls the operations of the exporter submitting the statement.

(2) *Exports excluded from statement.* The quantity and value of the following types of shipments shall not be included in the statement of past participation, unless specifically required:

(i) Shipments to territories, dependencies, and other possessions of the United States;

(ii) Intransit shipments exported under General License GIT; and

(iii) Shipments to Canada.

(3) *Successors in interest.* Where a successor firm has acquired the business interests of a predecessor and the terms of acquisition preclude the predecessor from claiming past participation in exports, the successor may include its predecessor's record of past participation in exports for the purpose of establishing the successor firm as a historical exporter. The successor firm shall submit a statement of past participation and provide a full explanation of the association between the entities concerned, including the following signed statement:

The terms of acquisition of the business interests of (name of predecessor firm) preclude the predecessor firm from claiming past participation in exports for the purpose of obtaining export licenses under the historical pattern of export licensing.

(d) *Allocation of quotas.* After evaluating the statements of past participation, the Office of Export Control will inform each exporter of his share of the export quota based on his shipments during the base period.

(e) *Submission of applications.* For certain commodities licensed under the past participation in exports method, submission of export license applications is subject to time schedules. These commodities and the filing dates are listed in Supplement No. 1 to this Part 377. Applications covering other commodities listed therein may be submitted at any time.

§ 377.3 Copper and copper products.

(a) *Copper ores, concentrates, matte, and blister copper*—(1) *Denial policy.* Export license applications covering any of the following commodities generally are denied:

Export Control Commodity Number and Commodity Description	
28311	Copper ores and concentrates.
28312	Copper matte.
68211	Blister copper and other unrefined copper.

(2) *Exception to denial policy.* Export license applications covering the above commodities may be considered for approval if, for technological or economic reasons, the commodities cannot be processed commercially in the United States. Such applications shall include:

(i) A statement describing the commodities with an analysis of the metal content, and an explanation of the difficulty in processing them in the United States;

(ii) The following certification:

I (We) certify that to my (our) best knowledge and belief the commodities described on this application cannot be commercially processed in the United States;

(iii) The identity of the foreign consumer by entering either of the following statements, as appropriate, in the "Additional Information" space or on an attachment:

The foreign consumer of the commodities covered by this application is the same as that shown in the "Ultimate Consignee in Foreign Country" space on this license application.

or, if the foreign consumer is not the same as the ultimate consignee:

"The name and address of the foreign consumer is _____"; and

(iv) If the proposed shipment, regardless of value, is destined for the Republic of Vietnam (area not under Communist control), a Single Transaction Statement by Consignee and Purchaser, Form FC–842, submitted in accordance with § 375.2 and bearing the endorsement of the designated representative of the U.S. Agency for International Development (AID) Mission, Saigon. To obtain this endorsement, the consignee and/or purchaser shall submit his statement, in triplicate, to the U.S. AID Mission, Saigon. Upon endorsement, the original will be returned to the consignee or purchaser, for forwarding to the U.S. exporter; the copies will be retained by the U.S. AID Mission.

(b) *Copper and copper-base alloy waste and certain nickel scrap*—(1) *Scope.* The following commodities are subject to the provisions of this paragraph (b):

Export Control Commodity Number and Commodity Description	
28401	Copper bearing ash and residues.
28402	Copper or copper-base alloy waste and scrap.
28403	Nickel alloy waste and scrap containing 50 percent or more copper irrespective of nickel content.

(2) *Shipments to Canada*—(i) *Basis for exporter's eligibility.* Any of the above commodities or copper-base alloy ingots (Export Control Commodity No. 68212) that are licensed for export to Canada during January–June 1969 will be charged against the quota for Canada. To qualify for a share of this quota, an exporter shall submit to the Office of Export Control no later than February 11, 1969: (*a*) A written statement setting forth the aggregate quantity of copper-base scrap and ingots (in copper content short tons) for which he has outstanding orders for Canada (see paragraph (ii) below); and (*b*) a copy of each such order. If the exporter did not receive a written order, he may furnish a certification from the Canadian purchaser giving the details of the order, such as quantity, date of order, whether the order is still outstanding, etc.

(ii) *"Outstanding export order."* For purposes of this regulation the copper described on an "outstanding export order" shall not have been exported before midnight January 3, 1969, and such order shall:

(*a*) Provide for export of copper-base scrap or copper-base alloy ingots from the United States to Canada during January 1–June 30, 1969;

(*b*) Be dated on or before December 31, 1968; and

(*c*) Not have been canceled by either party to the transaction.

(3) *Shipments not commercially processable in the United States.* An application for a license to export any of the commodities described in subparagraph (1) of this paragraph (b) that, for any technological or economic reason, cannot be processed commercially in the United States will be considered for licensing without a charge against the copper export quota. If the reason is technological, the application shall be accompanied by (i) a copy(ies) of a letter(s) received by the applicant from a recognized scrap processor(s) who has declined to process the scrap described on the application, and (ii) the documentation required by subparagraph (a)(2) of this § 377.3. If the reason is economic, the application shall include a statement detailing such reason.

(4) *Other shipments*—(i) *General.* Commodities described in subparagraph (1) of this paragraph (b) that cannot be licensed under subparagraph (2) or (3) of this paragraph (b) will be considered for licensing under the past participation in exports method (see § 377.2). To qualify as a historical exporter, an exporter shall submit a statement, setting forth the quantity (in copper content pounds) and total dollar value, by country of ultimate destination, that he exported during the calendar year 1964 and during each of the first three calendar quarters of 1965, as well as the grand total for the period January 1, 1964, through September 30, 1965. However, the statement shall not include either the types of shipments covered by § 377.2(c)(2), or those not commercially processable in the United States as explained above. An export license application for commodities covered by this paragraph (b) shall be submitted in accordance with subdivision (ii), (iii), or (iv) of this subparagraph (4).

(ii) *Nonhistorical exporter.* An exporter who has not submitted a statement of past participation in exports, or who does not otherwise qualify as a historical exporter, shall submit an application and obtain an individual validated license. The license application shall (*a*) identify the foreign consumer in the manner explained in paragraph (a)(2)(iii) of this § 377.3, and (*b*) for an export to the Republic of Vietnam, regardless of value, be supported by a single transaction statement, Form FC–842, endorsed by the designated representative of the U.S Agency for International Development Mission, Saigon, as set forth in paragraph (a)(2)(iv) of this § 377.3.

(iii) *Historical exporter.* An exporter who has been informed, in writing, by the Office of Export Control that he qualifies as a historical exporter may apply for and obtain a Bulk Quota License (see subdivision (iv) of this subparagraph (4)).

(iv) *Bulk Quota License.*—(*a*) *Definition.* A Bulk Quota License is a validated license authorizing the export by a historical exporter of his total share of the quota established for a short supply commodity to approved ultimate consignees.

(*b*) *License application.* Each application for a Bulk Quota License, shall include:

(*1*) Form FC–420, Application Processing Card, prepared in accordance with § 372.4(a)(5), except that "Bulk Quota

License" shall be entered in the Export Control Commodity Number space.

(2) Form FC–419, Application for Export License, prepared in accordance with Supplement No. 1 to Part 372, except:

(i) Enter "Bulk Quota License," as well as the date, under "Date of Application."

(ii) Enter, in copper content pounds, the exporter's total quota for all commodities in paragraph (b)(1) of this § 377.3 under "Quantity to be Shipped." (The Office of Export Control will inform him of his quota in time for him to complete his application.)

(iii) Enter "copper scrap" under "Commodity Description." Thus the application covers any or all of the commodities in paragraph (b)(1) of this § 377.3.

(iv) Enter only the processing number under "Export Control Commodity Number and Processing Number." Omit the commodity number.

(v) Where there is more than one ultimate consignee, write "see attached list" in the space "Ultimate Consignee in Foreign Country" and attach to the application a list of the names and addresses of all proposed ultimate consignees.

(vi) Enter the following certification concerning consignee documentation (see subparagraph (4)(iv)(b)(3) of this paragraph (b) in the "Additional Information" space or on an attachment:

I (We) certify that a currently valid (*insert name(s) of the supporting consignee document(s) as appropriate in accordance with paragraph (3) below*) is on file with the Office of Export Control for each ultimate consignee covered by this application, except (*enter either "none" or the names of ultimate consignees for whom new documentation is attached to the application*).

(3) Appropriate documentation for each proposed consignee, either currently valid and on file with the Office of Export Control or furnished for approval with the application, as follows:

(i) Except as provided in subparagraph (4)(iv)(b)(2) (*ii*) and (*iii*) of this paragraph (b) a multiple transactions statement, Form FC–843.

(ii) For a consignee in Switzerland or Yugoslavia, a Swiss Blue Import Certificate or Yugoslav End-Use Certificate. Where a currently valid certificate is on file with the Office of Export Control, the application shall include the certification(s) set forth in §§ 375.3(a)(1) and 375.4(a)(1).

(iii) For a consignee in the Republic of Vietnam, a single transaction statement, Form FC–842, endorsed by the designated representative of the U.S. Agency for International Development Mission, Saigon, as set forth in paragraph (a)(2)(iv) of this § 377.3. Where a currently valid statement is on file with the Office of Export Control, the application shall include the certification set forth in § 375.2(i)(3).

(c) *Consignee quantity restrictions.* The total quantity that may be shipped to any consignee in Switzerland, Yugoslavia, or the Republic of Vietnam, is limited to the quantity shown on the Swiss Blue Import Certificate, Yugoslav End-Use Certificate, or single transaction statement from that consignee.

(d) *Export license.* The license will be validated and bear the identifying words "Bulk Quota License" below the validation stamp. The list of approved ultimate consignees will also be validated, attached to and become a part of the license.

(e) *Validity period.* Each license will be valid for the quota period to which it applies plus three additional calendar months.

(f) *Export clearance—(1) Notification to customs offices.* The Office of Export Control will notify all customs offices of the issuance of a Bulk Quota License, including the names and addresses of ultimate consignees, within 15 calendar days after the issuance of license. An exporter should not plan to clear exports earlier unless he verifies that the notification has reached customs. The license need not be filed with the customs office, but the licensee shall, on demand, show to the Customs Officer either the original or a photocopy of the license.

(2) *Tolerance.* In addition to the quantity licensed, a shipping tolerance of 5 percent of the total quantity licensed is allowed as set forth in § 386.7(e).

(3) *Shipper's Export Declaration.* The Shipper's Export Declaration shall be prepared according to standard instructions and presented to the Customs Officer or Postmaster at the place of export. Both the gross weight of the copper scrap and the copper content pounds shall be given. Although the license refers only to "copper scrap," the commodity description on the Declaration shall be specific, conforming to the applicable Commodity Control List description, and incorporating any additional information required by Schedule B, such as type, size, or name of specific commodity. The Schedule B number shall also be included.

(g) *Reports.* The exporter shall furnish the Office of Export Control, no later than the 15th of each month, a report on all exports made during the preceding month under his Bulk Quota License. As a minimum, the report shall include the license number and, for each commodity exported, the full description as shown on the Commodity Control List, the Export Control Commodity number, quantity exported in both copper content pounds and gross amount, date of shipment, and name and address of ultimate consignee. The report shall be sent to the Office of Export Control (Attention: 862), U.S. Department of Commerce, Washington, D.C. 20230.

(c) *Refined copper—(1) Scope.* As used in this paragraph (c), the term "refined copper," means any refined copper, including remelted, in cathodes, billets, ingots (except copper-base alloy ingots, for which see paragraph (d) of this § 377.3), wire bars, and other crude forms (Export Control Commodity No. 68212).

(2) *Copper produced from or shipped as an offset against foreign materials.* (i) Subject to the provisions of subparagraph (4) of this paragraph (c), license applications covering refined copper produced from (*a*) foreign-origin copper raw material or (*b*) material which was declared as an offset against an equivalent quantity of foreign-origin copper raw materials entered into the United States under a Customs Import Entry, may be considered for licensing without a charge against the refined copper export quota.

(ii) To receive such consideration, the license application shall:

(*a*) Be submitted to the Office of Export Control within 3 months following the date of the related Customs Import Entry;

(*b*) Be supported by the following certification:

I(We) certify that the refined copper described in this license application has been or will be (a) produced from foreign-origin copper raw materials, or (b) produced in the United States from copper raw materials against which an equivalent quantity of copper raw materials, originating from (name of country), has been entered into the United States by (name and address of importer) under Customs Import Entry number (Entry number), on (date), at (location of port), covering (quantity) pounds of copper content.

(If the importer is a customs broker or is otherwise acting as an agent, the above certification shall also include the name of the principal for whom the agent is acting); and

(*c*) For an export to the Republic of Vietnam, regardless of value, be supported by a Single Transaction Statement (Form FC–842) endorsed by the designated representative of the U.S. Agency for International Development Mission, Saigon, as set forth in paragraph (a)(2)(iv) of this § 377.3.

(3) *Copper not produced from foreign materials.* (i) Subject to the provisions of subparagraph (4) of this paragraph (c), refined copper not meeting the provisions of subparagraph (2) of this paragraph (c) will be licensed under the past participation in exports method (see § 377.2). To qualify as a historical exporter, an exporter shall submit a statement setting forth the quantity (in copper content pounds) and total dollar value that he exported during the base period January 1, 1963, through June 30, 1965, except that the following types of shipments shall not be included:

(*a*) Refined copper produced from foreign-origin materials; and

(*b*) Refined copper produced from material that was declared as an offset against an equivalent quantity of foreign materials entered into the United States under a Customs Import Entry.

(ii) A statement submitted by other than a refiner shall be accompanied by a certification from the exporter's refiner, setting forth the quantity of refined

copper produced from domestic materials which the refiner delivered to the exporter during the period January 1, 1963, through June 30, 1965. A refiner, unable to state accurately the quantity of domestic-origin refined copper delivered to the exporter during the base period, may certify to an estimated quantity delivered to the exporter based on the ratio of domestic-origin materials to foreign-origin materials used by the refiner for the refiner's total production of refined copper during the period January 1, 1963, through June 30, 1965.

(iii) Each license application shall (*a*) identify the foreign consumer in the manner set forth in paragraph (a)(2)(iii) of this § 377.3; and (*b*) for an export to the Republic of Vietnam, regardless of value, be supported by a Single Transaction Statement (Form FC–842), endorsed by the designated representative of the U.S. Agency for International Development Mission, Saigon, as set forth in paragraph (a)(2)(iv) of this § 377.3.

(4) *Certification regarding U.S. National Stockpile origin.* Except in unusual circumstances, an application for a license to export refined copper supplied from the U.S. National Stockpile will be denied. Therefore, each license application shall specify whether it covers refined copper supplied from the U.S. National Stockpile. This information shall be entered in the "Additional Information" space or on an attachment, as follows:

(i) If the application covers copper not supplied from the U.S. National Stockpile, enter the following certification:

> I (We) certify that the refined copper described in this application has not been, and will not be, supplied from the U.S. National Stockpile.

(ii) If the application covers copper supplied from the U.S. National Stockpile, so indicate.

(iii) If the applicant does not know, or is unable to determine, whether the refined copper has been, or will be, supplied from the U.S. National Stockpile, so indicate and include the reason(s) why this information is not available.

(d) *Copper-base alloy ingots*—(1) *Scope.* As used in this paragraph (d), the term "copper-base alloy ingots," means any ingots composed essentially of copper with one or more other metals; for example, beryllium copper ingots, devarda alloy ingots, guinea alloy ingots, ounce metal ingots, etc. (Export Control Commodity No. 68212).

(2) *Licensing method*—(i) *Canada.* Copper-base alloy ingots will be considered for export licensing to Canada in accordance with paragraph (b)(2) of this § 377.3.

(ii) *Other destinations.* Copper-base alloy ingots will be licensed for export to destinations other than Canada under the past participation in exports method (see § 377.2). To qualify as a historical exporter, an exporter shall submit a statement setting forth the quantity (in copper content pounds) and total dollar value exported by the applicant during the base period January 1, 1963, through June 30, 1965. Each license application shall (*a*) identify the foreign consumer in the manner set forth in paragraph 377.3(a)(2)(iii); and (*b*) for an export to the Republic of Vietnam, regardless of value, be supported by a Single Transaction Statement (Form FC–842) endorsed by the designated representative of the U.S. AID Mission, Saigon, as set forth in paragraph 377.3(a)(2)(iv).

(e) *Semifabricated copper products and master alloys of copper*—(1) *Scope* As used in this paragraph (e), the term "semifabricated copper products and master alloys of copper" includes:

Export Control Commodity Number	*and Commodity Description*
51470	Master alloys of copper containing 8 percent or more phosphor.
68213	Master alloys of copper.
68221	Bars, rods, angles, shapes, sections, and wire of copper or copper-base alloy.
68222	Plates, sheets, and strips (including perforated) of copper or copper-base alloy.
68223	Copper foil.
68224	Copper or copper alloy powders and flakes.
68225	Tubes, pipes, and blanks therefor, and hollow bars of copper or copper-base alloy.
69892	Copper or copper-base alloy castings and forgings.
72310	Wire and cable coated with, or insulated with, fluorocarbon polymers or copolymers.
72310	Coaxial-type communications cable as follows: (a) containing fluorocarbon polymers or copolymers, (b) using a mineral insulator dielectric, (c) using a dielectric aired by discs, beads, spiral, screw, or any other means, (d) designed for pressurization or use with a gas dielectric, or (e) intended for submarine laying.
72310	Other coaxial cable.
72310	Communications cable containing more than one pair of conductors of which any one of the conductors, single or stranded, has a diameter exceeding 0.9 mm. (0.035 inch), as as follows: (a) cable in which the nominal mutual capacitance of paired circuits in less than 53 nanofarads/mile (33 nanofarads/KM), except conventional paper and air dielectric types, (b) submarine cable, or (c) cable containing fluorocarbon polymers or copolymers.
72310	Other communications cable containing more than one pair of conductor and containing any conductor, single or stranded, exceeding 0.9 mm. in diameter.
72310	Other copper or copper-base alloy insulated wire and cable.

(2) *Shipments under military and AID contracts.* Applications for licenses to export any of the above commodities under U.S. military contracts or under contracts financed by the U.S. Agency for International Development (AID), will be considered for licensing without a charge against the copper export quota. Such applications shall include:

(i) A statement that the commodities and quantities described on the application are being shipped pursuant to a U.S. military or AID contract;

(ii) The contract number and date of contract;

(iii) If the shipment is being made pursuant to a U.S. military contract, (*a*) the branch of the military service executing the contract, and (*b*) the DO–DX defense priority rating; and

(iv) For an export to the Republic of Vietnam, regardless of value, a Single Transaction Statement (Form FC–842) endorsed by the designated representative of the U.S. AID Mission, Saigon, as set forth in paragraph (a)(2)(iv) of this section 377.3.

(3) *Other shipments.* Applications for licenses to export any of these commodities which will not be shipped under U.S. military or AID contracts, generally will be licensed under the past participation in exports method (see § 377.2). A sizeable portion of the quota will be reserved for historical and nonhistorical exporters to meet essential export requirements that cannot be satisfied under the past participation in exports licensing method. The Office of Export Control will announce at the beginning of each licensing period the percentage of the quota to be licensed under the past participation in exports method and the percentage to be reserved for essential export requirements. To qualify as a historical exporter, an exporter shall submit a statement setting forth the quantity (in copper content pounds) and total dollar value that he exported during the base period of January 1, 1964, through December 31, 1965, in each of the following categories:

(i) The quantity shipped under U.S. military contracts;

(ii) The quantity shipped under contracts financed by AID; and

(iii) The quantity of other shipments.

If the exporter did not make any shipments during the base period under U.S. military or AID contracts, he shall so indicate. For an export to the Republic of Vietnam, regardless of value, the license application shall be supported by a Single Transaction Statement (Form FC–842) endorsed by the designated representative of the U.S. AID Mission, Saigon, as set forth in paragraph (a)(2)(iv) of this § 377.3.

Supplement No. 1—Commodities Subject to Short Supply Quota Controls

Export control commodity No.	Commodity description	Export control regulations reference	Submission dates for license applications (no later than date shown below)	
			Nonhistorical applicants	Historical applicants
28311	Copper ores and concentrates	377.3(a)	Any time	Any time.
28312	Copper matte	377.3(a)	do	Do.
28401	Copper metalliferous ash and residues[1]	377.3(b)	Feb. 7, 1969	May 29, 1969.
28402	Copper or copper-base alloy waste and scrap, including copper alloy waste and scrap of less than 40 percent copper content where copper is the component of chief weight.[1]	377.3(b)	do	Do.
28403	Nickel alloy waste and scrap containing 50 percent or more copper irrespective of nickel content.[1]	377.3(b)	do	Do.
61470	Master alloys of copper containing 8 percent or more phosphor.	377.3(e)	Any time	Any time.
68211	Blister copper and other unrefined copper	377.3(a)	do	Do.
68212	Refined copper of domestic origin, including remelted, in cathodes, billets, ingots (except copper-base alloy ingots), wire bars and other crude forms.	377.3(c)	Feb. 7, 1969	May 29, 1969.
68212	Copper-base alloy ingots composed essentially of copper with one or more other metals, for example: Beryllium copper ingots, devarda alloy ingots, guines alloy ingots, ounce metal ingots, etc.[1]	377.3(d)	do	Do.
68213	Master alloys of copper	377.3(e)	Any time	Any time.
68221	Bars, rods, angles, shapes, sections, and wire of copper or copper-base alloy.	377.3(e)	do	Do.
68222	Plates, sheets, and strips (including perforated) of copper or copper-base alloy.	377.3(e)	do	Do.
68223	Copper foil	377.3(e)	do	Do.
68224	Copper or copper alloy powders and flakes	377.3(e)	do	Do.
68225	Tubes, pipes, and blanks therefor, and hollow bars of copper or copper-base alloy.	377.3(e)	do	Do.
68892	Copper or copper-base alloy castings and forgings	377.3(e)	do	Do.
72310	Wire and cable coated with, or insulated with, fluorocarbon polymers or copolymers.	377.3(e)	do	Do.
72310	Coaxial-type communications cable as follows: (a) Containing fluorocarbon polymers or copolymers, (b) using a mineral insulator dielectric, (c) using a dielectric aired by discs, beads, spiral, screw, or any other means, (d) designed for pressurization or use with a gas dielectric, or (e) intended for submarine laying.	377.3(e)	do	Do.
72310	Other coaxial cable	377.3(e)	do	Do.
72310	Communications cable containing more than one pair of conductors of which any one of the conductors, single or stranded, has a diameter exceeding 0.9 mm. (0.035 inch), as follows: (a) Cable in which the nominal mutual capacitance of paired circuits is less than 53 nanofarads/mile(33 nanofarads/KM), except conventional paper and air dielectric types, (b) submarine cable, or (c) cable containing fluorocarbon polymers or copolymers.	377.3(e)	do	Do.
72310	Other communications cable containing more than one pair of conductors and containing any conductor, single or stranded, exceeding 0.9 mm. in diameter.	377.3(e)	do	Do.
72310	Other copper or copper-base alloy insulated wire and cable.	377.3(e)	do	Do.

[1] The submission dates shown in this supplement do not apply to applications for exports to Canada, which should be submitted in accordance with § 377.3(b)(2).

PART 378—SPECIAL NUCLEAR CONTROLS

Sec.

378.1 Validated export license requirement.
378.2 Advice of manufacturer.
378.3 Preparing application.
378.4 Effect of other provisions.

Supplement No. 1 Countries adhering to the Limited Nuclear Test Ban Treaty.

AUTHORITY: The provisions of this Part 378 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003 3 CFR 1959–1963 Comp.

§ 378.1 Validated export license requirement.

A validated license is required for the export to all destinations, including Canada, of the following commodities: [1]

(a) Any commodity which has not been specifically designed or specifically modified for use in designing, developing, or fabricating nuclear weapons or nuclear explosive devices, but which the exporter knows, or has reason to believe, will be used for one or more of these purposes. (See § 376.3 for commodities specifically designed or modified for any of these purposes.)

(b) Any commodity which has not been specifically designed or specifically modified for use in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions, but which the exporter knows or has reason to believe will be used for one or more of these purposes.

(c) Any commodity which is in normal commercial use for other purposes but which has been specifically designed or specifically modified for use in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions, if the intermediate or ultimate destination is subject to the jurisdiction of any country which, at the time of export, is not an adherent to the "Treaty Banning Nuclear Weapons Tests in the Atmosphere, Outer Space, and Under Water," which was signed at Moscow, U.S.S.R., on August 5, 1963. This Treaty is more commonly known as the "Limited Nuclear Test Ban Treaty," and the countries adhering thereto are listed in Supplement No. 1 to this Part 378. The provisions of this section do not apply to exports of any commodities described in this paragraph (c) if the exporter knows they will not be used in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions.

§ 378.2 Advice of manufacturer.

An exporter who knows the commodities he intends to ship are capable of the uses described above but is not the manufacturer of the commodities and is not sure whether a validated license is required, shall request a written statement from the manufacturer as to whether such manufacturer knows or has reason to believe that the intended export requires a validated export license under the provisions of § 378.1. If the manufacturer believes a validated export license is required, the exporter shall then

[1] Commodities and technical data specifically designed or specifically modified for use in designing, developing, or fabricating nuclear weapons or nuclear explosive devices are subject to export licensing or other requirements of the Office of Munitions Control, U.S. Department of State, or the licensing or other restrictions specified in the Atomic Energy Commission Act of 1954, as amended. Similarly, commodities and technical data specifically designed or specifically modified for use in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions (except such items as are in normal commercial use for other purposes) are subject to the same requirements.

apply for such license. The exporter shall retain a copy of his letter of inquiry and the manufacturer's reply and make them available for inspection upon demand by the U.S. Department of Commerce, for 3 years in accordance with the record-keeping requirements of § 382.11.

§ 378.3 Preparing application.

An application for a license to export commodities subject to the provisions of § 378.1 shall be prepared and submitted on Form FC–419, Application for Export License, with Form FC–420, Application Processing Card,[1] attached in accordance with the instructions set forth in § 372.5 with the following modifications:

(a) *Identification of license application.* Enter the words "Nuclear Controls" across the top of the Form FC–419, immediately above the printed words "United States of America";

(b) *Ultimate Consignee.* If the ultimate consignee is not also the end user of the commodities, give the name and address of the end user in the "Commodity Description" space of the application or on an attachment thereto, and if known, the specific geographic locations of any installations, establishments, or sites at which the commodities will be used;

(c) *Supplier.* If the applicant is not also the manufacturer of the commodities indicate on the application, in the space entitled "Commodity Description" or on an attachment, whether the advice of the manufacturer has been received regarding the necessity of a validated license;

(d) *Commodity description.* If applicable, include a description of any specific features of design or specific modifications which make the commodity capable of the uses described in § 378.1 above;

(e) *End-Use.* Include in the description of the end-use, the specific end-use(s) the commodities will have in designing, developing, fabricating, or testing nuclear weapons or nuclear explosive devices as described in paragraph 378.1 above. Fully explain the basis for the knowledge or belief that the commodities are intended for the purpose(s) described.

§ 378.4 Effect of other provisions.

If, at the time of export, a validated license is also required under other provisions of the Export Control Regulations, the application shall be submitted in accordance with the provisions of this part as well as other applicable provisions. The requirements of this part are applicable in addition to, rather than in lieu of, any other valfdated license requirement set forth in the Export Control Regulations. Insofar as consistent with the provisions of this part, all of the other provisions of the Export Control Regulations shall apply equally to applications for licenses and licenses issued under these special provisions.

SUPPLEMENT NO. 1—COUNTRIES ADHEARING TO THE LIMITED NUCLEAR TEST BAN TREATY

For purposes of the Export Control Regulations a country will be treated as an adherent to the Limited Nuclear Test Ban Treaty if it has deposited with the U.S. Department of State in Washington, D.C., an instrument of ratification or accession to that Treaty (or an unrestricted notification that it considers itself bound by the ratification or accession of a predecessor government). The following countries are adherents to the Limited Nuclear Test Ban Treaty:

Afghanistan.
Australia.
Austria.
Belgium.
Bolivia.
Botswana.
Brazil.
Bulgaria.
Burma.
Canada.
Central African Republic.
Ceylon.
Chad.
China, Republic of.
Congo, Democratic Republic of the.
Costa Rica.
Cyprus.
Czechoslovakia.
Dahomey.
Denmark.
Dominican Republic.
Ecuador.
El Salvador.
Finland.
Gambia.
Gabon.
West Germany (Federal Republic of Germany).
Ghana.
Greece.
Guatemala.
Honduras.
Hungary.
Iceland.
India.
Indonesia.
Iran.
Iraq.
Ireland.
Israel.
Italy.
Ivory Coast.
Japan.
Jordan.
Kenya.
Korea, Republic of.
Kuwait.
Laos.
Lebanon.
Liberia.
Luxembourg.
Malagasy Republic.
Malawi.
Malaysia.
Malta.
Mauritania.
Mexico.
Morocco.
Nepal.
Netherlands (including Surinam & Netherlands Antilles).
New Zealand.
Nicaragua.
Niger.
Nigeria, Federation of.
Norway.
Panama.
Peru.
Philippines.
Poland.
Rumania.
Rwanda.
San Marino.
Senegal.
Sierra Leone.
Singapore, Republic of.
South Africa, Republic of.
Spain.
Sudan.
Sweden.
Switzerland.
Syrian Arab Republic.
Thailand.
Togo.
Trinidad and Tobago.
Tunisia.
Turkey.
Uganda.
Union of Soviet Socialist Republics.
United Arab Republic.
United Kingdom.
United States.
Venezuela.
Western Samoa.
Yugoslavia.
Zambia.

PART 379—TECHNICAL DATA

Sec.
379.1 Definitions.
379.2 Licenses to export.
379.3 General License *GTDA:* Technical data available to all destinations.
379.4 General License *GTDR:* Technical data under restriction.
379.5 Validated license applications.
379.6 Exports under a validated license.
379.7 Amendments.
379.8 Reexports of technical data and exports of the product manufactured abroad by use of U.S. technical data.
379.9 Other applicable provisions.

AUTHORITY: The provisions of this Part 379 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.

§ 379.1 Definitions.[1]

(a) *Technical data.*[2] "Technical data" means information of any kind that can be used, or adapted for use, in the design, production, manufacture, utilization, or reconstruction of articles or materials. The data may take a tangible form, such as a model,[3] prototype, blueprint, or an operating manual; or they may take an intangible form such as technical service.

(b) *Export of technical data*[4][5]—(1) *Export of technical data.* "Export of technical data" means (i) an actual shipment or transmission of technical data out of the United States;[6] (ii) any release of technical data in the United States with the knowledge or intent that the data will be shipped or transmitted from the United States to a foreign country; or (iii) any release of technical data of U.S.-origin in a foreign country.

(2) *Release of technical data.* Technical data may be released for export through:

(i) Visual inspection by foreign nationals of U.S.-origin equipment and facilities;

(ii) Oral exchanges of information in the United States or abroad; and

(iii) The application to situations abroad of personal knowledge or technical experience acquired in the United States.

(c) *Reexport of technical data.* "Reexport of technical data" means (1) an

[1] Forms FC–419 and FC–420 may be obtained at all U.S. Department of Commerce Field Offices and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

[1] See § 370.2 for definitions of other terms used in this regulation.

[2] The provisions of Part 379 do not apply to "classified" technical data, i.e., technical data which have been officially assigned a security classification (e.g. "top secret," "secret," or "confidential") by an officer or agency of the U.S. Government. The export of classified technical data is controlled by the Office of Munitions Control of the U.S. Department of State or the U.S. Atomic Energy Commission, Washington, D.C.

[3] Models and prototypes are controlled both as technical data and as commodities. The more restrictive Office of Export Control requirements apply to their export. See Part 399 for the commodity controls.

[4] License applications for, or questions about, the export of technical data relating to commodities which are licensed by U.S. Government agencies other than the U.S. Department of Commerce shall be referred to such other appropriate U.S. Government agency for consideration (see § 370.10).

[5] Patent attorneys and others are advised to consult the U.S. Patent Office, U.S. Department of Commerce, Washington, D.C. 20231, regarding the U.S. Patent Office regulations concerning the filing of patent applications or amendments in foreign countries. In addition to the regulations issued by the U.S. Patent Office, technical data contained in or related to inventions made in foreign countries or in the United States, are also subject to the U.S. Department of Commerce regulations covering the export of technical data, in the same manner as the export of other types of technical data.

[6] As used in this Part 379, the United States includes its possessions and territories.

actual shipment or transmission from one foreign country to another, or (2) any release of technical data of U.S.-origin in a foreign country with the knowledge or intent that the data will be shipped or transmitted to another foreign country. Technical data may be released for reexport through:

(1) Visual inspection of U.S.-origin equipment and facilities abroad;

(2) Oral exchanges of information abroad; and

(3) The application to situations abroad of personal knowledge or technical experience acquired in the United States.

§ 379.2 Licenses to export.

Except as provided in paragraph 370.2 (a), an export of technical data must be made under either a U.S. Department of Commerce general license or a validated export license. (See §§ 371.1 and 372.2 for definitions of "general" and "validated" licenses.) General Licenses GTDA and GTDR (see §§ 379.3 and 379.4) apply to specific types of exports of technical data. A validated license is required for any export of technical data where these general licenses do not apply, except in the case of certain exports to Canada.[1] [2]

§ 379.3 General License GTDA: Technical data available to all destinations.

A General License designated GTDA is hereby established authorizing the export to all destinations of technical data described in (a), (b), or (c) of this section:

(a) *Data generally available.* Data that have been made generally available to the public in any form, including: (1) data released orally or visually at open conferences, lectures, trade shows, or other media open to the public; and (2) publications that may be purchased without restrictions at a nominal cost or obtained without cost or are readily available at libraries open to the public. The term "nominal cost" as used in paragraph (a) (2) of this § 379.3 is intended to reflect realistically only the cost of preparing and distributing the publication and not the intrinsic value of the technical data. If the cost is such as to prevent the technical data from being generally available to the public, General License GTDA would not be applicable.

(b) *Scientific or educational data.* (1) Dissemination of information not directly and significantly related to design, production, or utilization in industrial processes, including such dissemination by correspondence, attendance at, or participation in, meetings; or

(2) Instruction in academic institutions and academic laboratories, excluding information that involves research under contract related directly and significantly to design, production, or utilization in industrial processes.

(c) *Patent applications.* Data contained in an application for the foreign filing of a patent, provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office, and provided that the patent application has been filed abroad in an "early publication country."[1]

§ 379.4 General License GTDR: technical data under restriction.

A general license designated GTDR is hereby established authorizing the export of technical data that are not exportable under the provisions of General License GTDA, subject to the provisions, restrictions, exclusions, and exceptions set forth below and subject to the written assurance requirement set forth in § 379.4(e).

(a) *Country Group S and Z restrictions.* No technical data may be exported under this general license to Country Group S or Z.

(b) *Country Group W and Y restrictions.* No technical data may be exported under this general license to Country Group W or Y, except:

(1) Data in such forms as manuals, instruction sheets, or blueprints, provided they are:

(i) Sent as part of a transaction involving, and directly related to, a commodity licensed for export from the United States, or specifically authorized for reexport, to the same consignee and destination to which the commodity was or will be exported;

(ii) Sent no later than 1 year following the shipment of the commodity to which the technical data are related;

(iii) Of a type delivered with the commodity in accordance with established business practice;

(iv) Necessary to the assembly, installation, maintenance, repair, or operation of the commodity; and

(v) Not related to the production, manufacture, or construction of the commodity.

(2) Technical data supporting a prospective or actual quotation, bid, or offer to sell, lease, or otherwise supply any commodity, plant, service or technical data, provided that:

(i) The commodity, plant, service or technical data, are not (and are not related to) a commodity identified on the Commodity Control List by the symbol "A" or shown on the U.S. Munitions List;

(ii) The technical data are of a type customarily transmitted with a prospective or actual quotation, bid, or offer (in accordance with established business practice); and

(iii) The export will not disclose the detailed design, production, or manufacture, or the means of reconstruction, of either the quoted item or its product. Similarly, a quotation, bid, or offer for technical data or services must not disclose the detailed technical process involved.

NOTE: Neither this authorization nor its use means that the U.S. Government intends, or is committed, to approve an export license application for any commodity, plant, technical data, or service that may be the subject of the transaction to which such quotation, bid, or offer relates. Exporters are advised to include in any quotations, bids, or offers, and in any contracts entered into pursuant to such quotations, bids, or offers, a provision relieving themselves of liability in the event that an export license (when required) is not approved by the Office of Export Control.

(c) *Technical data restrictions applicable to all destinations.* No technical data[1] (including operating and maintenance instructional material) related to the following may be exported under this general license, and exports of technical data to all destinations, including Canada, require a validated export license:

(1) Commodities to be used for developing or testing nuclear weapons or nuclear explosive devices as described in § 378.1;

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

(3) Neutron generators employing the electrostatic acceleration of ions and specially designed parts and accessories for neutron generators; and

(4) Porous nickel.

(d) *Restrictions applicable to all destinations except Canada.* No technical data relating to the following commodities other than data described in paragraph (b) of this § 379.4[2] may be ex-

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[1] Only the restriction set forth in § 379.4 (c) apply to exports of technical data for use in Canada. In all other cases, an export of technical data for use in Canada may be made without either a validated or a general license.

[2] Although the Office of Export Control may provide general information or licensing policies regarding the prospects of approval of various types of export control actions, including actions with respect to technical data, normally it will give a formal judgment respecting a specific request for an action only upon the actual submission of a formal application or request setting forth all of the facts relevant to the export transaction and supported by all required documentation.

Advice is always available, however, regarding any questions as to the applicability of a general license. Such questions should be submitted by letter to the U.S. Department of Commerce, Office of Export Control (Attention: 866), Washington, D.C. 20230.

[1] The term "early publication country" used in this sentence and in this context only Uruguay, Venezuela, and West Germany Ecuador, Finland, France, Honduras, Iceland, Jamaica, Luxembourg, Netherlands, Nicaragua, Norway, Panama, Portugal, Sweden, Trinidad, Turkey, Republic of South Africa, Uruguay, Venezula, and West Germany (Fed-(Federal Republic of Germany).

[1] This restriction does not apply to data included in the foreign filing of a patent provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office.

[2] Data included in the foreign filing of a patent is also excluded from the restrictions set forth in this § 379.4(d) if such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office.

ported under this General License GTDR, and exports of these technical data to all destinations, except Canada,[3] require a validated export license:

(1) Civil aircraft, civil aircraft equipment, parts, accessories, or components;

(2) Electrical and electronic instruments, Export Control Commodity Nos. 72952 and 72999, specially designed for testing or calibrating the airborne direction finding, navigational, and radar equipment described in Export Control Commodity Nos. 72499 and 72952;

(3) Airborne electronic transmitters, receivers, and transceivers, Export Control Commodity No. 72499;

(4) Airborne electronic direction finding equipment, Export Control Commodity No. 72499; and

(5) Airborne electronic navigation and radar equipment, Export Control Commodity Nos. 72499 and 72952.

(6) Watercraft of hydrofoil and hovercraft (air bubble) design (Export Control Commodity No. 73550).

(7) Any other commodity under the export control jurisdiction of the Office of Export Control, if such commodity is not covered by an entry on the Commodity Control List.

(e) *Written assurance requirements*—(1) *Requirement of written assurance for certain data, services, and materials.* No export of technical data of the kind described in (i), (ii), and (iii) of this paragraph (e)(1) may be made under the provisions of this General License GTDR until the exporter has received written assurance from the importer that neither the technical data nor the direct product[1] thereof is intended to be shipped, either directly or indirectly, to Country Group W, Y, or Z except as provided in (iv) of this paragraph (e)(1). The required assurance may be in the form of a letter or other written communication from the importer evidencing such intention, or a licensing agreement which restricts disclosure of the technical data to use only in a country other than Country Group W, Y, or Z, and prohibits shipment of the direct product[1] thereof by the licensee to Country Group W, Y, or Z. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement. If such assurance is not received, this general license is not applicable and a validated export license is required. An application for such validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be obtained. In addition, this general license is not applicable to any export of technical data of the kind described in (i), (ii), and (iii) of this paragraph (e)(1) if, at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product to be manufactured abroad by use of the technical data is intended to be exported or reexported directly or indirectly to Country Group W, Y, or Z.

(i) Technical data and services listed in (*a*) of this subdivision (i) below for the plants, processes, and equipment listed in paragraph (*b*) below:

(*a*) *Types of technical data and services.* (*1*) Proprietary research and the results therefrom;

(*2*) Processes developed pursuant to research (including technology with regard to component equipment items);

(*3*) Catalyst production, activation, utilization, reactivation, and recovery;

(*4*) Plant and equipment design and layout to implement the processes; and

(*5*) Construction and operation of plant and equipment.

(*b*) *Types of plants and processes.* The following plants or processes usable in the treatment of petroleum or natural gas fractions or of products derived directly or indirectly therefrom:[2]

alkylation.	oxidation.
aromatization.	oxo process.
cracking.	ozonolysis.
dehydrogenation.	polymerization.
desulfurization.	reduction.
halogenation.	reforming.
hydrogenation.	selective absorption.
isomerization.	selective adsorption.
nitration.	

(ii) Technical data relating to the following commodities usable in processes listed in subdivision (i)(*b*) of this paragraph (e)(1):

Export Control Commodity Number and Commodity Description

71120 Heat exchangers having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;[1] and specially designed parts and accessories.

71913 Burners for carbon black furnaces, continuous combustion, controlled reaction type; and specially designed parts and attachments.

71914 Carbon black furnaces, continuous combustion, controlled reaction type; and specially designed parts and attachments.

71919 Heat exchangers having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;[1] and specially designed parts and accessories, n.e.c.

71919 Fractionating columns as follows: (a) having or having provisions for 25 or more trays, or (b) having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;[1] and specially designed parts and accessories.

71919 Equipment, n.e.c., specially designed for use in the following units: (a) Solvent processing, (b) fractionating, rectifying and dephlegmatizing, (c) hydrogenation, (d) dehydrogenation, (e) isomerization, (f) polymerization, (g) aromatization, (h) alkylation, (i) desulphurization, (j) thermal or catalytic cracking, reforming or platforming; and specially designed parts and accessories therefor, n.e.c.

71921 Industrial pumps as follows: (a) Specially designed for use in the processing of petroleum, petrochemicals, natural gas, or their fractions; or (b) having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;[1] and specially designed parts and attachments therefor.

71922 Axial flow, mixed flow, and centrifugal air and gas compressors as follows: (a) capable of receiving a power input of 500 horsepower or greater and specially designed for use in the processing of petroleum, petrochemicals, natural gas, or their fractions; or (b) having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;[1] and specially designed parts and accessories, n.e.c.

71922 Stationary positive displacement air and gas compressors, reciprocating, as follows: (a) capable of receiving a power input of 500 horsepower or greater and specially designed for use in the processing of petroleum, petrochemicals, natural gas or their fractions; or (b) over 125 horsepower, having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;[1] and specially designed parts and accessories, n.e.c.

71923 Separators and collectors, industrial process types, n.e.c., having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;[1] and specially designed parts and accessories, n.e.c.

71980 Mixing and blending machines having all flow-contact surfaces made rials specified in fotnote;[1] and specially designed parts and accessories, n.e.c.

71980 Fractionating columns as follows: (a) Having, or having provisions for 25 or more trays, or (b) having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;[1] and specially designed parts and accessories, n.e.c.

[3] Only the restrictions set forth in § 379.4 (c) apply to exports of technical data for use in Canada. In all other cases, an export of technical data for use in Canada may be made without either a validated or a general license. For reexport provisions applicable to Canada and other countries, see § 379.8 (b) and (c).

[1] The term "direct product" used in this sentence and in this context only is defined to mean the immediate product (including processes and services) produced directly by use of the technical data, except that petroleum or chemical products other than molecular sieves or catalysts are not included in this definition. The coverage of the term does not extend to the results of the use of such "direct product." An example of the direct product of technical data is reforming process equipment designed and constructed by use of the technical data exported, but the aromatics produced by the reforming process equipment are not immediate or direct products of these technical data. However, if the technical data are a formula for producing aromatics, the aromatics, although they are immediate products of the data, are not included in this definition of direct product, since they are petroleum products. Conversely, if the technical data are a formula for producing either molecular sieves or catalysts, the foreign-produced molecular sieves and catalysts are included in the definition or direct product.

[2] This includes plants, or processes for the production, extraction, and purification of petroleum products, petrochemical products, and products derived therefrom. Examples of petrochemical products include methane, ethane, propane, butane, and other aliphatics, as well as olefins, aromatics, naphthenes, and elements and other compounds.

71980 Other processing vessels, nonmixing, n.e.c., having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;[1] and specially designed parts and accessories, n.e.c.

71980 Pulsation dampeners, having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;[1] and specially designed parts and accessories, n.e.c.

71992 Pipe valves as follows: (a) specially designed for use in the processing of petroleum, petrochemicals, natural gas, or their fractions; or (b) having all flow-contact surfaces made of or lined with any of the materials specified in footnote 1;[1] and specially designed parts and accessories, n.e.c.

[1] The materials applicable to the flow-contact surfaces of this equipment are (a) 90 percent or more tantalum, titanium, or zirconium either separately or combined, (b) 50 percent or more cobalt, molybdenum, nickel or tungsten either separately or combined, (c) 13 percent or more silicon, (d) steel alloys containing any combination of chromium, with either or both molybdenum or tungsten in which the sum of the alloying elements exceeds 3 percent of the total, (e) 2.5 percent or more nickel, (f) fluoro and/or silico resins, (g) glass (acid-, heat-, or shock-resistant), (h) ceramics, (i) carbon, (j) graphite, or (k) acid/heat resistant cement.

(iii) Technical data relating to the following materials and equipment:

(*a*) Molecular sieves (for example, crystalline calcium alumino-silicate; crystalline sodium alumino-silicate; crystalline alkali metal alumino-silicates, etc.) (Export Control Commodity Nos. 51460, 51470, and 59999);

(*b*) Pyrolytic graphite (i.e., graphite and doped graphites produced by vapor deposition) in any form (Export Control Commodity No. 66363); semifinished or finished materials or products containing pyrolytic graphite as a standing body, a coating, a lining, or a substrate (Export Control Commodity Nos. 59972, 66363, and 72996);

(*c*) Electric industrial melting and refining furnaces and metal heat-treating furnaces specially designed for the production or processing of vapor deposited (pyrolytic) graphite or doped graphites whether as standing bodies, coatings, lining, or substrates (Export Control Commodity No. 72992);

(*d*) Cementing equipment; sidewall coring equipment; blowout preventers; fishing tools incorporating integral moving parts, casing cutters, and casing pullers; drilling control and surveying instruments; safety joints; jars, back-off tools, slip or telescopic joints; pipe and casing tongs, power type; percussion or vibratory attachments for rotary drilling; and drawworks and rotary tables designed for an input of 150 hp and over (Export Control Commodity No. 71842);

(*e*) Rotary drill rigs incorporating rotary tables and with drawworks designed for an input of 150 hp and over; and work-over rigs (Export Control Commodity Nos. 71842 and 73203);

(*f*) Rotary rock drill bits (cone or roller types), and specially designed parts and accessories, n.e.c. (Export Control Commodity Nos. 69524 and 71842);

(*g*) Gravity meters (gravimeters) and specially designed parts and accessories (Export Control Commodity No. 86191);

(*h*) Casing head and Christmas-tree assemblies, 2,000 p.s.i. and over, chokes and components; perforating equipment; formation and production testers, and packers; gas lift equipment; bottom hole pumps; and work-over rigs (Export Control Commodity Nos. 71921, 71980, and 71992);

(*i*) Well logging instruments and equipment and seismograph equipment except observatory type (Export Control Commodity No. 72952);

(*j*) Acetal resins (Export Control Commodity No. 58110);

(*k*) Alpha trioxymethylene (trioxane) (Export Control Commodity No. 51208);

(*l*) Ion exchange resins as follows: (*1*) Copolymers of styrene and divinyl benzene in which the predominant functional groups are either quaternary ammonium derivatives (basic type), or the sulfonic radical (acidic type), (*2*) mixed bed formulations consisting principally of resins specified in (*1*) of this subdivision (iii)(*l*), (*3*) ion exchange membranes (all types), and (*4*) ion exchange liquids (Export Control Commodity Nos. 58110 and 58120);

(*m*) Rhenium in all forms: concentrates, oxides and compounds, metal and alloys, and metal powders (Export Control Commodity Nos. 28398, 51369, 51470, 68950, and 69899);

(*n*) Filament winding machines designed for or modified for the manufacture of rigid structural forms by precisely controlled tensioning and positioning of filament yarns, tapes, or rovings; and specially designed parts, controls, and accessories, n.e.c. (Export Control Commodity No. 71980);

(*o*) Alumina, all types, 99 percent purity and over (Export Control Commodity No. 51365);

(*p*) Silicon carbide, all types, 99 percent purity and over (Export Control Commodity No. 51470);

(*q*) Phosphor compounds specially prepared for lasers, including but not limited to: neodymium-doped calcium tungstate, dysprosium-doped calcium fluoride, eu-trifluoroethenoyl acetonate, praseodymium-doped lanthanum trifluoride (Export Control Commodity No. 53310);

(*r*) Voltmeters, with full scale sensitivity of 10 nanovolts or less (Export Control Commodity No. 72952);

(*s*) Hot or cold isostatic presses; and specially designed parts and accessories (Export Control Commodity No. 71980);

(*t*) Trimellitic acid and anhydrides; and pyromellitic acid and its dianhydrides (Export Control Commodity No. 51202);

(*u*) Polyimide-polyamide resins and products made therefrom (Export Control Commodity Nos. 53332, 58120, 59958, 66311, and 89300);

(*v*) Bonded, brazed, or welded structural sandwich constructions, including cores, face sheets, and attachment materials, manufactured in whole or in part from precipitation hardened stainless steel, beryllium, molybdenum, niobium (columbium), tantalum, titanium, tungsten, and their alloys, or any combination of such materials (Export Control Commodity Nos. 69110 and 69899);

(*w*) Silica, quartz, carbon, or graphite fibers in all forms (for example, chopped or macerated; filaments, yarns, rovings, and unwoven tapes for winding or weaving purposes; woven fabrics and tapes; nonwoven mats and felts); and compounds or compositions (composites) thereof with laminating resins in crude and semifabricated forms, including molding compositions and molded shapes (Export Control Commodity Nos. 58110, 58120, 59972, 65180, 65380, 65543, 66363, 66494, 72996, and 89300);

(*x*) Nonflexible fused fiber optic plates or bundles in which the fiber pitch (center to center spacing) is less than 30 microns, and devices containing such plates or bundles (Export Control Commodity Nos. 66420, 66492, 66494, 72930, 86111, 86112, and 89300); and

(*y*) Transonic (Mach 0.8 to 1.4), supersonic (Mach 1.4 to 5.5), hypersonic (Mach 5.5 to 15), and hypervelocity (above Mach 15) wind tunnels and devices (including hotshot tunnels, plasma arc tunnels, shock tunnels, gas tunnels, shock tubes, and light gas guns) for simulating environments at Mach 0.8 and above; and specially designed parts and accessories, n.e.c. (Export Control Commodity Nos. 71980, 72952, 86182, 86191, 86193, 86195, 86196, 86197, 86198, and 86199).

(*z*) Offshore drilling platforms (except fixed, nonfloating types); specially designed parts and components (Export Control Commodity No. 73593); and

(*aa*) Methyl methacrylate, cross-linked, hot stretched, clear, film sheeting, or laminates (Export Control Commodity No. 58120).

(iv) The limitations set forth in this § 379.4(e)(1) do not apply to the export of:

(*a*) Technical data included in an application for the foreign filing of a patent provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office; and

(*b*) Technical data supporting a price quotation as described in paragraph (b)(2) of this § 379.4.

(2) *Requirement of written assurance for certain additional products and destinations.* (i) Except for technical data requiring a written assurance in accordance with the provisions of paragraph (e)(1) of this § 379.4, and except as provided in paragraph (v) below; no export of technical data relating to the commodities described below in this § 379.4 (e)(2) may be made under the provisions of this General License GTDR, until the U.S. exporter has received a written assurance from the foreign importer that, unless prior authorization is obtained from the Office of Export Control, the importer will not knowingly:

(*a*) Reexport, directly or indirectly, to Country Group W, Y, or Z, any technical

data relating to commodities identified by the symbol "W" in the column of the Commodity Control List indicating the country groups for which a validated license is required;

(b) Export, directly or indirectly, to Country Group Z, any direct product[1] of the technical data if such direct product is identified by the symbol "W" in the column of the Commodity Control List indicating the country groups for which a validated license is required; or

(c) Export, directly or indirectly, to any destination in Country Group W or Y any direct product[1] of the technical data if such direct product is identified by the symbol "A" in the last column of the Commodity Control List.

(ii) If the direct product[1] of any technical data is a complete plant or any major component of a plant which is capable of producing a commodity identified by the symbol "W" in the column of the Commodity Control List indicating the country group for which a validated license is required, or appears in the U.S. Munitions List, a written assurance by the person who is or will be in control of the distribution of the products of the plant (whether or not such person is the importer) shall be obtained by the U.S. exporter (via the foreign importer), stating that, unless prior authorization is obtained from the Office of Export Control, such person will not knowingly:

(a) Reexport, directly or indirectly, to Country Group W, Y, or Z the technical data relating to the plant or the major component of a plant;

(b) Export, directly or indirectly, to Country Group Z, the plant or the major component of a plant (depending upon which is the direct product[1] of the technical data) or any product of such plant or of such major component if such product of the plant is identified by the symbol "W" in the column of the Commodity Control List indicating the country groups for which a validated license is required, or appears in the U.S. Munitions List; or

(c) Export, directly or indirectly, to Country Group W or Y, the plant or the major component of a plant (depending upon which is the direct product of the technical data) or any product of such plant or of such major component, if such product is identified by the symbol "A" in the last column of the Commodity Control List, or appears in the U.S. Munitions List.

NOTE: *Pursuant to the provisions of Current* Export Bulletin 891, effective April 1, 1964, § 379.4(e)(2)(ii) (b) and (c) required certain written assurances relating to the disposition of the products of a complete plant or major component of a plant which is the direct product of unpublished technical data of U.S. origin exported under General License GTDR.

Except as to items which are identified in the last column of the Commodity Control List by the symbol "A," and items on the U.S. Munitions List, the effective date of the written assurance requirements for plant products as a condition of using General License GTDR for export of this type of technical data is hereby deferred until further notice, subject to the following limitations:

1. The exporter shall, at least 2 weeks before the initial export of the technical data, notify the Office of Export Control, by letter, of the facts required to be disclosed in an application for a validated export license covering such technical data; and

2. The exporter shall obtain from the person who is or will be in control of the distribution of the products of the plant (whether or not such person is the importer) a written commitment that he will notify the U.S. Government, directly or through the exporter, whenever he enters into negotiations to export any product of the plant to any destination covered by paragraph 379.4 (e)(2)(ii)(b) above when such product is not identified by the symbol "A" in the last column of the Commodity Control List and requires a validated license for export to Country Group W by the information set forth in the column titled "Validated License Required for Country Group Shown Below." The notification should state the product, quantity, country of destination, and the estimated date of shipment.

Moreover, during the period of deferment, the remaining written assurance requirement of paragraphs 379.4(e)(2)(ii) (b) and (c) as to plant products which are identified by the symbol "A" in the last column of the Commodity Control List, or are on the U.S. Munitions List, will be waived if the plant is located in one of the following Cocom countries: Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Italy, Japan, Luxembourg, The Netherlands, Norway, Portugal, Turkey, and the United Kingdom.

This deferment applies to exports of technical data pursuant to any type of contract or arrangement, including licensing agreements, regardless of whether entered into before or after April 1, 1964.

(iii) The required assurance may be in the form of a letter or other written communication from the importer or, if applicable, the person in control of the distribution of the products of a plant; or the assurance may be incorporated into a licensing agreement which restricts disclosure of the technical data to use only in authorized destinations, and prohibits shipment of the direct product[1] thereof by the licensee to any unauthorized destination. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement. If such assurance is not received this general license is not applicable and a validated export license is required. An application for such validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be obtained.

(iv) In addition, this general license is not applicable to any export of technical data of the kind described in this § 379.4(e)(2) if, at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product[1] to be manufactured abroad by use of the technical data is intended to be exported directly or indirectly to any unauthorized destination.

(v) The limitations set forth in this § 379.4(e)(2) do not apply to the export of:

(a) Technical data included in an application for the foreign filing of a patent provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office; and

(b) Technical data supporting a price quotation as described in paragraph (b)(2) of this § 379.4.

NOTE: A written assurance is not required for the export under this General License GTDR of any technical data which do not fall within the description set forth in paragraph (e) (1) or (2) or (5) of this § 379.4.

§ 379.5 Validated license applications.

(a) *General.* No technical data, other than that exportable without license to Canada or under general license to other destinations, may be exported from the United States without a validated export license. Such validated export licenses are issued by the Office of Export Control upon receipt of an appropriate export application or reexport request. An application for a technical data license shall consist of:

(1) Form FC–419, Application for Export License, accompanied by

(2) Form FC–420, Application Processing Card, as described in paragraph (d) of this section, and

(3) A letter of explanation described in paragraph (d) of this section.

(b) *Application Form FC–419.* Form FC–419 shall be completed as provided in § 372.4, except that the items for producer or supplier, quantity to be shipped, Export Control Commodity Number, and processing number shall be left blank. The commodity description item shall contain a general statement which specifies the technical data (e.g., blue prints, manuals, etc.). In addition, the words "TD License" shall be entered across the top of Form FC–419 immediately above the printed words "United States of America."

(c) *Application Processing Card, Form FC–420.* The Application Processing Card, Form FC–420, shall be completed as provided in § 372.4 except that the Export Control Commodity Number, processing number, and commodity description shall be omitted and the symbol "TD" shall be entered in the space provided for the processing number.

(d) *Letter of explanation.* Each application shall be supported by a comprehensive letter of explanation in duplicate. This letter shall set forth all the facts required to present to the Office of Export Control a complete disclosure of the transaction including, if applicable, the following:

(1) The identification of all parties to the transaction;

(2) The exact project location where the technical data will be used;

(3) The type of technical data to be exported;

(4) The form in which the export will be made;

[1] The term "direct product" used in this sentence and in this context only is defined to mean the immediate product (including processes and services) produced directly by use of the technical data.

[1] The term "direct product" used in this sentence and in this context only is defined to mean the immediate product (including processes and services) produced directly by use of the technical data.

(5) The uses for which the data will be employed;

(6) An explanation of the process, product, size, and output capacity of the plant or equipment; and

(7) The availability abroad of comparable foreign technical data.

(e) *Special provisions*—(1) *Maritime nuclear propulsion plants and related commodities.* These special provisions are applicable to technical data relating to maritime (civil) nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, or maintenance, including any machinery, device, component, or equipment specifically developed or designed for use in such plants or facilities. Every application for license to export technical data relating to any of these commodities shall include the following:

(i) A description of the foreign project for which the technical data will be furnished;

(ii) A description of the scope of the proposed services to be offered by the applicant, his consultant(s), and his subcontractor(s), including all the design data which will be disclosed;

(iii) The names, addresses and titles of all personnel of the applicant, his consultant(s) and his subcontractor(s) who will discuss or disclose the technical data or be involved in the design or development of the technical data;

(iv) The beginning and termination dates of the period of time during which the technical data will be discussed or disclosed and a proposed time schedule of the reports which the applicant will submit to the U.S. Department of Commerce, detailing the technical data discussed or disclosed during the period of the license;

(v) The following certification:

I(We) certify that if this application is approved, I(we) and any consultants, subcontractors, or other persons employed or retained by us in connection with the project thereby licensed will not discuss with or disclose to others, directly or indirectly, any technical data relating to U.S. naval nuclear propulsion plants. I(We) further certify that I(we) will furnish to the U.S. Department of Commerce all reports and information which it may require concerning specific transmittals or disclosures of technical data pursuant to any license granted as a result of this application.

(vi) A statement of the steps which the applicant will take to assure that personnel of the applicant, his consultant(s) and his subcontractor(s) will not discuss or disclose to others technical data relating to U.S. naval nuclear propulsion plants; and

(vii) A written statement of assurance from the foreign importer that unless prior authorization is obtained from the Office of Export Control, the importer will not knowingly export directly or indirectly to Country Group W, Y or Z the direct product of the technical data. However, if the U.S. exporter is not able to obtain this statement from the foreign importer, the U.S. exporter shall attach an explanatory statement to his license application setting forth the reasons why such an assurance cannot be obtained.

(2) *Other commodities.* For all applications for licenses to export to any destination other than Country Group W, Y, or Z technical data relating to any of the commodities set forth in this subparagraph (1)(i)–(1)(vii), an applicant shall attach to the license application a written statement from his foreign importer assuring that unless prior authorization is obtained from the Office of Export Control, the importer will not knowingly reexport the technical data to any destination or export the direct product of the technical data directly or indirectly to Country Group W, Y, or Z. However, if the U.S. exporter is not able to obtain the required statement from his importer the exporter shall attach an explanatory statement to his license application setting forth the reasons why such an assurance cannot be obtained. The special provisions set forth in this § 379.5(e)(2) are applicable to technical data concerning the following:

(i) Commodities related to nuclear weapons, nuclear explosive devices, or nuclear tests, as described in § 378.1;

(ii) Neutron generators, employing the electrostatic acceleration of ions and designed for operation without an external vacuum system and specially designed parts and accessories for such neutron generators, Export Control Commodity No. 72970;

(iii) Porous nickel;

(iv) Civil aircraft, civil aircraft equipment, parts, accessories, or components not identified by the symbol "B" in the last column of the Commodity Control List (§ 399.1); and

(v) The following electronic commodities:

(*a*) Electrical and electronic instruments, Export Control Commodity Nos. 72952 and 72999, specially designed for testing or calibrating the airborne direction finding, navigational, and radar equipment described in Export Control Commodity Nos. 72499 and 72952;

(*b*) Airborne electronic transmitters, receivers, and transceivers, Export Control Commodity No. 72499;

(*c*) Airborne electronic direction finding equipment, Export Control Commodity No. 72499; and

(*d*) Airborne electronic navigation and radar equipment, Export Control Commodity Nos. 72499 and 72952.

(vi) Watercraft of hydrofoil and hovercraft (air bubble) design (Export Control Commodity No. 73550).

(vii) Any other commodity under the export control jurisdiction of the Office of Export Control, if such commodity is not covered by an entry on the Commodity Control List.

(f) *Validity period.* Validated licenses covering exports of technical data will generally be issued for a validity period of twelve (12) months.

§ 379.6 Exports under a validated license.

(a) *Use of validated licenses.* (1) The validated technical data license need not be presented to the Customs Office or post office but shall be retained and made available for inspection in accordance with the provisions of § 387.11.

(2) Export licenses shall be returned promptly to the Office of Export Control upon revocation, suspension, or expiration of the validity period. Used licenses shall be returned when fully used. Unused and partially used licenses shall be returned when the exporter determines that he will not make any shipment, or any further shipment, thereunder or upon expiration, whichever comes first.

(b) *Reports on exports*—(1) *Country Group S, T, V, or X.* With respect to a license used to export technical data to Country Group S, T, V, or X, when the license is returned, as provided in paragraph (a)(2) of this § 379.6, the exporter shall submit a statement indicating:

(i) When the technical data were exported or when the technical services were rendered; and

(ii) Whether the export was total or partial.

(2) *Country Group W or Y.* With respect to a license used to export technical data to Country Group W or Y when the license is returned, the exporter shall submit a statement indicating the following:

(i) When the technical data were exported or when the technical services were rendered;

(ii) Whether the export or service was total or partial;

(iii) The nature of the transaction (e.g., a sale of technical data, performance of technical services, a technical licensing agreement, a technology exchange agreement);

(iv) The nature of the payment received or to be received by the U.S. exporter (e.g., pecuniary or other consideration); and

(v) The actual or estimated price of the technical data exported, or services rendered, or the actual or estimated dollar value of any other consideration received or to be received. (This should include the payment received or to be received for engineering and for any other services when rendered, as well as for the royalty or other payment received or to be received for a design or process authorized to be used.)

§ 379.7 Amendments.

Requests for amendments shall be made in accordance with the provisions of § 372.11.

§ 379.8 Reexports of technical data and exports of the product manufactured abroad by use of United States technical data.

(a) *Prohibited exports and reexports.* Unless specifically authorized by the Office of Export Control, or otherwise authorized under the provisions of paragraph (b) of this § 379.8, no person in the United States or in a foreign country may:

(1) Reexport any technical data imported from the United States, directly or indirectly, in whole or in part, from the authorized country(ies) of ultimate destination;

(2) Export any technical data from the United States with the knowledge that it is to be reexported, directly or indirectly, in whole or in part, from the authorized country(ies) of ultimate destination; or

(3) Export or reexport to Country Group W, Y, or Z, any foreign produced direct product of U.S. technical data, or any commodity produced by any plant or major component thereof which is a direct product of U.S. technical data, if such direct product or commodity is covered by the provisions of § 379.4(e) or § 379.5(e) (1) or (2).

(b) *Permissive reexports.* (1) Any technical data which have been exported from the United States may be reexported from any destination to any other destination provided that, at the time of reexport, the technical data may be exported directly from the United States to the new country of destination under General License GTDA or GTDR and provided that all of the requirements and conditions for use of these general licenses have been met.

(2) When the Office of Export Control has specifically authorized the export of a commodity from the United States to a destination in Country Group W or Y or the reexport of a U.S.-origin commodity from any foreign country to a destination in Country Group W or Y, technical data such as manuals, instructional sheets, or blueprints as described in, and subject to the conditions of § 379.4(b)(1) may be sent to the same destination as part of the same transaction without separate specific authorization by the Office of Export Control.

(c) *Specific authorization to reexport.* Requests for specific authorization to reexport technical data or to export any product thereof as applicable shall be submitted to the Office of Export Control by letter. The letter shall bear the words "Technical Data Reexport Request" immediately below the heading or letterhead. The letter shall contain all of the information required under § 379.5(a)(3). Any request for extension of such authorization shall similarly be submitted by letter. Authorization to reexport, if granted, will be issued with a validity period of 12 months on Form IA–L–71 or by means of a letter from the Office of Export Control. Reexport authorization shall be returned promptly to the Office of Export Control upon revocation, suspension, or expiration of the validity period. Used authorizations shall be returned when fully used. Unused and partially used authorizations shall be returned when the person authorized to reexport determines that he will not make any shipment, or further shipment thereunder or upon expiration of the authorization, whichever comes first. After the reexport of the technical data has been completed, the Office of Export Control shall also be given a notice in writing indicating:

(1) When the technical data were reexported or when the technical services were rendered; and

(2) Whether the reexport or service was total or partial. In addition, if the technical data had been reexported to Country Group W or Y, the written notice shall indicate:

(i) The nature of the transaction (e.g., a sale of technical data, performance of technical services, a technical licensing agreement, a technology exchange agreement, or the rendering of technical services);

(ii) The nature of the payment received, or to be received, by the U.S. exporter (e.g., pecuniary or other consideration); and

(iii) The actual or estimated price of the technical data reexported or services rendered, or the actual or estimated dollar value of any other consideration received or to be received. (This should include the payment received or to be received for engineering and for any other services when rendered, as well as for the royalty or other payment received or to be received for a design or process authorized to be used.)

(d) *Effect of foreign laws.* No authority granted by the U.S. Office of Export Control, or under the provisions of the U.S. Export Control Regulations, to reexport technical data or export a product thereof shall in any way relieve any person from his responsibility to comply fully with the laws, rules, and regulations of the country from which the reexport or export is to be made or of any other country having authority over any phase of the transaction. Conversely, no foreign law, rule, regulation, or authorization in any way relieves any person from his responsibility to obtain such authorization from the U.S. Office of Export Control as may be required by the U.S. Export Control Regulations.

§ 379.9 Other applicable provisions.

As far as may be consistent with the provisions of this Part 379, all of the other provisions of the Export Control Regulations shall apply equally to exports of technical data and to applications for licenses and licenses issued under this part.

PARTS 380—384 [Reserved]

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS [1]

Sec.

385.1 Country Group Z.
385.2 Country Groups W and Y; U.S.S.R. and East European Communist Countries.
385.3 Country Group S; Southern Rhodesia.
385.4 Country Group V.
385.5 Canada.

AUTHORITY: The provisions of this Part 385 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.

§ 385.1 Country Group Z.

(a) *Asian Communist Countries.* The general policy is to deny all applications to export or reexport commodities and technical data to Communist China, North Korea, and to the Communist controlled areas of Vietnam.

(b) *Cuba.* The general policy is to deny all applications to export or reexport commodities and technical data to Cuba except for certain humanitarian transactions.

§ 385.2 Country Groups W and Y: U.S.S.R. and East European Communist Countries.

The general policy is to deny applications to export or reexport commodities and technical data to the U.S.S.R., Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, and Rumania if the export or reexport makes a significant contribution to the military or economic potential of those nations which would prove detrimental to the national security and welfare of the United States. Generally, applications to export or reexport commodities identified on the Commodity Control List (§ 399.1) as being under licensing control to all foreign destinations, and technical data related thereto, are denied to the above-named countries unless the U.S. Department of Commerce determines, on a case-by-case basis that the commodities or technical data are for a civilian use or would otherwise not make a significant contribution to the military or economic potential of the country of destination that would be detrimental to U.S. national security and welfare.

§ 385.3 Country Group S: Southern Rhodesia.

The general policy is to deny applications to export or reexport commodities and technical data to Southern Rhodesia, unless the commodities and technical data are intended strictly for (a) medical purposes, (b) use in schools and other educational institutions, (c) the essential needs of recognized charitable institutions, or (d) foodstuffs required in special humanitarian circumstances.

§ 385.4 Country Group V.

(a) *Republic of South Africa.* The general policy is to deny applications to export or reexport commodities and technical data to the Republic of South Africa when there is a likelihood of military end use. Otherwise, the policy is the same as for other nations in Country Group V.

(b) *Other countries in Group V.* For other countries in Group V, the general policy is one of approval of all applications. License applications for these countries are required primarily to assure that the commodity or technical data to be exported or reexported is intended for the stated end use and will not be reexported or diverted contrary to the U.S. national interest.

(c) *Yugoslavia.* The general policy is to apply to Yugoslavia the same export licensing criteria as are in effect for other nations in Country Group V (e.g., France, West Germany, Italy, etc.). (See § 375.4 for the submission of a Yugoslav End-Use Certificate as a supporting document for license applications.)

(d) *Vietnam.* Any license application (Form FC–419), consignee/purchaser

[1] See Supplement 1 to Part 370 for listing of Country Groups.

statement (Form FC–842 and 843) (§ 375.2), and destination control statement (§ 386.6) that refers to Vietnam shall specify which of the following areas is referred to:

(1) Communist-controlled areas of Vietnam.

(2) Republic of Vietnam (areas not under Communist control).

(e) *Trieste.* Any license application that refers to Trieste shall specify which of the following areas is referral to:

(1) The area of Trieste under Italian civil administration.

(2) The area of Trieste under Yugoslav civil administration.

§ 385.5 Canada.

Except as indicated below, the general policy is to permit shipments of commodities and technical data to Canada for consumption or use in that country without an export license. When the commodities or technical data are transiting Canada or are intended for reexport from Canada to another foreign destination and such shipment would require a validated license if made directly from the United States to that destination, an export license or reexport authorization is required. The licensing action will be based on the policy applicable to a direct shipment from the United States to such other destination. (See § 374 for commodities in transit via Canada.) A validated license also is required for export to Canada if the export is (a) for certain copper commodities (§ 373.3); (b) related to nuclear weapons, nuclear explosive devices or nuclear testing as described in §§ 376.3 or 379.5(e); or (c) the Commodity Control List (§ 399.1) indicates that a validated license is required for export to Canada.

PART 386—EXPORT CLEARANCE

Sec.

386.1 General export clearance requirements.
386.2 Presentation and use of validated license.
386.3 Shipper's export declaration.
386.4 Conformity of documents for validated license shipments.
386.5 General destination control requirements.
386.6 Destination control statements.
386.7 Shipping tolerance.
386.8 Clearance at ports of origin.
386.9 Authority of customs offices and postmasters in clearing shipments.
386.10 Return or unloading of cargo at direction of U.S. Department of Commerce.
386.11 Other applicable laws and regulations.

AUTHORITY: The provisions of this Part 386 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.

§ 386.1 General export clearance requirements.

(a) *Responsibility of licensee and agent.* Under the Export Control Regulations, the exporter to whom a validated license is issued or who undertakes to export under a general license is legally responsible for the proper use of that license and for the due performance of all its terms and provisions. This responsibility continues even when he acts through a freight forwarder or other forwarding agent.

(b) *Exports by water or air carrier.* (1) No exporter or his agent, including any carrier, shall load or carry or permit loading or carrying onto an exporting carrier, or present to the customs office for inspection and clearance for export, any commodity until:

(i) *For validated license shipments:* A validated license therefor has been presented to the customs office; and a related duly executed Shipper's Export Declaration,[1] in the requisite number of copies, covering such commodity has been presented to and authenticated by the customs office, and a copy returned to the person presenting it for delivery to the exporting carrier.

(ii) *For general license shipments:* A duly executed declaration, in the requisite number of copies and consistent with the provisions of an applicable general license, has been presented to and authenticated by the customs office, and a copy returned to the person presenting it for delivery to the exporting carrier. Where the filing of a declaration is not required by the Export Control Regulations or by the Census Bureau Foreign Trade Statistics Regulations, an oral declaration describing the commodity about to be exported and identifying the applicable general license shall be made to the customs office at the port of export.

(2) No carrier shall load or carry any commodity onto an exporting carrier or permit any commodity to be loaded or carried onto an exporting carrier for export by water or air, until such carrier has received its copy of the authenticated Shipper's Export Declaration as provided in the Census Bureau Foreign Trade Statistics Regulations.

(c) *Exports by mail*—(1) *Shipments requiring a validated license*—(i) *General requirements.* No person shall export any commodity by mail, including surface and air parcel post, until:

(a) A validated license therefor has been presented to the postmaster at the place of mailing, together with a related duly executed Shipper's Export Declaration covering the commodity to be so mailed, whether or not a Declaration is required by the Census Bureau Foreign Trade Statistics Regulations; and

(b) The sender (exporter) has entered the complete validated license number on the address side of the package and on the declaration.

(ii) *Partial shipments.* (a) Where more than one shipment is to be made against a validated license, the sender (exporter) shall file the license with a customs office (instead of surrendering it to the postmaster) and present a copy of the declaration covering each shipment to that customs office for authentication. The authenticated declaration, in addition to the declaration required under paragraph (i)(a) above, shall be surrendered to the postmaster at the time of mailing.

(b) If a declaration is authenticated before the license expires, but shipment is delayed beyond that time, the licensee shall obtain an extension of the license (or a new license) and shall present a new declaration to the customs office for authentication. The new declaration shall be clearly marked "Amended." It shall be submitted together with the previously authenticated declaration, which will be retained by the customs office.

(2) *Shipments under a general license*—(i) *Declaration required.* The sender (exporter) shall present to the postmaster at the place of mailing a duly executed declaration for each commercial shipment under a general license from one business concern to another business concern when the shipment consists of a commodity(ies) valued at $100 or more, unless otherwise set forth in the Census Bureau Foreign Trade Statistics Regulations.

(ii) *Designation on declaration and package.* The sender (exporter) shall enter on the declaration the designation of the general license under which the commodity(ies) is being exported. The same designation shall be entered on the address side of the package, followed by the phrase "Export License Not Required." No notation need be made on the package if the export is made under General License GTDA or GTDR. The general license designation and phrase constitute a certification by the sender to the postmaster and to the Office of Export Control that the shipment is made under the authority of the general license indicated.

(3) *Gift parcels.* If the sender is shipping a gift parcel under General License GIFT, he must place the word "Gift" on the customs declaration tag, as well as the words "Gift—Export License Not Required" on the address side of the wrapper. In this instance, the word "Gift" is the general license designation. (See § 371.18.)

(d) *Exports by means other than water, air, or mail.* No person shall export any commodity by means other than by water, air, or mail, until:

(1) A validated license, where required by the provisions of the Export Control Regulations, has been presented to the customs office at the port of export from the United States; and

(2) A duly executed declaration has been presented to the customs officer and authenticated by him prior to inspection.

Where no validated license is required, a duly executed declaration consistent with the provisions of an applicable general license shall be presented for authentication, prior to inspection, to the customs office at the port of export. Where the filing of a declaration is not required, an oral declaration, describing the commodity and the applicable general license,

[1] Shipper's Export Declaration, Form 7525–V, may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, local customs offices, and U.S. Department of Commerce Field Offices (see list on page 1 under Field Office Addresses). Price of the form is $1 for a pad of 100.

shall be made to the customs office at the port of export.

(e) *Exports to Canada.* No person shall export any commodity to Canada until a duly executed Shipper's Export Declaration consistent with the Census Bureau Foreign Trade Statistics Regulations has been presented to and authenticated by the customs office. Where the Census Bureau Foreign Trade Statistics Regulations do not require a declaration, or where a delay in filing a declaration is authorized, an oral declaration shall be made to the customs office at the port of export, describing the commodities to be exported and stating that they are for export to Canada.

(f) *Exception for shipments under $100.* A shipment, other than by mail, to Canada or to Country Group S, T, or V does not require a Shipper's Export Declaration if the shipment is valued at less than $100 and is not made under a validated export license or under General License GLV. (For shipments by mail, see paragraph (c)(2)(i) of this § 386.1.) As used in this paragraph (f), a "shipment" is defined as all commodities classified under a single seven-digit Schedule B number, shipped on the same exporting carrier, from one exporter to one importer.[1] Other exceptions to the requirement for a Shipper's Export Declaration are set forth in this Part 386 and in Part 371. A complete list of such exceptions is set forth in Subpart D of the Census Bureau Foreign Trade Statistics Regulations.

(g) *Exception to clearance requirements for "port-of-origin procedure."* Under circumstances specified in § 386.8 clearance of certain shipments may be effected at designated ports of origin before movement of the shipment to and through the port from which it will leave the United States.

§ 386.2 Presentation and use of validated license.[2]

(a) *License valid for shipment from any port.* A license may be used for exports from the United States from any port of export, or port of origin listed in § 386.8(c), unless otherwise provided by the Office of Export Control. Commodities or technical data which leave the United States at one port, cross adjacent foreign territory, and reenter the United States at another port before final export to a foreign country will be treated as an export at the last U.S. port of export.

(b) *Signature on license.* The validated export license document, Form FC–628, presented to the customs office or postmaster must bear on the reverse side the following signatures:

(1) *Licensee.* At the top left, on the line reading "signature of licensee," the signature of the licensee, by himself, or for him by a duly authorized officer, employee, or agent.

(2) *Person presenting license.* At the top right, on the line reading "signature of person presenting license," the signature of the licensee or of an officer or employee of either the licensee or the forwarding agent who is authorized to sign the declaration accompanying such license.

(c) *Filing of license at time of first shipment.* A validated license (except a Project License or a Distribution License) must be presented to and filed with the customs office before any commodity is loaded or carried onto an exporting carrier. In the case of a shipment by mail, the validated license shall be presented to the postmaster or to the customs office when the declaration covering the first partial shipment under that license is presented for export.

(d) *Subsequent shipments from port where license is filed.* If a partial shipment is made, the validated export license will be appropriately endorsed and held by the customs office until shipment is completed or the license expires. On any subsequent shipment under the license, a duly executed declaration shall be filed.

(e) *Simultaneous or subsequent shipment from another port*—(1) *Transmittal of approval.* If part of the export is to be made from another port, the licensee shall request the customs office holding the license to transmit to the customs office at the other port of export authorization to clear the requested shipment(s). This request may cover any part of the quantity licensed, and the export may be made in either a single shipment or in any number of partial shipments. The customs office holding the license shall record on the back of the license each additional port of export from which shipment is to be made and the commodity and quantity to be shipped from each additional port of export. If any part of the quantity authorized for shipment from another port is not shipped, the licensee or his agent may request an appropriate modification of the authorization as recorded on the back of the license. Such request shall be submitted as follows:

(i) *License in possession of customs office.* The licensee or his agent shall request the customs office to which the approval was sent to notify the customs office holding the license to amend the previous endorsement of the intended shipment. This applies whether or not the license would have been completed by the intended shipment.

(ii) *License returned by customs office to the Office of Export Control.* A new license application may be submitted covering the unshipped quantity, together with a letter explaining the facts and identifying the customs office to which the approval was sent.

(2) *Transmittal of license.* As an alternative to the above procedure, the customs office holding the license is authorized to transmit the license by mail to the customs office at another port of export, upon written request by the licensee stating that the license will no longer be used at the port at which it is deposited.

(3) *Exceptions.* The above procedures do not apply to a license which specifies that a shipment is authorized for clearance at a particular port of export.

(f) *Shipments against expiring license.* (1) Commodities ready for loading or laden.

(i) Commodities which are (*a*) laden aboard the exporting carrier, or (*b*) ready for lading and located on a pier for lading, and not for storage, prior to midnight of the expiration date of a license, may depart with the vessel even though the vessel does not clear until after the expiration date of the license.

(ii) Further, where the vessel is expected to be available at the pier for loading before the license expires, but exceptional and unforeseen circumstances delay it, the commodities may be exported without an extension of the license, if in the judgment of the customs office undue hardship would otherwise result.

(2) Commodities in transit to port of export. Commodities in transit to the port of export prior to midnight of the expiration date of the license, but delayed by exceptional and unforeseen circumstances, may be cleared for export, at the discretion of the customs office, within 5 days following the expiration date of the license if in the judgment of the customs office undue hardship would otherwise result. The customs office may require the exporter to submit a bill of lading or other evidence that the shipment was in transit to the port of export prior to the expiration date of the license and was delayed in transit.

(3) Other shipments. A shipment not coming within the above provisions may not be exported against an expiring license, unless the license is extended by the Office of Export Control.

(g) *Reexport of shipments returned to the United States.* A shipment returned to the United States because of failure or inability of the exporting carrier to deliver it to its intended destination may be reexported without a new license to the consignee and destination to which it was originally made: *Provided,* That satisfactory evidence of the validity of the original export is submitted to a customs office. Such evidence may be a copy of the original declaration, or the exporting carrier's outward manifest, or such other evidence as the customs office may require. If a commodity(ies) is to be reexported to other than the original consignee, it must be treated as a new export and is subject to current regulations of the Office of Export Control regarding the specific commodity(ies).

§ 386.3 Shipper's Export Declaration.

(a) *Authentication requirement.* All copies of Shipper's Export Declarations that are required to be presented to a customs office shall be authenticated by the customs office at the port of export. No customs officer shall authenticate a

[1] See "Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States," published by the Bureau of the Census.

[2] Provisions relating to the export clearance of technical data under a validated license are set forth in § 379.6(a).

declaration unless he is satisfied, after comparing it with the applicable validated export license or general license and with such other relevant information as he may have, that:

(1) Export of the commodity(ies) described in the declaration is authorized under the license;

(2) Statements in the declaration are identical in all respects with the contents of the validated license, or with the terms, provisions, and conditions of the general license;

(3) Statements in the declaration are set forth in a manner that permits customs officers (or other authorized persons to whom the declaration may be shown or delivered) to determine whether the export complies with the contents of the validated license, or the terms, provisions, and conditions of the general license; and

(4) The shipment is or will be available for inspection and has not been loaded on an exporting carrier.

(b) *Authenticated declaration as export control document.* When authenticated by the customs office, a Shipper's Export Declaration shall be deemed to be a document, issued pursuant to the Export Control Regulations, evidencing the existence of a validated export license or permission for an export under an applicable general license. Such document may be used only by the exporter or his duly authorized forwarding agent for the purpose of clearing for export or otherwise facilitating or effecting the export of a commodity(ies) requiring a validated or general license under the Export Control Regulations issued pursuant to the Export Control Law.

(c) *Limitation of effective period of declaration.* No declaration shall be authenticated or used to clear, or otherwise facilitate or effect, an export after the expiration of the applicable validated license or after the termination of the applicable general license, except as provided in §§ 372.9(d) and 386.2(f). The validity period of an export license includes any extension provided by any saving clause or regulation.

(d) *Rejection of declarations.* The customs office shall reject any declaration which does not comply with the provisions of this Part 386.

(e) *Who may submit declaration for authentication.* A declaration may be submitted to the customs office for authentication only by the exporter or his carrier or the duly authorized forwarding agent of the exporter. A carrier, not otherwise acting as a forwarding agent, may deliver an executed declaration to the customs office without specific authorization from the exporter.

(f) *Forwarding agent*—(1) Definition of "*forwarding agent.*" For the purpose of this Part 386, a "forwarding agent" means a person authorized by an exporter to perform for the exporter actual services which facilitate the export of the commodities or technical data described in the declaration. These services include, but are not limited to, preparing the declaration and clearing the shipment by submission of documents to the customs officers or export control officers. A "forwarding agent" need not be a person regularly engaged in the freight forwarding business. A "forwarding agent" shall be designated by the exporter in writing in the power of attorney set forth on the declaration or in a general power of attorney, or other written form, subscribed and sworn to by a duly authorized officer or employee of the exporter.

(2) *Forwarding agent as true agent.* Unless the exporter otherwise states in writing in the power of attorney or other written form, the forwarding agent named by the exporter shall be deemed to be the true agent of the exporter for export control and customs purposes. However, it is not intended that the power of attorney or other authorization designating a forwarding agent should constitute such agent the sole and exclusive forwarding agent of the exporter for all exports. Where a forwarding agent is suggested by the foreign buyer in a transaction (rather than by the seller in the United States) a form of designation on the declaration which limits the authority granted to the particular transaction involved would be appropriate. The seller may, however, insist that the agent for the foreign buyer apply for the license. (See § 372.3(b)(1).)

(3) *Form of powers of attorney.* The sample form, "Power of attorney—Designation of Forwarding Agent" fixes responsibility of the exporter for exports made through a forwarding agent. The form is suggested since it conforms to usual business practice in establishing agency relationship, but it is not mandatory. The exporter may use any written form of designation, provided it is subscribed and sworn to before a notary public, or other person authorized to administer oaths, by a duly authorized officer or employee of the exporter. Such authorization shall clearly indicate that the party named is authorized to represent the exporter for export control and customs purposes. The extent of the authority, as in the power of attorney, may be restricted with respect to time, country, commodity, specific license, or other matter. Such documents may also be used to designate one or more employees, or other persons, such as an export manager or agent, to in turn appoint as many forwarding agents as may be required.

(4) *Redelegation of agent's authority.* If a forwarding agent signs and swears to a declaration for clearance of an export through a port where he has no office, he shall furnish an authorization in writing to the person who will actually present the declaration to the customs office. He may also redelegate to another forwarding agent his authority to sign, swear to, and present declarations for authentication at such port: *Provided,* That the authorization from the exporter permits such redelegation or he obtains other written evidence of consent from the exporter. Proof of the authority of any person signing a power of attorney or other authorization may be required. In general, however, such proof will be required only when there is some reason to doubt the authority of the person involved.

(5) *Record and proof of agent's authority.* The power of attorney or other authorization from the exporter shall be retained on file in the forwarding agent's office while the authorization is in force and for a period of 3 years after the last action taken by the forwarding agent under the authority. During this retention period, the forwarding agent shall make his delegation of authority from the exporter available for inspection on demand, in accordance with the provisions of § 387.11(f). This recordkeeping and inspection requirement also applies to any redelegation of the forwarding agent's authority and to any person to whom the forwarding agent redelegates his authority.

(For further recordkeeping requirements see § 387.11.)

(g) *Presentation.* When a declaration is required, it shall be presented to the customs office at the port of export, or to the postmaster at the post office from which the shipment is mailed, in the number of copies specified in paragraph (i) below.

(h) *Statements on declaration.* Where a declaration is presented to a customs office or postmaster, the exporter represents that:

(1) All statements and information in the declaration have been furnished by him or on his behalf for the purpose of effecting an export under the Export Control Regulations;

(2) Export of the commodity(ies) or technical data described in the declaration is authorized under the general or validated export license therein identified;

(3) Statements contained in the declaration are identical in all respects with the contents of the validated license or the terms, provisions, and conditions of the applicable general license; and

(4) All other terms, provisions, and conditions of the Export Control Regulations applicable to the export have been met.

(i) *Number of copies required*—(1) *Where exporting by means other than mail.* Three copies of the declaration are required by the customs office at the port of export, except (i) for shipments to Canada and shipments between the United States and its territories and possessions, for which only two copies are required, or (ii) where an additional copy is required by subparagraph (3) of this paragraph (i).

(2) *When mailing*—(i) *General.* For a mail shipment, one copy of the declaration shall be presented to the postmaster at the place of mailing when the shipment: (*a*) is under a validated license, or (*b*) is of a commercial nature and its value is $100 and over. Two copies shall be presented when an additional copy is required by subparagraph (3) of this paragraph (i).

(ii) *Partial shipment against a validated license.* In addition, when making a partial shipment by mail against a

license on file with a customs office, the sender (exporter) shall present to the postmaster a copy of the declaration authenticated by the customs office with which the license is filed.

(3) *Additional copies of declaration.* For export control purposes, the Office of Export Control, the customs office, or the postmaster may require additional copies of the declaration. In all cases where a declaration is required, an additional copy of the declaration shall be presented for:

(i) *Exports under a Project License.* The additional copy shall bear the notation "DL" in the upper right corner. (See § 373.2(e)(2).)

(ii) *Exports from the United States to foreign countries made via Canada.* (See § 374.6.)

(iii) *Exports of any agricultural commodity under a validated license to Country Group Y or Z.* The additional copy shall bear the notation "862" in the upper right corner.

(iv) *Exports of any commodity to replace any defective or unacceptable part or equipment under the provisions of General License GLR.* The additional copy shall bear the notation "854" in the upper right corner. (See § 371.17(f)(2).)

(v) *Temporary exports of video tape to destinations in Country Groups T and V.* The additional copy shall bear the notation "864" in the upper right corner. (See § 376.11(d).)

(vi) *Exports under a validated license of nickel, nickel alloys, and nickel bearing scrap.* The additional copy shall bear the notation "862" in the upper right corner. (See § 376.4(a)(2).)

(vii) *Exports made under General License GTF–F for display at a foreign exhibition or trade fair.* The additional copy shall bear the notation "854" in the upper right corner. (See § 371.16(e).)

(viii) *Exports under a validated license that contains special requirements for additional documents or information.* (See paragraph (s) of this § 386.3.)

(j) *Separate declarations required for general license and validated license commodities in same shipment—(1) General.* Separate declarations are required for general license and validated license commodities in the same shipment. They may not be combined on one declaration. However, a shipment made under two or more general licenses or two or more validated licenses may be combined on the same declaration.

(2) *Exception.* For a shipment consisting of commodities and the containers therefor, where either the commodities only or the containers only require a validated license, both the commodities and the containers shall be entered on the same declaration.

(k) *Information required for authentication.* No declaration shall be authenticated by a customs office unless the declaration, and all copies show:

(1) Name and address of the exporter (the licensee named in a validated license or a person entitled to export under a general license). On a declaration covering an export under a validated license, Item 3 shall correspond to the person or firm named as licensee on the Export License, Form FC–628. Otherwise, the export license does not cover the proposed export. However, Item 3 may correspond to the name of the foreign principal shown on the validated license if the person or firm that is in fact the exporter is not subject to the jurisdic- of the United States.

(2) Name and address of any duly authorized forwarding agent.

(3) Name and address of any intermediate consignee, whether or not named on the validated license.

(4) Complete validated license number or general license designation authorizing the shipment.

(5) All other data required on the declaration form.

(l) *Schedule B number and commodity description—(1) Schedule B number.* The seven-digit Schedule B number, as shown in Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States, shall be entered in column (13) of the declaration regardless of whether the shipment is moving under a validated or a general license.

(2) *Commodity description for validated license shipment.* The commodity description on the declaration for a shipment under a validated license shall be that shown on the related validated license. However, where part of the description on the license is underlined, only the underlined portions need be included on the declaration. The commodity description on the license will be stated in Commodity Control List terms, which may be inadequate to meet Census Bureau requirements. In this event, the commodity description on the declaration shall give enough additional detail to permit verification of the Schedule B number (e.g., size, material, or degree of fabrication). If a commodity classification in Schedule B has instructions such as "specify by name," "state species," etc., that information shall be furnished in column (10) of the declaration. When a single Shipper's Export Declaration covers more than one item classifiable under a single classification carrying the "specify by name" or similar requirement, each item shall be entered separately in column (10). However, if more than five items are involved, all classifiable under one Schedule B number, only the five items of greatest value in the classification need be shown separately. Separate quantities, values, and shipping weights for individual items are not required in either case.

(3) *Commodity description for general license shipments—(i) General.* The commodity description on the declaration for a shipment under a general license shall be in sufficient detail to permit verification of the seven-digit Schedule B number entered on the declaration.

(ii) *Distinguishing characteristics or specifications.* When there is another Commodity Control List entry for the same type of commodity under the same Export Control Commodity Number, but with different specifications, capacities, or other characteristics, the customs office may, at its discretion, require the exporter to enter the following certification on the declaration:

Commodity not under validated license control to (name of country); Commodity Control List page No. ------ dated ---------.

(m) *Validated license number or general license designation.* The complete validated license number or general license designation shall be entered in the commodity description column of the declaration, in addition to the commodity description. By entering the license number or designation, the exporter certifies that the terms, conditions, and provisions of that license have been met.

(n) *Statement regarding ultimate destination.* No declaration shall be authenticated by a customs office unless the statement regarding ultimate destination, whenever required, has been entered on all copies of the declaration as provided in § 386.6(a).

(o) *Optional Ports of Unlading—(1) Applicability.* If, prior to the departure of the exporting carrier, the exporter does not know at what port the shipment will be unloaded, he may designate optional ports of unlading on the declaration and bill of lading, in accordance with this paragraph (o). In no case does this procedure apply to any shipment destined directly or indirectly to Country Group S, X, Y, or Z. (For shipments to other destinations via Hong Kong see § 370.8.)

(2) *General license shipments.* (i) For exports under General License G–DEST, if the exporter does not know which of several countries in Country Groups T, V, and W is the country of ultimate destination, he may name optional ports of unlading in one or more of these countries.

(ii) When an export under any general license is shipped in transit through a country other than the country of ultimate destination, the exporter may designate optional ports of unlading in one or more countries, together with the name and address of the intermediate consignee in each country designated.

(iii) Optional ports of unlading, in all cases, shall be in a country to which the commodity or technical data may be shipped directly from the United States under the same or another applicable general license.

(3) *Validated license shipments.* For exports under a validated license, optional ports of unlading are restricted to the country of ultimate destination, unless the export license or amendment designates intermediate consignees in one or more other countries. In the latter case, the optional ports of unlading must be designated as optional intransit points on the declaration and bill of lading.

(4) *Correcting the declaration.* As soon as the exporter learns at which port the commodities are to be unloaded—whether in the country of ultimate destination or in a country of transit—an Export Declaration Correction Form, Form FT–7403, should be filed with the customs office at the port of export where the original declaration was filed. The correction form shall specify the actual

port of unlading and the name and address of the intermediate consignee, if any, to whom delivery is made. An intermediate consignee must be specified if the port of unlading is located in a country other than the country of ultimate destination. If the export is unloaded at more than one port, the quantity and value unloaded at each port and the name and address of each intermediate consignee should be given. (See paragraph (u)(4) of this § 386.3 for procedure to file a Form FT–7403.)

(p) *Foreign excess property disposed of by the U.S. Government.* Where a shipment consists of commodities disposed of by U.S. Government agencies under foreign excess property disposal programs, the declaration shall show the following notation in the commodity description space:

These commodities are foreign excess property disposed of by the U.S. Government.

(q) *Signature on declaration.* The signature on the declaration of the person making the declaration shall be that of the exporter or the forwarding agent named in the declaration, or a duly authorized officer or employee of either. In general, it will be deemed that the requisite authority rests with such employees as export managers who, by their official titles, are apparently vested with power to deal with exports; such corporate officers as the president, vice president, treasurer, and secretary of a corporation, any partner of a partnership, and any responsible head of any other form of private or quasi-governmental organization; and assistance officers. The signature of such person, whether or not that of the exporter or his duly authorized officer or employee, constitutes a representation by the exporter that all statements and information in the declaration are true and correct. In addition, if the signature is that of the forwarding agent, or his duly authorized officer or employee, such signature constitutes a like representation by the forwarding agent.

(r) *Attachment to declaration.* Additional copies of the declaration or copies of the continuation sheet form may be used where more space is required. In such cases, only one declaration form need be signed. The additional sheets shall be numbered in sequence and securely attached to the executed declaration form; and the following statement shall be inserted between columns (9) and (15):

This Declaration consists of this sheet and ------ continuation sheets.

No portion of any form attached as a continuation sheet shall be torn off or removed.

(s) *Special requirements for additional information and documents.* (1) A validated license may bear on its face a requirement for specified documents or information in addition to that furnished when the application was filed. The licensee shall furnish these either prior to or when presenting the declaration to the customs office, as follows:

(i) Prepare one copy of the declaration in addition to the number of copies otherwise required.

(ii) Enter the required additional information in columns (9) to (15) on all copies of the declaration.

(iii) Unless otherwise specified on the license, attach the required documents (either original or certified copy) to the extra copy of the declaration.

(2) All such statements and documents will be deemed to constitute representations of material facts within the purview of the regulations prohibiting the making of false representations to the Office of Export Control in any export control matter (see § 387.5(b)).

(3) The customs office will refuse to authenticate a declaration where the exporter fails to comply with the special requirements of a validated license, unless before presenting the declaration (i) the exporter has informed the Office of Export Control of the specific reason for not complying, and (ii) the Office of Export Control has waived the requirement in writing. To clear the shipment through Customs, the licensee shall attach to and file with the license any letter of waiver.

(t) *Declaration for shipments moving in transit*—(1) *Applicability.* The Shipper's Export Declaration for In-transit Goods, Commerce, Form 7513 [1] should be used for all commodities:

(i) Shipped in transit through the United States;

(ii) Transshipped in U.S. ports for foreign countries;

(iii) Exported from General Order Warehouse; or

(iv) Exported from foreign trade zones (unless the customs office specifically permits the use of the Shipper's Export Declaration, Commerce Form 7525–V [1]). However, in accordance with an alternate procedure under the Customs Regulations, and when a validated license is not required, air cargo shipments in bond transiting the United States for export from any U.S. airport may be cleared without the presentation of Form 7513. For further information on this procedure, see sections 6.17 through 6.24 of the Customs Regulations (19 CFR 6.17–6.24), or consult any customs office or the Bureau of Customs, Washington, D.C. 20226.

(2) *Additional information.* The following additional information shall be entered on a Shipper's Export Declaration for In-transit Goods:

(i) The name and address of the intermediate consignee in a foreign destination, if any, shall be shown below the description of the commodities across columns 1–6;

(ii) Underneath the name and address of the intermediate consignee, also within columns 1–6, one of the following statements shall be made, whichever is appropriate:

(*a*) For intransit shipments of foreign-origin merchandise (for definition of "foreign origin," see § 371.4(a)):

The merchandise described herein is of foreign origin.

(*b*) For intransit shipments of domestic (U.S.) merchandise:

The merchandise described herein is of the growth, production, or manufacture of the United States.

(*c*) For intransit shipments of commodities of U.S. origin excepted under § 371.4(a)(2):

The merchandise described herein is of the growth, production, or manufacture of the United States, but comes within the exception granted by paragraph 371.4(a)(2) of the Export Control Regulations.

(iii) The commodities shall be described in terms of Schedule B, including the appropriate Schedule B number; and shall be entered in item 4 of the declaration.

(u) *Change, alteration, and amendment of declaration*—(1) *Changes before authentication.* Customs offices generally shall not authenticate any declaration showing evidence of change, alteration, or amendment, but shall require a clean copy. However, where demonstrated hardship or emergency exists customs offices may approve, at their discretion, specific changes, alterations, or amendments, on the face of the declaration. The exporter's duly authorized forwarding agent or carrier may insert or correct in declarations presented by him required items of information peculiarly within his own knowledge, such as the designation of the actual exporting carrier, date of export, or Schedule B number to which the commodity description clearly refers. The forwarding agent or carrier making the insertion or correction must specifically identify the same in writing on the face of the declaration. Nothing herein shall relieve such forwarding agent or carrier from liability for any misrepresentation of facts inserted or corrected.

(2) *Changes on authenticated declarations.* Except as described below in this subparagraph (2) no declaration shall at any time after authentication by any customs office be changed, altered, or amended in any respect without prior authorization set forth on such authenticated declaration by the customs office. A duly authorized forwarding agent may change weights, measurements, quantities, etc., unless specifically precluded from doing so by the exporter in his designation. Customs offices are empowered to permit such amendments upon written authorization therefor set forth on the authenticated declaration. Customs offices will exercise discretion in allowing amendments of this character. Where the amendments change a declaration into one for a substantially different shipment, a new declaration shall be prepared. Unless otherwise limited by the exporter, the power of attorney or other authorization given to a

[1] Forms 7525–V and 7513 may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, and from local customs offices. Form 7525–V may also be obtained from U.S. Department of Commerce Field Offices (see list on page 1 under Field Office Addresses).

forwarding agent is deemed also to authorize him to prepare substitute declarations reflecting such changes. If an exporting carrier designated in an authenticated declaration cannot receive the shipment on board, the name and date of departure of another exporting carrier may be substituted by the person or firm issuing bills of lading for the carrier originally named. Due and timely notice of such change shall be given to the customs office before loading the shipment onto the substitute carrier, and such change shall be specifically identified in writing on the face of the declaration by the party making the change. If conditions beyond the control of the exporting carrier named on an authenticated declaration prevent lading of the total cargo covered by the declaration, such carrier is authorized to prepare and present additional declarations covering the remainder of the cargo when shipped, provided that due and timely notice is given to the customs office before loading the remainder. The original declaration shall be amended by the carrier to show the descriptions, quantity, and value of the commodity(ies) actually carried. Subsequent declarations by the carrier shall be completed in all details and shall include the following statement:

These commodities were included, but not shipped, under authenticated Shipper's Export Declaration No. ------ at ----------
(Port)
on ----------
(Date)

(3) *Declarations showing unauthorized changes.* No person shall take any action to facilitate any export where the authenticated Declaration purporting to authorize the export is shown to such person and shows any evidence of change, alteration, or amendment not authorized in writing by the customs office. In such a case, the person requested to facilitate the export shall report the facts to the nearest customs office and surrender the declaration to the customs office, if it is in his possession.

(4) *Correction of authenticated declarations*—(i) *General.* An authenticated declaration filed with the customs office shall be corrected in accordance with the facts of the export either by use of an Export Declaration Correction Form, Form FT–7403, or directly on the authenticated declaration as described below. Acceptance by the customs office of such corrections does not imply approval of any act involved in the shipment. The signature of the Customs Officer in the "Certification" space on the Correction Form does not imply that he is certifying to the truth or correctness of the information on the form.

(ii) *Corrections on declarations.* Corrections shall be made directly on the authenticated declaration where:

(*a*) The shipment does not require submission of four copies of the declaration; and

(*b*) The Census Bureau copy of the declaration is still in possession of the customs office.

(iii) *Corrections by use of Correction Form.* In all other instances, corrections shall be made on an Export Declaration Correction Form, Form FT–7403, executed in duplicate by the exporter or his duly authorized agent and submitted to the customs office with which the authenticated declaration was filed. However, the Correction Form shall be submitted in triplicate where the shipment was made under a validated license requiring four copies of the declaration.

§ 386.4 Conformity of documents for validated license shipments.

(a) *Applicability.* The following rules of conformity apply to any shipment under a validated export license, except those under a consolidated "master" air waybill (other than airmail or air parcel post). However, these rules do apply to any individual air waybill issued by a consolidator (indirect carrier) for an export included in a consolidated shipment and to any air waybill issued by a carrier or other person covering an export not included in a consolidated shipment.

(b) *Rules of conformity*—(1) *General* The validated export license, the authenticated declaration, and the outbound bill of lading (including a railroad through bill of lading) covering the same export shipment must be consistent with one another. The bill of lading, whether in negotiable or nonnegotiable form, is not consistent if:

(i) It does not provide for delivery of the shipment (cargo) at a port located in the country of either the ultimate or intermediate consignee named in the authenticated declaration.

(ii) It contains any indication that the shipment is in transit to a country of ultimate destination different from that named in the authenticated declaration, when it is known or there is reasonable cause to believe that the shipment is not for consumption in the country of ultimate destination (such as consigning the shipment to the ultimate destination with a qualifying phrase indicating the shipment is "in transit" at that destination, or consigning the shipment to a free zone or free port).

(iii) It names as shipper any person other than the licensee or his duly authorized forwarding agent. Where shipments from more than one licensee are consolidated on a single bill of lading, the shipper named on the bill of lading must also appear as the authorized forwarding agent for each exporter on each declaration.

(iv) The name and address of the ultimate consignee are not shown either in the space provided for "consignee" or in the body of the bill of lading under the caption "ultimate consignee and notify party" or in the case of the air waybill under the caption "also notify." However, where shipments to more than one ultimate consignee are consolidated on one bill of lading and not all are shown in the body of the bill of lading, the name of the intermediate consignee (customs broker or consolidator's agent in the foreign country) who will receive and distribute the goods to the ultimate consignees must appear on the bill of lading, the validated license(s), and the declaration(s). Where the name of the intermediate consignee in such a consolidated shipment differs from that shown on each validated license, or does not appear on each license, amendment of the license(s) is necessary even though the intermediate consignee is in the same country as the ultimate consignees.

(2) *Negotiable bill of lading.* For a negotiable bill of lading ("order" bill of lading), the bill of lading is deemed consistent only if the consignee or order party named therein is also named in the authenticated Declaration. An "order" bill of lading may consign the commodities or technical data covered thereby to the order of the shipper, to the order of an intermediate consignee (whether bank, foreign freight forwarder, or other intermediary), or to the order of the purchaser (if not the same as the ultimate consignee). An "order" bill of lading issued in any of these forms constitutes a representation by the shipper that (i) the commodities or technical data covered by the validated license, authenticated Declaration, and bill of lading are ultimately destined to such ultimate consignee; (ii) the document has not been used for the purpose of evading the terms and conditions of the validated license; and (iii) pursuant to the contract of carriage, the commodities or technical data will be delivered at a port located in the country of the ultimate consignee or of the intermediate consignee named in the authenticated declaration.

(3) *Commodity description.* On a bill of lading the commodities or technical data may be described in terms of the freight tariff classification or other type of classification, but may not be inconsistent with the description shown in the authenticated declaration and validated export license. On the authenticated declaration the commodity description shall include the same commodity description as shown on the related validated license, and in addition, it shall include more detailed information where required by the Census Bureau.

(4) *Commodity numbers.* The three-digit or five-digit Export Control Commodity Number shown on the export license shall be the same as the initial digits of the seven-digit Schedule B number entered on the authenticated declaration.

(5) *Carrier's manifest.* If the carrier's outward foreign manifest filed with the U.S. customs office contains names of shippers or consignees, these names must not be inconsistent with the names shown on the bill of lading (or authenticated declarations).

(c) *Compliance.* No carrier shall issue, and no licensee, shipper, consignor, exporter, or consignee, or their agents, or any other person, shall prepare or procure, a bill of lading which is contrary to the provisions of this § 386.4. Customs offices are authorized to require any document or to use any other appropriate methods to insure compliance with these provisions.

§ 386.5 General destination control requirements.

(a) *Applicability to validated license shipments.* The following provisions apply to all shipments under a validated license.

(1) *Destination on bill of lading.* No carrier (nor any other person on behalf of any carrier) shall issue a bill of lading providing for delivery of cargo at any foreign port not in the country of (i) the ultimate consignee, or (ii) the intermediate consignee, named in the authenticated Shipper's Export Declaration.

(2) *Delivery of cargo.* No carrier shall deliver cargo to any other country at the request or option of the shipper, consignor, exporter, purchaser, or ultimate consignee, or their agents, or any other person having custody or control of the shipment, without prior written authorization from the Office of Export Control to the carrier or its agent.

(3) *Diversion.* No shipper, consignor, exporter, purchaser or ultimate consignee, or their agents, or any other person, shall without prior written authorization from the Office of Export Control to the carrier or its agent:

(i) Divert any cargo to any country of ultimate destination other than that named in the authenticated declaration or in the bill of lading as described in § 386.6; or

(ii) Request or demand that any carrier or its agent divert cargo from the country of ultimate destination named in any such document.

In addition, no agent of any carrier shall instruct or authorize the master of the vessel to divert any cargo to any other country of ultimate destination without prior written authorization from the Office of Export Control.

(4) *Optional ports on bill of lading.* No carrier shall issue a bill of lading providing for delivery of cargo to the ultimate consignee named in the authenticated declaration at optional ports, where one of such optional ports is not in the country of ultimate destination named on the license or declaration, without written authorization from the Office of Export Control. However, where the authenticated declaration provides for delivery of cargo to optional intermediate consignees located in ports in different countries, the carrier may issue a bill of lading providing for delivery at such optional ports.

(b) *Unloading of cargo at a port in other than intermediate or ultimate country of destination.* (1) Nothing contained in the Export Control Regulations shall be deemed to prohibit a carrier from unloading cargo at a port outside the intermediate or ultimate country of destination shown on the authenticated declaration where, for reasons beyond the control of the carrier (as set forth in standard provisions of the carrier's bill of lading; such as, act of God, perils of the sea, damage to the carrier, strikes, war, political disturbances, or insurrection), it is not feasible to deliver the cargo at the licensed port of destination.

(2) Whenever cargo is unloaded at a port in any country other than the intermediate or ultimate destination shown on the declaration, except where the cargo may be exported under a general license directly from the United States to such country:

(i) The carrier shall, within 10 days after date of unloading, report the facts to the nearest American consul and to the agent of the carrier located in the United States. Within 10 days after receipt of such report, the agent shall send a copy of the report to the Office of Export Control. This report shall consist of (*a*) a copy of the manifest of such diverted cargo, (*b*) a statement of the place of unloading, and (*c*) the name and address of the person in whose custody the commodities or technical data were delivered.

(ii) The exporter of such cargo shall, within 10 days of receiving notice of such diversion from the Office of Export Control, notify the Office of Export Control of the proposed disposition of the commodities or technical data.

(iii) No person, including the exporter, the licensee, any consignee, or the carrier and any agent or person acting on its behalf, shall take any steps to effect delivery or entry of the commodities or technical data into the commerce of the country where unloaded without prior approval of the Office of Export Control. The carrier shall take steps to assure that such commodities or technical data are placed in custody under bond or other guaranty not to enter the commerce of such country or any country other than the countries of the ultimate and intermediate consignees shown on the authenticated Declaration without such prior approval.

(c) *Shipper's export declaration number on ship's manifest.* The carrier or its agent shall show on all copies of the outward foreign manifest filed with the U.S. customs office, the applicable declaration number assigned by the customs office to each shipment.

§ 386.6 Destination control statements.

(a) *Requirement for destination control statement.* Except as indicated in paragraph (b) of this section, the appropriate destination control statement shall be entered on the Shipper's Export Declaration, bill of lading,[1] and commercial invoice for: (1) any shipment under a validated license; and (2) any shipment under a general license for which a declaration is required. The same statement shall appear on all copies of all such shipping documents that apply to the same shipment. The primary purpose of this statement is to notify the foreign importer of U.S. reexport provisions applicable to the transaction.

(b) *Exceptions*—(1) *Shipments.* A destination control statement is not required for shipments of commodities or technical data that are:

(i) Identified by the word "None" in the Commodity Control List column titled "Validated License Required for Country Groups Shown Below"; or

(ii) Exported under General License Baggage, Tools of trade, GIT, or GTDA;

NOTES: 1. Shipments to Puerto Rico, the Panama Canal Zone, and territories, dependencies, and possessions of the United States. The Census Bureau requires declarations for shipments to these destinations for statistical purposes. However, since such exports are not controlled by the Office of Export Control, a destination control statement is not required for these shipments.

2. Shipments to Canada. No destination control statement is required for shipments to Canada for consumption in Canada, except for the commodities and technical data described in paragraph 370.3(a)(1). (However, a destination control statement is required for shipments through Canada to other foreign destinations.)

(2) *Documents.* Except as required in § 373.4 (Foreign-Based Warehouse Procedure), a destination control statement is not required on shipping documents issued outside the United States, or on such documents as consular invoices, inland bills of lading covering movement to port only, letters of credit, ship's manifests, packing lists, dock receipts, and warehouse receipts.

(c) *Statement to be used.* There are three destination control statements (see paragraph (d) of this § 386.6) any one of which may be used, as follows:

(1) *General license shipments, except under General License GMS.* For a shipment under any general license other than General License GMS, any of the three statements may be used.

(2) *Shipments under General License GMS.* For a shipment under General License GMS, Statement 1 only shall be used.

(3) *Validated license shipments.* For a shipment under a validated license, either Statement 1 or Statement 2 shall be used. Statement 1 should be used where the license shows that the commodities or technical data are licensed for export to the country of ultimate destination only. Statement 2 should be used where the license specifically shows that the commodities or technical data may be distributed or resold to other specified countries.

(d) *Statements*—(1) *Statements 1.*

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

Enter the country of ultimate destination[2] named on the declaration, and if applicable on the validated license, in the blank country space.

(2) *Statement 2.*

These (commodities) (technical data) licensed by the United States for ultimate

[1] Bills of lading are not issued for mail shipments; therefore for mail shipments a destination control statement is required only on the declaration and commercial invoice.

[2] Where the country of ultimate destination is Vietnam, the destination control statement shall be completed as required by paragraph 385.4(d), regardless of the country designation shown on the declaration and regardless of whether the shipment is under a validated or general license.

destination (name of country) and for distribution or resale in (name of country(ies)). Diversion contrary to U.S. law prohibited.

Complete the country spaces as follows:

(i) *General license shipments.* For a shipment under a general license other than General License GMS:

(*a*) Enter the country of ultimate destination[2] named on the declaration in the first space; and

(*b*) Enter the following in the last space:

Any destination except Soviet Bloc,[2] Communist China, North Korea, Macao, Hong Kong, Communist controlled areas of Vietnam, Cuba, or Southern Rhodesia, unless otherwise authorized by the United States.

If the export requires a validated license for Poland (including Danzig) and Rumania, include these countries in the last space. If the export does not require a validated license for a country in the prohibited list, that country may be deleted.

(ii) *Validated license shipments.* For a validated license shipment:

(*a*) Enter the country of ultimate destination named on the license in the first space; and

(*b*) Enter the country(ies) shown on the license as approved for distribution or resale in the last space. If no such country is shown on the license, enter the word "none" in the last space.

(3) *Statement 3.*

U.S. law prohibits disposition of these commodities to the Soviet Bloc,[2] Communist China, North Korea, Macao, Hong Kong, Communist controlled areas of Vietnam, Cuba, or Southern Rhodesia, unless otherwise authorized by the United States.

Statement 3 permits distribution or resale to any country in the world other than those specifically excepted. If the export does not require a validated license for an excepted country, that country may be deleted. If the export requires a validated license for Poland (including Danzig) and Rumania, add these countries to the prohibited destinations listed in this statement.

(e) *Preprinted statement.* A destination control statement may be preprinted on Shipper's Export Declarations, bills of lading, or commercial invoices. But in this case, only one of the three destination control statements above may be shown on any one of these documents.

(f) *Permissive reexports.* If an exporter or his agent uses a more restrictive destination control statement than is necessary, the reexport provisions of Part 374 may nevertheless permit reexport to certain destinations. Where reexport is permitted, the exporter may so advise his foreign importer without obtaining written approval from the Office of Export Control. In all other instances, prior written approval shall be obtained from the Office of Export Control.

(g) *Responsibility for use of statement*—(1) *Primary responsibility.* The exporter has the primary responsibility for assuring entry of an appropriate destination control statement on the declaration and the commercial invoice, regardless of whether he prepares these documents. If a forwarder, a carrier acting as a forwarder, or any other party prepares, presents, and/or executes these documents, the forwarder, carrier, or other party is also responsible for assuring that an appropriate statement is entered on the documents. The carrier, as the party that issues the bill of lading, has the primary responsibility for assuring that the same statement appearing on the corresponding declaration also appears on the bill of lading. Any other party who prepares a bill of lading is also responsible for assuring that an appropriate statement is placed on the document. For a general license shipment, an understanding must be reached between the exporter and the forwarder, carrier, or other agent as to which statement shall be used. For a validated license shipment, if a forwarder, carrier, or other agent does not have a copy of the commercial invoice, he can determine the appropriate destination control statement from the export license.

(2) *Statement on bill of lading*—(i) *General.* No carrier shall issue (and no licensee, shipper, consignor, exporter, or consignee, or their agents, or any other person, shall prepare or procure) a bill of lading covering an export for which a declaration with the applicable statement has been authenticated by a customs office, unless all copies of such bill of lading (including all nonnegotiable and office copies) contain the same statement in clearly legible form.

(ii) *Air waybill.* In the case of shipments by air (other than airmail or air parcel post), this requirement applies to any air waybill, including one issued by a consolidator (direct carrier) for an export included in a consolidated shipment. However, these provisions do not apply to a "master" air waybill issued by a carrier to cover a consolidated shipment.

(iii) *More than one statement applicable to bill of lading.* If one bill of lading is issued for two or more individual shipments to which different destination control statements apply, the applicable statement shall be entered beneath each shipment or group of shipments. However, if the bill of lading shows a single freight tariff classification to describe several commodities which require the use of more than one statement, and it is impracticable to separate the commodities on the bill of lading, the most restrictive statement applicable to any of the groups shall be used. The commercial invoice and Shipper's Export Declaration should, nevertheless, segregate the commodity groups and show the proper statement for each group.

(3) *Statement on Commercial invoice*—(i) *General.* No licensee, shipper, consignor, exporter, agent, or any other person shall prepare or issue a commercial invoice for a shipment subject to the provisions of this § 386.6, unless all copies of the invoice(s) contain the same destination control statement in clearly legible form. This statement shall be an applicable statement as set forth in paragraph (d) of this § 386.6.

(ii) *Distribution of copies of statement.* Whenever a commercial invoice is issued containing the prescribed destination control statement, the shipper or other person issuing such invoice shall promptly send copies to:

(*a*) The ultimate consignee and the purchaser named in the authenticated declaration;

(*b*) The intermediate consignee; and invoice who are located in a foreign country.

Nothing contained herein shall be construed to limit the persons or classes of persons to whom such invoices and bills of lading are usually and customarily sent in the course of export trade. The shipper or other person issuing the commercial invoice may omit all reference to price or sales commission from the copy of the invoice sent to any of the above-named persons, provided such invoice otherwise adequately identifies the shipment. As an alternative, in lieu of a copy of the commercial invoice, such person may send a copy of the bill of lading containing the destination control statement.

(iii) *Commercial invoices not containing a statement.* If the forwarding agent receives from the exporter a copy of a commercial invoice without the correct destination control statement, he shall:

(*a*) Notify the exporter in writing;

(*b*) Request written assurance from the exporter that (*1*) the destination control statement has been properly entered on all other copies of the commercial invoice, and (2) any person who received an invoice without the statement has been informed in writing of the restrictions set forth in the statement;

(*c*) Either (*1*) enter the appropriate statement on his copy of the invoice, or (2) return it to the exporter for proper completion; and

(*d*) Keep and make available for inspection, in accordance with § 387.11, a copy of his notification to the exporter and the original of the exporter's assurance to him.

(For further recordkeeping requirements, see § 387.11.)

(h) *Release of custody by carrier.* No carrier shall release custody of a shipment covered by the provisions of this § 386.6 to any party without surrender by that party, to the carrier, of a copy of the bill of lading bearing on its face the applicable destination control statement, unless either:

(1) Simultaneously with the release, the carrier delivers to such party a written copy of the destination control statement, contained in the carrier's copy of the bill of lading for the shipment. The written copy shall identify the shipment by bill of lading number, name of carrier, voyage or flight number, date, and port of arrival. The carrier shall also secure either a signed receipted copy of the written statement or other equivalent written evidence that the statement has been delivered by the carrier; or,

(2) The regulations of the importing country require the carrier to deliver the commodities directly into the physical possession and control of customs or other government agency for delivery

[2] As used in the destination control statement, the term "Soviet Bloc" means all countries in Country Group Y. Neither Poland (including Danzig), Rumania, nor Yugoslavia are Y countries.

to the consignee or his agent. In this case, the carrier need not give to, or receive from, the customs or other government agency, or the consignee or his agent, any document bearing the destination control statement.

(i) *Notice and prohibition against diversion*—(1) *Conduct after receiving notice.* After receiving an invoice, bill of lading, or any other document containing notice of the prohibition against diversion set forth in a destination control statement, or after receiving oral notice of such prohibition, no person so notified including the ultimate consignee, intermediate consignee, or on-forwarding carrier shall divert, transship, or reexport (or cause to be diverted, transshipped, or reexported) any shipment described in the written or oral notice to any country not authorized in such notice.

(2) *Proof of notice.* In any administrative compliance proceeding brought by the Office of Export Control, evidence of the sending of such invoice or bill of lading, or other form of notice of the prohibition against diversion to any person, shall constitute prima facie proof of that person's receipt thereof. This shall also constitute notice that the commodities have been licensed for a particular country of ultimate destination and may not be lawfully diverted to any other country. In addition, proof of the sending of such notice to the intermediate consignee shall be deemed notification of such prohibition to the ultimate consignee and purchaser.

(j) *Effect of foreign laws.* Reexport authority contained in a destination control statement does *not* relieve any person from complying with foreign laws. (See §§ 374.9 and 373.1(a) and 379.8(d).)

§ 386.7 Shipping tolerance.

(a) *When tolerance is allowed.* A shipping tolerance is allowed over the quantity specified on a validated export license or on a customs office release against the license (as set forth in § 386.2(e)), unless such tolerance is limited or prohibited by the terms of the license or by the following provisions of this § 386.7.

(b) *Amount of tolerance allowed*—(1) *Ten percent tolerance.* With the exceptions in subparagraph (2) of this paragraph (b), a shipping tolerance of 10 percent is allowed when the quantity on the license or release is in the terms set forth below. If no quantity is specified on the license or release, the tolerance will be allowed on the total price shown for each entry on the license or release:

Avoirdupois ounce.	M (1,000) board feet.
Bale.	Milligram.
Barrel.	Oxford unit.
Bushel.	Pound.
Content pound.	Proof gallon.
Cubic foot.	Short ton (2,000 pounds).
Gallon.	Square foot.
Gram.	Square yard.
Hundredweight (100 pounds).	Troy ounce.
Linear foot.	U.S.P. unit.
Linear yard.	
Long ton (2,240 pounds).	

(2) *Five percent tolerance.* A shipping tolerance of 5 percent is allowed on the unshipped balance specified on a validated export license or customs release for shipments of all of the commodities listed below except 28401 (1st item only), 28402, and 28403 for which the 5 percent applies to the total amount licensed as explained more fully in paragraph (e) below.

Export Control Commodity Number and Commodity Description	
28200	Alloy steel scrap containing 5 percent or more nickel by weight.
28311	Copper ores and concentrates.
28312	Copper matte.
28401	Copper bearing ash and residues.
28401	Nickel bearing residues and dross.
28402	Copper or copper-base alloy waste and scrap.
28403	Other nickel or nickel alloy waste and scrap.
51369	Nickel oxide.
51470	Nickel sulphate.
51470	Master alloys of copper containing 8 percent or more phosphor.
67160	Ferronickel containing 90 percent or less nickel.
68211	Blister copper and other unrefined copper.
68212	Refined copper, including remelted, in cathodes, billets, ingots, wire bars, and other crude forms.
68212	Copper-base alloy ingots.
68213	Master alloys of copper.
68221	Bars, rods, angles, shapes, sections, and wire of copper or copper-base alloy.
68222	Plates, sheets, and strips of copper or copper-base alloy.
68223	Copper or copper alloy foil, including paper-backed.
68224	Copper and copper alloy powders and flakes.
68225	Tubes, pipes, and blanks therefor, and hollow bars of copper or copper-base alloy.
68226	Tube and pipe fittings of copper or copper-base alloy.
68310	Nickel based magnetic materials, unwrought.
68310	Other nickel or nickel alloys, unwrought.
68324	Nickel or nickel alloy electroplating anodes.
69892	Copper or copper-base alloy articles: (a) Fabricated anodes, and (b) cores (mold inserts).
69892	Copper or copper-base alloy castings and forgings.
72310	Wire and cable coated with, or insulated with, fluorocarbon polymers or copolymers.
72310	Coaxial-type communications cable as follows: (a) Containing fluorocarbon polymers or copolymers, (b) using a mineral insulator dielectric, (c) using a dielectric aired by discs, beads, spiral, screw, or any other means, (d) designed for gas pressurization for the purpose of withstanding external over-pressure or for raising the maximum voltage rating of the cable, or (e) intended for submarine laying.
72310	Other coaxial cable.
72310	Communications cable containing more than one pair of conductors as follows: (a) Submarine cable, or (b) cable containing fluorocarbon polymers or copolymers.
72310	Other communications cable containing more than one pair of conductors and containing any conductor, single or stranded, exceeding 0.9 mm. in diameter.
72310	Other copper or copper-base alloy insulated wire and cable.

(3) *Tolerance inapplicable.* The tolerance provisions of this § 386.7 shall not apply to the following units of quantity:

Carat.	Pencil gross.
Cell.	Piece.
Dozen.	Ream
Gross.	Roll
Number.	Round.
Pack.	Square.
Pair.	Set.

(c) *Partial shipments.* Whenever one or more partial shipments of the licensed commodity has been made, the tolerance applies only to the unshipped balance, except that for iron and steel products and tin plate, the tolerance is allowed on the basis of the actual quantity approved on the license or release.

(d) *Tolerance inapplicable after total shipped.* Where the quantity (or total price if applicable) stated on the license or the customs office release has been shipped, no further shipment may be made under the license or release.

(e) *Bulk Quota License.* For shipments under a Bulk Quota License, a shipping tolerance of 5 percent above the actual quantity stated on the license is allowed. For example, if the quantity shown on the license is "10,000 copper content pounds" up to 10,500 copper content pounds may be exported. However, once an amount equivalent to the quantity stated on the license has been shipped, no further shipment may be made under the license; that is, the 5 percent tolerance may not be used to make a separate shipment after previous shipments have already totaled 10,000 copper content pounds.

§ 386.8 Customs clearance at ports of origin.

(a) *Scope of procedure.* A procedure is established, as an exception to the requirements set forth in § 386.1 (b) and (e), for the export control clearance of certain shipments of commodities and technical data at the ports of origin designated in paragraph (d) of this § 386.8, prior to movement of the shipment to, and through, the port of export. Use of the port of origin procedure is optional.

(b) *Types of shipments eligible for clearance at port of origin.* The following types of shipments, except shipments to nonforeign areas and to Canada for consumption in Canada, are eligible to be considered for clearance at ports of origin:

(1) Air shipments laden aboard a domestic flight for transfer to an international flight at the port of export;

(2) Air shipments laden aboard an international flight for transfer to another international flight of the same airline at the port of export;

(3) Surface shipments, containerized and/or consolidated at freight terminals within the port of origin: *Provided*, That distance and/or other factors do not make it impractical for Customs Officers to travel to and from the site where the shipment is presented for inspection. (See paragraph (e)(7) below.); and

(4) Surface/air shipments; that is, shipments moving by air from the port of origin for transfer to surface transportation at the port of export, and shipments moving by surface transportation from the port of origin for transfer to an aircraft at the port of export.

(c) *Definitions of "port of origin" and "port of export".* For purposes of this § 386.8:

(1) *Port of origin* is a city at which the customs office is authorized to clear cargo for export prior to the loading of the cargo on a surface or air carrier for movement to the port of export and transfer to another carrier; and

(2) *Port of export* is a city where the merchandise is loaded on the aircraft or vessel which carries it abroad; or, in the case of exports moving to Mexico by surface transportation, the port at which the carrier departs from the United States.

(d) *Designated ports of origin.* The cities listed below are designated as "ports of origin," where Customs clearance of air or surface shipments may be effected prior to movement of the shipment to the port of export.

(1) *Ports of origin for clearance of either air shipments or surface shipments.*

Baltimore, Md.	Los Angeles, Calif.
Buffalo, N.Y.	New Orleans, La.
Chicago, Ill.	New York, N.Y.
Cleveland, Ohio.	Philadelphia, Pa.
Detroit, Mich.	St. Louis, Mo.
Houston, Tex.	San Francisco, Calif.

(2) *Ports of origin for clearance of air shipments only.*

Atlanta, Ga.	Newark, N.J.
Boston, Mass.	Oklahoma City, Okla.
Dallas, Tex.	Pittsburgh, Pa.
Denver, Colo.	Port Everglades, Fla.
Honolulu, Hawaii.	Portland, Oreg.
Kansas City, Mo.	San Diego, Calif.
Memphis, Tenn.	San Juan, P.R.
Miami, Fla.	Seattle, Wash.
Minneapolis, Minn.	Tucson, Ariz.

(3) *Ports of origin for clearance of surface shipments only.*

Charleston, S.C.	Jacksonville, Fla.

(e) *Clearance at port of origin*—(1) *Presentation for authentication.* A person who wishes to clear an export at a designated port of origin shall present the Shipper's Export Declaration and a validated export license, when required, to the customs office in accordance with the regulations set forth in this Part 386. The following special provisions must be complied with in addition to, or in lieu of, the usual requirements:

(i) Documents for individual shipments shall be presented sufficiently in advance of containerization or departure of the goods for the port of export, to permit inspection of the merchandise. Surface shipments must be made available for inspection at a freight terminal within port limits; air shipments, in an airline cargo room;

(ii) In the space on the declaration for "Exporting Carrier," show ocean carrier; airline that is to carry the shipment abroad; or "rail," "truck," or "vehicle," etc., as appropriate, for land shipments to Mexico, along with the name of the transportation company that is to carry the merchandise across the border. If the name of the exporting carrier is unknown at the port of origin, this information may be inserted at the port of export by the exporting carrier;

(iii) In the space for "U.S. Port of Export," show port of actual export; not port of origin; and

(iv) Stamp or write "Port-of-Origin Procedure—copy on file at (insert port of origin)", across the bottom of columns 9 through 15.

(2) *Authentication of declaration.* All copies of the declaration which are required by the provisions of § 386.3(l) to be presented to the customs office, will be authenticated at the port of origin. One copy of the authenticated declaration shall be retained by the customs office and the original and duplicate copy shall be returned to the exporter or his agent. The exporter or his agent is responsible for delivering these declarations to the carrier transporting the cargo to the port of exportation. This carrier, in turn, is responsible for delivering the copies to the exporting carrier for presentation to the customs office at the port of export with the outward foreign manifest (see paragraph (f) of this § 386.8).

(3) *Inspection at port of origin.* When an inspection is ordered at the port of origin the exporter or his agent will be required to provide personnel to open and close packages as necessary.

(4) *Additional copies of declaration.* additional copies of the declaration when required by the Department of Commerce, shall be presented to the customs office at the port of origin, and, after authentication, forwarded by the customs office at the port of origin directly to the Department of Commerce in accordance with outstanding instructions.

(5) *Correction forms.* When a Form FT-7403, Export Declaration Correction Form, is required by the provisions of § 386.3(u)(4) the form shall be presented in triplicate to the customs office at the port of origin which will retain one copy and forward two copies to the customs office at the port of export.

(6) *Outward foreign manifest for shipments laden aboard international flight at port of origin.* Copies of outward foreign manifests for shipments laden aboard an international flight for transfer to another international flight of the same airline at the port of export (see paragraph (b)(2), of this § 386.8), shall be prepared and filed with the customs office at the port of origin and the port of export in accordance with the procedure set forth in § 30.36 of Census Bureau's Foreign Trade Statistics Regulations (19 CFR § 30.36).

(7) *Inconvenient site for inspection.* If it is impractical for the port of origin procedure to be used because of the location of the site where the shipment is presented for inspection, the customs office will so notify the exporter and advise him to either present the merchandise at a more convenient location or have it cleared at the port of export.

(f) *Procedure at port of export*—(1) *Presentation of documents to customs office.* The original and duplicate copies of declarations authenticated at ports of origin and forwarded by the exporter or his agent to the exporting carrier, shall be presented by that carrier to the customs office at the port of export with the outward foreign manifest. Where shipments move to Mexico by land or by ferry, the original and duplicate authenticated declarations must be presented to the port of export customs office at the time of, or prior to, movement of the goods across the border. Presentation of the declaration may be made by the exporter, his agent, or the transportation company responsible for carrying the goods abroad. All related documents to be retained at the port of export or to be certified as to completion of the export shall accompany the corresponding copies of the declaration.

(2) *Detention and examination of shipments.* Notwithstanding any other provision of this § 386.8, the customs office at the port of export is authorized to detain any shipment for review of the declaration or for physical examination of the goods whenever Customs deems such action to be necessary to assure compliance with the export regulations.

(g) *Change in port of export or exporting carrier.* Where the port of export or the exporting carrier designated in the authenticated declaration is changed after clearance at a port of origin, the exporting carrier that will actually carry the goods abroad may revise the declaration accordingly.

(h) *Effect of other provisions.* Insofar as consistent with the provisions of this section which relates specifically to clearance of exports at ports of origin, the other provisions of this Part 386 shall apply to exports cleared at ports of origin.

§ 386.9 Authority of customs offices and postmasters in clearing shipments.

(a) *Delegation of authority to customs offices and postmasters.* Customs offices and postmasters including all customs and post office officials are authorized and directed to take appropriate action to assure observance of the provisions of the Export Control Regulations and of general and validated licenses issued thereunder, including but not limited to inspection of commodities and technical data being or about to be exported. Customs offices and postmasters, upon specific authorization by the Office of Export Control, may waive presentation of an export license.

(b) *Types of actions which may be taken by customs offices.* The following types of actions, among others, are authorized to be taken by customs offices:

(1) *Examination of commodities*—(i) *Purpose of examination.* All commodities and technical data declared for export are subject to examination by customs officials for the purpose of verifying the commodity or technical data specified in the Shipper's Export Declaration, and the value and quantity thereof, and to assure observance of the other provisions

of the Export Control Regulations. This authority applies to exports under either a general or a validated export license and also to exports to Canada. This examination may include, but is not limited to, commodity identification, technical appraisal (analysis), or both.

(ii) *Place of examination.* Examination shall be made at the place of lading or where customs officials are stationed for that purpose.

(iii) *Technical identification.* Where, in the judgment of the customs office, the commodity or technical data cannot be properly identified, a sample may be taken for more detailed examination or for laboratory analysis. The shipment will not be delayed after sampling for completion of the analysis.

(a) *Obtaining samples.* The sample will be obtained by the customs official in accordance with the provisions for sampling imported merchandise. The size of the sample shall be the minimum representative amount necessary for identification or analysis. This will depend on such factors as the physical condition of the material (whether solid, liquid, or gas) and the size and shape of the container.

(b) *Notification to exporter and consignee.* When a sample is taken, the exporter (or his agent) and ultimate consignee shall be notified on Notice of Retained Samples, Form IT-915 (see Supplement S-16 for facsimile). The customs official shall prepare this form in triplicate, showing the name of the port of export, date of sampling, declaration number, license number (if any), mark and case numbers, amount of sample, manufacturer's number, and description of the commodity. The original Form IT-915 shall be placed in the opened container, the duplicate sent to the exporter or his agent, and the triplicate retained by the customs office.

(c) *Disposal of samples.* Samples will be disposed of in accordance with the customs office procedure for imported commodities.

(2) *Inspection of documents*—(i) *General.* The customs office is authorized to require exporters or their agents, and owners and operators of exporting carriers or their agents, to produce for inspection or copying: Invoices, orders, letters of credit, inspection reports, packing lists, shipping documents and instructions, correspondence, and any other relevant documents; as well as furnish other information bearing upon a particular shipment intended for export or removal from the United States and the identity and relationships of all participants therein.

(ii) *Cartridge and shell case scrap.* When cartridge or shell cases are being exported as scrap (whether or not they have been heated, flame-treated, mangled, crushed, or cut) the customs office is authorized to require the exporter to produce a copy of the bid offer by the armed services in order to assure that the terms of the Export Control Regulations are being met and that the material being shipped is scrap.

(3) *Questioning of individuals.* The customs office is authorized to question the owner or operator of an exporting carrier and his agent(s), as well as the exporter and his agent(s), concerning a particular shipment exported or intended to be exported.

(4) *Prohibiting lading.* The customs office is authorized to prevent the lading of commodities or technical data on an exporting carrier whenever the customs office has reasonable cause to believe that the export or removal from the United States is contrary to the Export Control Regulations.

(5) *Inspection of exporting carrier.* The customs office is authorized to inspect and search any exporting carrier at any time to determine whether commodities or technical data are intended to be, or are being, exported or removed from the United States contrary to the Export Control Regulations.

(6) *Seizure.* The customs office is authorized, under Title 22 of the United States Code, section 401, et seq., to seize and detain any commodities or technical data whenever an attempt is made to export them in violation of the Export Control Regulations, or whenever it knows or has probable cause to believe that commodities or technical data are intended to be, are being, or have been exported in violation of the Export Control Regulations. Seized commodities or technical data are subject to forfeiture.

(7) *Preventing departure of carrier.* The customs office is authorized, under Title 22 of the United States Code, section 401, et seq., to seize and detain, either before or after clearance, any vessel or vehicle or air carrier which has been or is being used in exporting or attempting to export any commodity or technical data intended to be, being, or having been exported in violation of the Export Control Regulations.

(8) *Ordering the unlading.* The customs office is authorized to unlade, or cause to be unladen, from any exporting carrier commodities or technical data, whenever the customs office has reasonable cause to believe such commodities or technical data are intended to be, or are being, exported or removed from the United States contrary to the Export Control Regulations.

(9) *Ordering the return of commodities.* The customs office is authorized to order the owner or operator of an exporting carrier and his agent(s) to return commodities or technical data exported on such exporting carrier and make them available for inspection by the customs office, when no adequate opportunity is afforded the customs office to examine the commodities or technical data before lading and when the carrier departs before the declaration is authenticated.

§ 386.10 Return or unloading of cargo at direction of U.S. Department of Commerce.

(a) *Exporting carrier.* As used in this § 386.10, the term "exporting carrier" includes a connecting or on-forwarding carrier, as well as the owner, charterer, agent, master, or any other person in charge of the vessel, aircraft, or other kind of carrier, whether such person is located in the United States or in a foreign country.

(b) *Ordering return or unloading of shipment.* Where there are reasonable grounds to believe that a violation of the Export Control Regulations has occurred or will occur with respect to a particular export from the United States, the Office of Export Control or any U.S. Customs Officer may order any person in possession or control of such shipment, including the exporting carrier, to return or unload the shipment. Such person shall, as ordered, either (1) return the shipment to the United States or cause it to be returned, or (2) unload the shipment at a port of call and take steps to assure that it is placed in custody under bond or other guaranty not to enter the commerce of any foreign country without prior approval of the Office of Export Control. For the purpose of this § 386.10, the furnishing of a copy of the order to any person included within the definition of exporting carrier shall be sufficient notice of the order to the exporting carrier.

(c) *Requirements regarding shipment to be unloaded.* The provisions of § 386.5(b), relating to reporting, notification to the Office of Export Control, and the prohibition against unauthorized delivery or entry of the commodity or technical data into a foreign country, shall apply also to commodities or technical data directed to be unloaded at a port of call, as provided in this § 386.10.

(d) *Notification.* Upon discovery by any person included within the term "exporting carrier," as defined in paragragh (a) of this § 386.10, that a violation of the Export Control Regulations has occurred or will occur with respect to a shipment on board, or otherwise in the possession or control of the carrier, such person shall immediately notify both (1) the Director, Investigations Division, Office of Export Control (Attention: 848), U.S. Department of Commerce, Washington, D.C. 20230; and (2) the person in actual possession or control of the shipment.

§ 386.11 Other applicable laws and regulations.

The Export Control Regulations contained in this Part 386 apply only to exports regulated by the Office of Export Control, U.S. Department of Commerce. Nothing contained in this Part 386 shall relieve any person from complying with any other law of the United States or rules and regulations issued thereunder, including those governing declarations and manifests, or any applicable rules and regulations of the Bureau of Customs.

PART 387—ENFORCEMENT

Sec.

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AUTHORITY: The provisions of this Part 387 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.

(a) *Criminal*—(1) *Violation of Export Control Act.* Any person who violates the Export Control Law or any order, regulation, or license issued thereunder is punishable for each violation by a fine of not more than $10,000 or by imprisonment for not more than 1 year, or both. For a second or subsequent offense, the violator is punishable by a fine of not more than three times the value of the exports involved or $20,000, whichever is greater, or by imprisonment for not more than 5 years, or both. In addition, a person who willfully exports any commodities or technical data contrary to any provision of the Law or any regulation, order, or license issued thereunder, with the knowledge that such exports will be used for the benefit of any Communist-dominated nation, is punishable by a fine of not more than five times the value of the exports involved or $20,000, whichever is greater, or by imprisonment for not more than 5 years, or both.

(2) *Violations of False Statements Act.* The submission of false or misleading information or the concealment of material facts, whether in connection with license applications, Shipper's Export Declarations, investigations, compliance proceedings, appeals, or otherwise, is punishable also under other laws by a fine of not more than $10,000, or by imprisonment for not more than 5 years, or both, for each violation.

(b) *Administrative*—(1) *Denial of export privileges.* A violator of any law, order, regulation, or license relating to export controls is also subject to administrative action which may result in suspension, revocation, or denial of export privileges under the Export Control Law.[1]

(2) *Exclusion from practice.* A violator of any law, order, regulation, or license relating to export controls is further subject to administrative action which may result in exclusion from practice before the Bureau of International Commerce.[2]

(3) *Civil penalty.* A civil penalty not to exceed $1,000 for each violation of the Export Control Law or any regulation, order, or license issued thereunder may be imposed, either in addition to, or in lieu of, any other liability or penalty which may be imposed.[3] The payment of this penalty may be made a condition for a period not exceeding 1 year after the imposition of such penalty to the granting, restoration, or continuing validity of any export licenses, permission, or privilege granted to the person upon whom such a penalty is imposed. Upon failure of any person to pay such a penalty, civil action for the recovery of the penalty may be brought in the name of the United States, in which action the court shall determine de novo all issues necessary to the establishment of liability. Once a penalty has been paid, no action for the refund thereof may be maintained in any court.[4]

(4) *Seizure.* In addition, commodities or technical data attempted to be, or being, or intended to be, or which have been, exported or shipped from or taken out of the United States in violation of the Export Control Law or of any proclamation, order, rule, regulation, or license issued thereunder are subject to seizure and forfeiture, as are the vessels, vehicles, and aircraft carrying such commodities or technical data.[5]

§ 387.2 Causing, aiding, and abetting a violation.

No person may knowingly cause, or aid, abet, counsel, command, induce, procure, or permit the doing of any act prohibited by, or the omission of any act required by, the Export Control Law or any proclamation, order, rule, regulation, or license issued thereunder.

§ 387.3 Solicitation, attempt, and conspiracy.

(a) *Solicitation and attempt.* No person may do any act which solicits the commission of, or which constitutes an attempt to bring about, a violation of the Export Control Law or any proclamation, order, rule, regulation, or license issued thereunder.

(b) *Conspiracy.* No person may conspire or act in concert with one or more persons in any manner or for any purpose to bring about or to do any act which constitutes a violation of the Export Control Law or any proclamation, order, rule, regulation, or license issued thereunder.

§ 387.4 Acting with knowledge of a violation.

No person may order, buy, receive, conceal, store, use, sell, dispose of, transport, finance, forward, or otherwise service, in whole or in part, any commodity or technical data exported or to be exported from the United States, or which is otherwise subject to the Export Control Regulations with knowledge that a violation of the Export Control Law or any proclamation, order, rule, regulation, or license has occurred, is about to, or is intended to occur with respect to the whole or any part of such transaction.

§ 387.5 Misrepresentation and concealment of facts.

(a) *Representations and concealments.* No person may make any false or misleading representation, statement, or certification, or falsify or conceal any material fact, whether directly to the Office of Export Control, any Customs Office, or an official of any other U.S. agency, or indirectly to any of the foregoing through any other person or foreign government agency or official:

(1) In the course of an investigation or other action instituted under the authority of the Export Control Act of 1949, as amended;

(2) In connection with the preparation, submission, issuance, use, or maintenance of any export control document[1] or document relating thereto; or

(3) For the purpose of or in connection with effecting an export from the United States, or the reexport, transshipment, or diversion of any such export.

(b) *Scope.* All representations, statements, and certifications shall be deemed to constitute representations, statements and certifications made to, and material facts concealed from, the Office of Export Control and the Bureau of Customs with respect to matters within the jurisdiction of these agencies under the statutes, proclamations, Executive orders, and regulations relating to export control and orders or licenses issued or established thereunder.

(c) *Representations to be continuing in effect; notification.* All representations, statements, and certifications made by any person are deemed to be continuing in effect. Every person who has made any representation, statement, or certification must notify in writing the Office of Export Control of any change of any material fact or intention from that previously represented, stated, or certified. Such notification shall be made immediately upon receipt of any information which would lead a reasonably prudent person to believe that a change of material fact or intention has occurred or may occur in the future.

§ 387.6 Export, diversion, reexport, transshipment.

Except as specifically authorized by the Office of Export Control, no person may knowingly export, dispose of, divert, transship, or reexport commodities or technical data to any person or destination or for any use in violation of or contrary to the terms, provisions, or conditions of any export control document, any prior representation, any form of notification of prohibition against such action, or any provision of the Export Control Law or any proclamation, order, rule, regulation, or license issued thereunder.

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[1] See § 388.1 "Denial of export privileges and imposition of civil penalties."

[2] See § 390.2(a), "Exclusion of Persons Guilty of Unethical Conduct or Not Possessing Required Integrity and Ethical Standards."

[3] The U.S. Department of Commerce is authorized, within its discretion to compromise and settle any administrative proceedings brought with respect to such violations upon payment of a sum not to exceed $1,000 for each violation.

[4] The U.S. Department of Commerce is authorized within its discretion, however, to refund the penalty at any time within 2 years of payment if it is found that there was a material error of fact or of law.

[5] Title 22 U.S.C. 401.

[1] See § 370.2 for definition of export control document.

§ 387.7 Licensee accountable for use of license.

The applicant to whom the license is issued becomes the licensee and will be held strictly accountable for use of the license. He may not, without prior written approval of the Office of Export Control, permit any other person to facilitate or effect the export of any commodity or technical data described in the license, except under his direction and responsibility as his true agent in fact, regardless of the terms of sale or export or other agreement between him or the order party and the purchaser or ultimate consignee of such commodity or technical data.

§ 387.8 Unauthorized use and alterations of export control documents.

Except as otherwise specifically authorized in the Export Control Regulations or in writing by the Office of Export Control, no person, whether or not the licensee, may obtain, use, alter, or assist in or permit the use or alteration of, any export control document, for the purpose of or in connection with facilitating or effecting any export or reexport other than that set forth in such document or except in accordance with all the terms, provisions, and conditions thereof.

§ 387.9 Trafficking and advertising export control documents.

(a) *Unlawful practices.* No person, without prior written approval of the Office of Export Control, may do any of the following with respect to any export or reexport under any export control document:

(1) *Transfers or changes of authority.* Effect any transfer of, or other change of the authority granted in, such document, whether by sale, grant, gift, loan, or otherwise, to any person; or permit any person to use the same otherwise than for the true account of and as true agent in fact for the licensee; or, if such person is not the licensee, to receive or accept a transfer or other change of the authority granted in, or otherwise use, an export control document, except for the true account of and as true agent in fact for the licensee.

(2) *Change in named parties.* Effect any change of, substitution for, or addition to, the parties named in an export control document; or transfer, obtain, purchase, or create any interest or participation in the transaction described in any export control document.

(3) *Unlawful advertising or soliciting.* Offer or solicit by advertisement, circular, or other communication any transfer or change of an export control document or any interest therein hereinabove prohibited. Such communication shall be deemed unlawful:

(i) Even though coupled with a condition requiring approval by the Office of Export Control of a new consignor or consignee or other change in the export license, by way of transfer, amendment or otherwise;

(ii) Where, in offering or soliciting the sale for export of any commodities or technical data, the communication indicates that the proposed seller of such commodities or technical data holds or will furnish a license or other export control document for the export of such commodities or technical data;

(iii) Where, in offering or soliciting the purchase for export of any commodities or technical data, such communication is addressed by the proposed buyer directly or indirectly to any person on the condition that such person as a seller then holds or will furnish a license or other export control document for the export of such commodities or technical data.

(4) *Other unlawful practices.* Sections 387.7, 387.8, and 387.9, among other things, make it unlawful:

(i) For a licensee or other person holding an export control document to sell or to offer to sell, or for any person to purchase or to offer to purchase, the commodities or technical data described in such document with the understanding that the document may be used by or for the benefit of the purchaser to effect export of the said commodities or technical data;

(ii) For any person to effect the export of the commodities described in (i) above for the benefit of or "for the account" of any person other than the licensee, regardless of the device, means, or fiction employed;

(iii) For the licensee fictitiously to act as principal or agent of another person who actually is effecting the export, or for such other person fictitiously to act as the licensee's principal or agent for the same purpose; or

(iv) For the named consignee to act "for the account" of a new unlicensed consignee.

Where a licensed transaction has failed of accomplishment for any reason, the license may not, without special authorization of the Office of Export Control, be used for any other transaction. Changes of consignors and consignees will be permitted only under the strict provisions of the Export Regulations.

(b) *Transfer of dock receipts, bills of lading, or liens*—(1) *Use of certain export control documents.* Section 387.9(a) is not to be construed to affect the transfer and other use of dock receipts, bills of lading, or other commercial documents necessary to complete a transaction authorized by the export license, or impair the validity of liens or other security titles or interests created in good faith with respect to commodities or technical data or documents in the course of financing, warehousing, forwarding, or transporting commodities or technical data.

(2) *Disposition of export.* Where the person entitled to the foreclosure of any lien or other security title or interest, or where the exercise of any rights by the holder of the lien or other security title or interest, contemplates an export under the license by someone other than the licensee, or to someone other than the purchaser or ultimate consignee designated in the license, such person must apply for a new license or for an amendment in accordance with the provisions of Part 380.

§ 387.10 Transactions with persons subject to denial orders.

(a) *Prohibited activities.* Without prior disclosure of the facts to, and specific authorization of the Office of Export Control, no person, with knowledge that another person is then subject to an order revoking or denying his export privileges or is then excluded from practice before the Office of Export Control, directly or indirectly, in any manner or capacity:

(1) May apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for such person denied export privileges; or

(2) May order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in, any transaction which may involve any commodity or technical data exported or to be exported from the United States, or which is otherwise subject to the Export Regulations, whereby such person denied export privileges may obtain any benefit therefrom or have any interest therein, directly or indirectly.

(b) *Definition of "person denied export privileges".* For the purpose of this § 387.10, the term "person denied export privileges" is defined to include:

(1) Any person, firm, corporation, or other business organization whose export privileges are revoked or denied by any order of the Office of Export Control or who is excluded by such order from practice before the Bureau of International Commerce; and

(2) Any other person, firm, corporation, or other business organization also denied export privileges or excluded from practice before the Bureau of International Commerce because of his or its relationship to such person denied export privileges through affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services during the period of such order, and whether or not named in such order.

(c) *Applicability of orders.* Orders of the Office of Export Control which revoke or deny the export privileges of any person or which exclude any person from practice before the Bureau of International Commerce provide that the terms and prohibitions of such orders apply not only to the persons expressly named therein but also, for the purpose of preventing evasion, to any other person, firm, corporation, or other business organization with which such person may then or thereafter (during the term of the order) be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services. See §§ 388.1 and 390.2, and Supplement No. 1 to Part 388, "Table of Denial and Probation Orders." This table contains orders issued by the Office of Export Control which currently deny export privileges and/or place the person or firm on probation.

This list contains the names and addresses of such persons, the effective and expiration dates of the orders, a brief summary of the export privileges affected, and the citations to the volumes and pages of the FEDERAL REGISTER where complete texts of the orders are published. The publication of such orders in the FEDERAL REGISTER constitutes legal notice of the terms thereof to all persons.

§ 387.11 Recordkeeping.

(a) *Transactions subject to this regulation.* This § 387.11 applies to transactions involving exports of commodities or technical data from the United States and any known reexports, transshipments, or diversions of commodities or technical data originally exported from the United States, regardless of whether the export or reexport is made, or proposed to be made, by any person with or without authorization by a validated license, a general license, or any other export authorization. It includes all negotiations connected with such transactions, except that a mere preliminary inquiry or offer to do business and negative response thereto shall not constitute negotiations, unless the inquiry or offer to do business proposes a transaction which a reasonably prudent exporter would believe likely to lead to a violation of Export Orders or Regulations. It includes as well any exports to Canada, if, at any stage in the transaction, it appears that a person in a country other than the United States or Canada has an interest therein or that the commodity or technical data involved is to be reexported, transshipped, or diverted from Canada to another foreign country.

(b) *Persons subject to this regulation.* Any person in the United States who, as principal or agent (including a forwarding agent), participates in any transaction described in paragraph (a) of this § 387.11, and any person in the United States or abroad who is required to make and keep records pursuant to any provisions of the Export Regulations, shall keep all the records described in paragraph (c) of this § 387.11, which are made or obtained by such person, and shall produce them in the manner provided in paragraph (f) of this § 387.11.

(c) *Records to be kept.* The records to be kept pursuant to this § 387.11 shall include memoranda, notes, correspondence, books, export control documents, and other written matter pertaining to the transactions described in paragraph (a) above, which may be made or obtained by a person described in paragraph (b) above. In addition to the records required to be kept by this § 387.11, the provisions of §§ 372.5, 372.6, 373.3—373.5, 373.8, 374.8, 376.10, 377.6, 386.3, and 386.6 of the Export Control Regulations require certain records to be made and kept by persons in the United States or abroad in connection with export transactions. The revocation or revision of any such provision of the Export Control Regulations which requires the making and keeping of records shall not be retroactive in effect unless specifically provided and shall not affect the original requirement to keep such records for the prescribed period.

(d) *Reproduction of records*—(1) *Definition.* "Reproduction" of the purpose of this paragraph 387.11(d) is defined to include any photographic, photostatic, microfilm, miniature photographic or other process which accurately and durably reproduces the original record.

(2) *Use of reproductions.* Reproductions may be substituted for original documents with respect to all categories of records required to be retained under any provision of the Export Control Regulations or of any order, provided that all of the following conditions are met:

(i) Reproductions may not be substituted for any category of records until 12 months after the beginning of the retention period set forth in paragraph (e) of this § 387.11;

(ii) All significant information, marks, and/or other characteristics on the original document must be clearly visible and legibly reproduced; and

(iii) Appropriate facilities must be provided and maintained for the preservation of the reproduced records during the retention period and for the ready location and inspection of the records, including a projector for viewing films if needed.

(e) *Period of retention.* Records required to be kept under this § 387.11 shall be kept for a period of 3 years[1] from, whichever is later, the time of:

(1) The export from the United States; or

(2) Any known reexport, transshipment, or diversion; or

(3) Any other termination of the transaction, whether formally in writing or by any other means.

(f) *Producing and inspecting records.* Every person, whether in the United States or abroad, required to keep records by any provision of the Export Control Regulations or of any order shall produce all records or reproductions of records (see paragraph (d) of this § 387.11) required to be kept, and make them available for inspection and copying upon request by any authorized agent, official, or employee of the Bureau of International Commerce, the Bureau of Customs, or a U.S. Foreign Service post, or by any other accredited representative of the U.S. Government, without any charge or expense to such agent, official or employee.

PART 388—ADMINISTRATIVE PROCEEDINGS

Sec.

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388.51 Supplement No. 1: Table of Denial and Probation Orders Currently in Effect.

AUTHORITY: The provisions of this Part 388 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.

§ 388.1 Denial of export privileges and imposition of civil penalties.

(a) *Administrative sanctions.*[1] Any person (respondent) who contravenes or violates any law, order, regulation, license, or other reexport authorization relating to export control is subject to the following administrative actions:

(1) *Revocation of validated export licenses.* Any or all outstanding validated export licenses concerned with or affecting any transaction in which such respondent may have any interest, direct or indirect, may be revoked and ordered returned forthwith to the Office of Export Control.

(2) *General denial of export privileges.* Such respondent may be denied the privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of such denial of export privileges, participation prohibited in any such transaction either in the United States or abroad may be deemed to include:

(i) Participation as a party or as a representative of a party to any validated export license application;

(ii) Participation in the preparation or filing of any export license application or reexport authorization, or document to be submitted therewith;

(iii) Participation in the obtaining or using of any validated or general export license or other export control documents;

(iv) Participation in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; and

(v) Participation in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

[1] Persons subject to this regulation may find it advisable to retain their records longer than the mandatory 3-year retention period because the statute of limitations (Title 18, U.S.C. sec. 3282) permits criminal actions to be brought under the Export Control Act within 5 years and administrative compliance proceedings may be brought more than 3 years after alleged violations.

[1] See § 370.7 regarding the unauthorized disposition of foreign excess personal property purchased from the U.S. Armed Forces in foreign countries.

(3) *Exclusion from practice.* Such respondent may be excluded from practice before the Bureau of International Commerce.

(4) *Civil penalty.* In addition to the administrative sanctions described above, or in lieu thereof, a civil penalty not to exceed $1,000 may be imposed for each violation. (See § 387.1(b)(3).)

(b) *Applicability to related persons.* Any order denying export privileges or excluding persons from practice before the Bureau of International Commerce may be made applicable not only to persons named therein but also, to the extent necessary to prevent evasion, to other persons with whom said named persons may then or thereafter be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services. In addition, the order may contain the substance of § 387.10.

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

NOTE: This procedure in no way restricts the present practice of referring appropriate cases to the U.S. Department of Justice for criminal prosecution. Violations of Export Control Regulations not only may result in denial of export privileges but also are punishable by a fine or imprisonment as described in § 381.1. Violations may result also in seizure and forfeiture of property under Title 22, U.S.C.A. 401.

§ 388.2 Compliance Commissioners.

The Director of the Bureau of International Commerce will designate one or more persons to act as Compliance Commissioners, who shall have the powers and duties provided herein. Compliance Commissioners shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions.

§ 388.3 Institution of administrative proceedings.

(a) *Charging letters.* The Investigations Division, Office of Export Control, with the approval of the Office of the General Counsel, may initiate proceedings for the imposition of one or more of the following sanctions against any person who it has reason to believe has violated any law or regulation relating to export control: (1) Denial of export privileges, (2) denial of privileges of practice, or (3) civil penalties. Such proceedings are initiated by service of a charging letter. The charging letter shall allege the essential facts constituting the specific violations charged, including reference to the particular regulatory or other provisions alleged to have been violated, and shall give notice that, if the respondent is found to have committed the alleged violations, his export privileges may be denied, his privilege of practice may be denied, or a civil penalty may be imposed. The charging letter shall inform the respondent that he is required to answer the allegations therein contained within 30 days, as provided in § 388.5, and that if he fails to answer as so provided he will be in default and the allegations will be deemed admitted. It shall inform the respondent that he is entitled to an oral hearing provided that he files a written demand therefor with his answer or within seven days after service of his answer, and that he may, if he so desires, be represented by counsel of his own choosing. Charging letters may be amended from time to time, upon reasonable notice.

(b) *Service.* A charging letter shall be deemed served upon a respondent: (1) If he is a resident of the United States, when mailed in a wrapper addressed to him at his last known address, or when left with him or his agent or employee, or when left at his dwelling with some person of suitable age and discretion then residing therein; or (2) if he is a nonresident of the United States, when served upon him by any of the foregoing means, or if such method of service is not practicable or appropriate by reason of arrangements or understandings between the U.S. Government and the government of the country wherein the respondent resides, when it is tendered for service upon him to an official of the government of the country wherein the respondent resides.

§ 388.4 Default.

(a) *Failure to answer.* If the respondent fails to file an answer to the charging letter in the manner or within the time prescribed in § 388.5, he shall be held in default and the case shall be referred forthwith to the Compliance Commissioner who shall consider the same in such manner and upon such evidence as he may decide is appropriate. Any order thereafter issued shall have the same effect as an order issued following the disposition of contested charges.

(b) *Application to set aside defaults.* Any respondent against whom an order has been issued upon his default may apply, upon good cause shown, together with evidentiary data in support thereof, to set aside his default and vacate the order entered thereon. Such application shall be duly sworn before an officer qualified to take oaths and shall be submitted in duplicate to the Director, Office of Export Control (Attention: 840), U.S. Department of Commerce, Washington, D.C. 20230, who shall then refer it to the Compliance Commissioner for consideration and recommendation as to what disposition thereof ought to be made. The Compliance Commissioner shall consider the application and may, if he so decides, require the respondent to attend a hearing or submit further evidence in support of his request. The filing of an application to set aside a default does not in any manner affect an order entered upon default and such order continues in full force and effect unless a further order is made modifying or terminating it.

§ 388.5 Answer and demand for oral hearing.

(a) *When to answer.* The respondent shall answer the allegations of the charging letter within 30 days after service of the charging letter upon him.

(b) *Contents of answer.* An answer shall be responsive to the charging letter and shall fully and completely set forth the nature of the respondent's defense or defenses. In addition, it shall, by separate paragraphs, admit or deny specifically and in detail each and every separate allegation of the charging letter, unless the respondent is without knowledge, in which case, his answer shall so state and the statement shall operate as a denial. A failure to deny or controvert any particular allegation shall be deemed an admission thereof. The respondent may, in his answer, set forth such additional or new matter as he may regard as supporting a defense to or claim of mitigation of the charges. Any defenses or partial defenses not specifically set forth in an answer shall be deemed waived, and evidence offered thereon by the respondent at a hearing may be refused unless good cause be shown for its receipt. If the respondent does not demand an oral hearing, he shall transmit, within 7 days after the service of his answer, original or photocopies of all correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters in issue and, if any such materials be in a language other than the English language, translations thereof into English shall be submitted at the same time.

(c) *Submission of answer.* The answer, written demand for oral hearing, and supporting evidence required by paragraph 388.5(b) shall be in duplicate and mailed or delivered to the Compliance Commissioner, Bureau of International Commerce (Attention: 814), U.S. Department of Commerce, Washington, D.C. 20230.

§ 388.6 Subpoenas and interrogatories.

(a) *Subpoenas.* At the request of any party to a proceeding before him, the Compliance Commissioner may issue subpoenas, returnable before him, requiring the attendance of witnesses and the production of books, records, or other documentary or physical evidence determined by the Compliance Commissioner to be relevant and material to the proceedings, reasonable in scope, and properly obtainable by subpoena.

(b) *Interrogatories and requests for admissions of facts.* In any compliance proceeding, the Investigations Division, Office of Export Control, or the Compliance Commissioner may serve on any respondent or his attorney interrogatories or requests for admissions of facts, and if, without good cause being shown, there is a failure or refusal to respond to the questions or requests for admissions, the Compliance Commissioner, on his own motion or motion of the Investigations Division, and upon such notice to the respondent as the Compliance Commissioner may direct, may strike respondent's answer and declare him in default, or make any other ruling which he deems necessary and just under the circumstances. Interrogatories and requests

may be served in the same manner as provided in § 388.3(b) for service of a charging letter.

§ 388.7 Hearings.

A respondent who has not filed a written answer is not entitled to a hearing, and the case against him in such instance shall be considered by the Compliance Commissioner as provided in § 388.4(a). If an answer has been filed and no oral hearing has been demanded, the same shall be deemed waived, and the Compliance Commissioner shall proceed to consider the case upon all the pleadings and evidence available and shall provide for the making of the record in such manner as he deems appropriate. If an answer has been duly filed and an oral hearing has been demanded, the Compliance Commissioner shall set the case for such hearing, and due notice thereof shall be given to the respondent or his attorney. A respondent is not entitled to notice of hearing unless he has answered, raised issues to be determined as provided in § 388.5 and has made demand for hearing. If neither the respondent nor anyone on his behalf shall attend a hearing which has been set after due notice given the hearing shall nevertheless proceed in his absence, and such absence shall not affect the validity of the hearing or any proceedings or action thereafter. Hearings shall be conducted by the Compliance Commissioner in a fair and impartial manner. The rules of evidence prevailing in courts of law shall not apply, but all evidentiary material relevant and material to the inquiry shall be received and given appropriate weight. Because the Export Control Act of 1949, as amended, is concerned with national security and foreign policy, relevant and material evidentiary materials bearing on the enforcement of the Act, whether classified or not, must be considered by those making decisions in proceedings under the Export Control Regulations. Diligent effort shall be made, however, to declassify such classified materials or to secure unclassified summaries of or extracts from such classified materials, when not contrary to any statute or security regulation. Whenever an unclassified summary or extract of classified evidentiary materials shall be offered, the Compliance Commissioner shall compare it with the related classified materials. If he finds that the summary or extract is supported by the classified materials and omits only so much as remains classified, he may, subject to the right of respondent to object on grounds of relevancy and materiality, admit the unclassified summary or extract as part of the open record, to the extent he deems said summary or extract relevant and material. Thereafter, the respondent may submit evidence in explanation or contradiction thereof. In no case shall the respondent or his attorney be entitled to inspect the classified materials. The Compliance Commissioner may administer oaths and affirmations. Respondent may be represented by counsel but need not be. The proceeding shall be taken by a reporter, transcribed, and filed with the Compliance Commissioner. Respondents shall have an opportunity to examine the transcript and to obtain a copy upon payment of proper costs.

§ 388.8 Proceedings before and report of Compliance Commissioner.

In any situation for which these regulations make no provision, the Compliance Commissioner may, in his discretion, conform the proceedings before him to the Federal Rules of Civil Procedure. The Compliance Commissioner shall consider the record and shall prepare a written report which shall include findings of fact, including a finding whether or not a violation has occurred, and recommendations. The report, transcript, and exhibits shall be transmitted to the Director, Office of Export Control, Bureau of International Commerce.

§ 388.9 Disposition of proceeding.

If the Compliance Commissioner finds that the evidence is not sufficient to justify the conclusion that a violation has been committed, the Director, Office of Export Control, shall enter an order dismissing the charges. If the Compliance Commissioner finds that a violation has been committed, his recommendation shall be advisory only, and the Director, Office of Export Control, shall review the record, consider the report of the Compliance Commissioner, and determine the disposition of the case. He may then issue an order denying the respondent's export privileges, as provided in § 388.1, or take such other action as he deems appropriate. Any order issued shall be effective for such period of time and shall contain such additional terms and conditions as may be deemed appropriate and prescribed therein. A copy of the order together with a copy of the Compliance Commissioner's report shall be served upon the respondent, in the same manner as provided in § 388.3(b) for service of a charging letter, or upon his attorney.

§ 388.10 Consent orders.

The Investigations Division, Office of Export Control, and the respondent may, after transmission of a charging letter, by agreement submit to the Compliance Commissioner a proposal for the issuance of a consent order. The Compliance Commissioner shall review the facts of the case and the proposal and, for this purpose, may conduct informal conferences with the parties and may require the informal presentation before him of the evidence in the case. If he does not approve the proposal, he shall so notify the respondent or his attorney and the Investigations Division, and the case shall proceed to hearing. If he approves the proposal, he shall report the facts of the case with his recommendations to the Director, Office of Export Control. The Director, Office of Export Control, may reject the proposal, in which event the case will proceed to hearing, or he may accept the proposal and issue an appropriate order.

§ 388.11 Temporary denials.

(a) *Denial within charging letter.* A charging letter from and after the date of its issuance may deny to any respondent the privileges of participating directly or indirectly in any manner or capacity in any transaction involving commodities or technical data in whole or in part exported or to be exported from the United States to any foreign destination pursuant to any validated export license. The charging letter may also suspend or revoke and require the return for cancellation of outstanding validated licenses, but shall not otherwise deny export privileges, to the respondent. Such latter privileges, however, may be denied as provided in paragraph (b) of this § 388.11.

(b) *Temporary denial orders*—(1) *Grounds for issuance.* Any person who is under investigation, or against whom administrative or judicial proceedings are pending, for violation of any law or regulation relating to export control, may be summarily denied export privileges, as set forth in § 388.1, without prior notice or opportunity for hearing, where and to the extent such denial of export privileges is found reasonably necessary to protect the public interest pending final disposition of the investigation or proceedings. Such a temporary denial order shall be issued only for such limited time, ordinarily not exceeding 30 days, as may be required to complete the investigation or the proceedings, but may, on a showing of need for additional time, be extended in the same manner as originally issued.

(2) *Procedure for issuance.* An application for such a temporary denial order shall be made by the Investigations Division, Office of Export Control, to the Compliance Commissioner and shall include a brief recital of the facts of the case and a statement of the grounds for the application and the nature of the order sought. The Compliance Commissioner shall review the application and for this purpose may require informal presentation of evidence before him. If he does not approve the application, he shall so notify the Investigations Division by memorandum, and no further action shall be taken upon it. If he approves it in whole or in part, he shall send his recommendation, together with the application and accompanying documents, to the Director, Office of Export Control, who may issue such temporary denial order as he shall deem appropriate. A copy of the order shall be sent to the respondent in the same manner as provided in § 388.3(b) for service upon him of a charging letter.

(c) *Motions to vacate or modify*—(1) *Motion to vacate.* The respondent may at any time move to vacate or modify any temporary denial of export privileges contained in any charging letter or order. Any such motion shall be filed with the Compliance Commissioner and an oral hearing thereon, if requested, shall be held before the Compliance Commissioner at the earliest convenient date. The Compliance Commissioner shall consider the evidence presented and shall submit his report and recommendations thereon to the Director, Office of Export Control. The latter may issue such order disposing of the motion as he deems appropriate, and a true copy thereof shall

be sent promptly to the respondent or his attorney.

(2) *Continuation and extension.* In any case where no motion is made pursuant to paragraph (1) above to vacate or modify a temporary denial, or where, if such motion is made, substantial evidence is not presented to support the granting thereof in whole or in part, such denial or any modification thereof may be continued and extended to and including completion of the proceedings.

(d) *Deferment of action on license applications otherwise prohibited.* Except for the particular application or license which is itself the basis of any investigation or proceeding, and except pursuant to paragraph (a) of this § 388.11, no export license application filed by any person shall be returned without action, held without action, or rejected, solely because such person is under investigation, or that proceedings against him are pending, otherwise than in accordance with the terms of a temporary denial order issued under paragraph (b) of this § 388.11.

§ 388.12 Rehearings.

The Compliance Commissioner may, upon written request, grant a rehearing or reopen a proceeding at any time for the purpose of hearing any relevant and material evidence which was not known or which was unobtainable at the time of the original hearing. The request for rehearing or reopening shall contain a summary of such evidence, the reasons why it is deemed relevant and material, and the reasons why it could not have been presented at the original hearing. The Compliance Commissioner shall give prompt notice of the time and place of any further hearing, if one is held, and shall conduct such hearing and submit his report and recommendations thereon to the Director, Office of Export Control, for final action in the same manner as provided for the original proceeding as described in § 388.9.

§ 388.13 Appeals.

(a) *Grounds and conditions for appeal—(1) Grounds shall be specified.* The respondent may appeal from a denial of export privileges, from a denial of privileges of practice, or from the imposition of a civil penalty, upon the ground (i) that the findings of violation are not supported by any substantial evidence, (ii) that prejudicial error of law was committed, or (iii) that the provisions of the order are arbitrary, capricious, or an abuse of discretion. The appeal must specify upon which of these grounds the appeal is based and must indicate from which provisions of the order the appeal is taken.

(2) *Previous motion for relief.* An appeal from a denial upon default, a temporary denial, or an indefinite denial will not be entertained unless and until the respondent has moved unsuccessfully for relief as provided in paragraphs 388.4(b), or 388.11(c), or § 388.15 as the case may be.

(b) *Filing of appeals.* An appeal must be in writing and shall be filed with, and addressed to, the Appeals Board, U.S. Department of Commerce, Washington, D.C. 20230. An appeal from a final order denying export privileges shall be filed within 10 days after receipt of a copy of the order. The provisions of Part 389 of the Export Control Regulations shall govern the procedure and disposition of appeals, except as otherwise provided in this Part 388.

(c) *Matters considered on appeal.* A hearing before the Appeals Board shall not constitute a trial de novo, but the appeal shall be considered upon the basis of the record, consisting of the charging letter, the transcript of the hearing before the Compliance Commissioner, the report of the Compliance Commissioner, the order of the Director, Office of Export Control, and any other relevant documents involved in the proceedings before the Compliance Commissioner. If the respondent has requested and been denied a rehearing or reopening on the basis of new evidence, the Appeals Board may direct that such rehearing or reopening be granted if it finds that such new evidence is relevant and material to the issues and was not known or was not available to the respondent at the time of the original hearing. The Appeals Board shall not consider facts or arguments affecting the merits of the policy embodied in rules or regulations alleged to have been violated.

(d) *Effect of appeals.* The taking of an appeal shall not stay the operation of any order. The decision of the Appeals Board shall be final and shall be transmitted promptly to the respondent or his attorney.

§ 388.14 Proceedings confidential.

Compliance proceedings shall be confidential, excepting any orders issued therein. Reports of the Compliance Commissioner and copies of transcripts of hearings shall be available only to parties to the proceedings and, to the extent of their own testimony as contained in transcripts, to witnesses therein. Any such matters may, however, be made available to any Government agency having a proper interest therein.

§ 388.15 Failure to comply with interrogatories or requests to produce evidence—indefinite denial.

Whenever the Office of Export Control finds it impracticable, during the course of an investigation or other proceeding or action, to subpoena a person, or his books, records, other writings, or other tangible things bearing upon the matter being investigated, the Office of Export Control may serve upon such person interrogatories, requests for admissions of facts, requests for the production of books, records, and other writings, or requests to produce or make available other tangible things for inspection, including commodities or technical data exported from the United States, as therein specifically set forth. If such person, within 20 days after service thereof, fails or refuses to furnish responsive answers to such interrogatories or requests for admissions, fails to produce the requested books, records, and other writings, or fails to produce or make available for inspection other tangible things requested, including commodities or technical data exported from the United States, which are in his possession, custody or control, without good cause being shown, an order may be issued without prior notice, as provided in § 388.1 above, denying export privileges to such person. This order shall remain in effect until such person shall respond to the interrogatories or requests or shall give adequate reasons for his failure or refusal to so respond. Such interrogatories or requests may be served in the same manner as provided in paragraph 388.3(b) for service of a charging letter. The procedure regarding applications for indefinite denial orders and motions to vacate or modify such orders shall conform substantially to that provided for temporary denial orders by paragraphs 388.11(b)(2) and 388.11(c).

§ 382.16 Orders containing probationary periods.

(a) *Revocation of probationary period.* An order denying export privileges to any person may provide a probationary period during which such denial order is held in abeyance for all or part of the denial period provided by the order, subject to conditions set forth therein. With or without notice to any person to be affected thereby, the Director, Investigations Division, Office of Export Control, may apply to the Compliance Commissioner for an order revoking such probation period upon a charge that the conditions of such probation have been breached. The facts in support of such application shall be presented to the Compliance Commissioner who shall report thereon, and make a recommendation as to the action to be taken, to the Director of the Office of Export Control. The Director of the Office of Export Control shall then determine whether the conditions have been breached and issue such order as he may decide is appropriate.

(b) *Hearings—(1) Objections upon notice.* Any person affected by a notice that an application is being made to revoke a probationary period may, within the time specified in the notice, file with the Compliance Commissioner any objections he may have to the application.

(2) *Objections to order without notice.* Any person affected by an order revoking a probationary period without notice may request that such order be set aside by filing with the Compliance Commissioner his objections thereto. Such request will not stay the effective date of the order of revocation.

(3) *Requirements for filing objection.* Objections shall be filed in writing and in duplicate with the Compliance Commissioner. All denials and admissions, as well as the facts of any mitigating circumstances, which the person affected intends to present shall be set forth in or attached to the letter of objection. All contentions must be supported by evidence. A request for an oral hearing may be made at the time of filing such objections.

(4) *Determination.* The application and any objections thereto shall be referred to the Compliance Commissioner and, if an oral hearing is requested, he shall conduct such hearing at the earliest convenient date. Thereafter he shall report the facts and make a recommendation to the Director of the Office of Export Control, who shall then determine whether the application should be granted or denied. After the Director's determination following either an application on notice for revocation or an application to set aside a revocation, a copy of the order and of the Compliance Commissioner's report shall be sent to any person affected thereby.

(c) *Effect of revocation on other actions.* The revocation of a probationary period shall not preclude any other action concerning a violation upon which such revocation is based.

§ 388.17 Extension of time.

A respondent may, on good cause being shown, apply to the Compliance Commissioner for additional time within which to prepare and submit his answer to the charging letter or do any other act required by this part.

§ 388.18 Publication of orders.

All orders denying export privileges and all decisions of the Appeals Board in appeals under § 388.13 shall be published in the FEDERAL REGISTER as soon as practicable after issuance; except that such orders and decisions need not be so published where they provide for the imposition of a civil penalty alone or as an alternative to the denial of export privileges and where such civil penalty has been paid before the denial of export privileges becomes effective. Copies of all orders and decisions which are not published in the FEDERAL REGISTER will be available for public inspection at the Office of the Director, Office of Export Control.

§ 388.51 Supplement 1; table of denial and probation orders currently in effect.

(a) *Contents.* This Table lists orders issued by the Office of Export Control which currently deny export privileges and/or place persons or firms on probation. Orders are published in full in the FEDERAL REGISTER, as cited in the column entitled, "FEDERAL REGISTER Citation."

(1) *Related parties.* Some of the individuals and firms whose names appear in the column entitled, "Name and Address," were not found to have violated any law or regulation, but they have been made subject to denial or probation orders pursuant to § 388.1(b). In such cases, an appropriate note appears in the column entitled, "Export Privileges Affected."

(2) *Probation periods.* The basic order denies export privileges to the party or parties named. In some cases, denial of privileges is a combination of immediately effected denial and probation. In other cases, the entire order may be a conditional probation. Probation is always conditioned upon compliance with the law and regulations during the period of probation and it may be revoked summarily in the event of failure to comply. In the column of this Table headed "Expiration Date," the termination date of the period of actual denial appears, and in the event the order contains a probation period, that fact and its expiration date are shown enclosed in parentheses. During the probation period a party is entitled to all export privileges.

(3) *Intermediate denial orders.* The rules provide for temporary and indefinite orders. In the Table the expiration date of temporary orders is shown as "Until Further Notice"; the expiration date of indefinite orders is shown as "indefinite."

(4) *Proceedings confidential.* Proceedings in compliance cases, except for intermediate and final orders, are confidential.

(5) *Publication of orders.* The transmittal portion of Current Export Bulletins announces additional or amended denial orders as they are issued. However, the Table of Denial and Probation Orders is maintained on a current basis by addenda and is brought up to date alphabetically each quarter, at which time only those persons then affected by outstanding orders are listed, according to the effect of such orders at that time.

PART 389—ADMINISTRATIVE REVIEWS AND APPEALS

Sec.
389.1 General provisions.
389.2 Administrative review.
389.3 Appeals.

AUTHORITY: The provisions of this Part 389 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.

§ 389.1 General provisions.

(a) *Purpose.* This Part 389 sets forth the procedures applicable to: (1) The consideration of requests for administrative review by the Office of Export Control of protested regulations and actions of the Office of Export Control and (2) appeals to the Appeals Board for the U.S. Department of Commerce.

(b) *Definitions.* For purposes of this Part 389:

(1) "Regulation" means any provision of a regulation or order published in the FEDERAL REGISTER or announcement thereof in an Export Control Bulletin which is applicable generally to all persons or to a class of persons.

(2) "Administrative action" means any action, including a return without action of a license application, taken by the U.S. Department of Commerce under the Export Control Law or by a duly authorized employee thereof under a regulation with respect to a particular person.

(3) "Administrative review" means a request for relief, as provided in § 389.2, from the provisions of a regulation or an administrative action as defined above.

(4) "Appeal" means a request for relief, as provided in § 389.3, from the provisions of a regulation or of an administrative action, and includes a request for relief from a decision issued by the Office of Export Control upon a request for administrative review.

(5) "Petitioner" means a person filing a request for an administrative review.

(6) "Appellant" means a person filing an appeal.

(c) *Grounds for requesting administrative review and appeal.* Any person may request an administrative review as provided in § 389.2 or may appeal to the Appeals Board for the U.S. Department of Commerce as provided in § 389.3, as appropriate, from any regulation, order (excluding denial or probationary orders [1]), or other administration action taken by the U.S. Department of Commerce under the Export Control Law or delegated authority relating thereto, where such regulation, order, or other administrative action works an exceptional and unreasonable hardship upon him, or improperly discriminates against him. However, problems of an overall nature, affecting exporters as a group, will not be considered within this procedure, but may be referred to Commodity Advisory Panels and Commodity Advisory Committees as provided in § 390.1.

§ 389.2 Administrative review.

(a) *Scope.* The Office of Export Control will consider a request, submitted in accordance with the provisions of this § 389.2, for an administrative review of any regulation or adminstrative action (other than a denial or probationary order [1]) as specified in 389.1 (b) and (c).

(b) *Submission of request for administrative review—(1) Request for administrative review must be in writing.* A request for administrative review and accompanying material shall be filed in duplicate, unless otherwise indicated below. If the submission of two copies of all accompanying documents or exhibits would place an undue burden on the petitioner, waiver of this rule may be requested at the time the request is filed. A request for administrative review shall be in letter form.

(2) *Information to be contained in requests for administrative review.* A request for administrative review shall clearly state (i) the provisions of the regulation or the administrative action which is protested, (ii) the grounds for the request, and (iii) the relief requested by the petitioner. The various grounds for the request shall be separately stated and numbered, with a clear and concise statement of all facts alleged in support of each ground.

(3) *Additional requirements for specified requests for administrative review.* In addition to the above-described letter, the following papers shall be included with requests of the kinds described in this paragraph 389.2(b)(3).

[1] See §§ 388.4, 388.11, 388.13, and 388.15 for the appeals procedure regarding administrative proceedings.

(i) Request for administrative review of rejection of license application shall include (*a*) the Form IT– or FC–204A, Notification of Rejection, (*b*) a new original copy of the rejected license application, Form FC–419, and (*c*) a Form FC–420, Application Processing Card showing the old case number.

(ii) Request for administrative review of a multiple commodity or a multiple consignee application disallowed in part shall include (*a*) a complete new application covering only the rejected items, and (*b*) the appropriate Form FC–420, Application Processing Card, showing the old case number.

(iii) Request for administrative review of rejection of request for extension of license or other amendment shall include (*a*) the license unless it has been previously surrendered to the U.S. Department of Commerce or a customs office and (*b*) the Form IA–763, Request for and Notice of Amendment Action.

(iv) Request for administrative review of denial of request to transfer an export license shall include (*a*) letter of request for transfer from the transferor and transferee, (*b*) the original license unless the license is on file with the Office of Export Control or has been surrendered to a customs office, and (*c*) the Form IA–763, Request for and Notice of Amendment Action, if this form was submitted to the Office of Export Control.

(c) *When and where to file a request for administrative review.* A request for administrative review shall be filed not later than 45 days after the publication date of a regulation, or the date of notification of administrative action.[1] A request for administrative review shall be filed with and addressed to the Office of Export Control, Ref: "Administrative Review," Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230.

(d) *Decisions.* A request for relief may be granted or denied, in whole or in part. If the decision in an administrative review of a licensing action is favorable to the petitioner, the license or amendment will be granted in answer to the petition. Decisions on other types of administrative reviews will be furnished to the petitioner in writing. If the decision is unfavorable, he may appeal to the Appeals Board in accordance with the provision of § 389.3.

§ 389.3 Appeals.

(a) *Establishment and scope of Appeals Board.* The Appeals Board for the Department of Commerce has been established as an impartial body in the Office of the Secretary to consider appeals and render final decisions thereon. The Board consists of a Chairman and two members. Any person may appeal to the Appeals Board, upon the grounds indicated in § 389.1(c), in accordance with the following provisions of this § 389.3.

(b) *Preparation of appeals*—(1) *General requirements.* An appeal shall be clearly marked "Ref: Appeals Board for the U.S. Department of Commerce" and shall be in letter form. The appeals letter shall be prepared in accordance with § 389.2(b) and shall be accompanied by the same information and documents specified therein. Where an appeal is filed from a decision on an administrative review, the appellant may request the Office of Export Control, in writing, to transmit to the Appeals Board the documentation originally submitted to the Office of Export Control in accordance with § 389.2(b) as the required initial documentation.

(2) *Request for oral presentation.* A request for an oral presentation before the Appeals Board, as provided in paragraph (d)(3) of this § 389.3, must be in writing and should be included with the appeal.

(c) *When and where to file appeals*—(1) *When to file.* Appeals, other than appeals from denial or probationary orders[2] may be filed with the Appeals Board by means of a written notice filed not later than 45 days after the appellant received notice from the U.S. Department of Commerce of any regulation or administrative action.[3] Appellant may also appeal from undue delay in acting on appellant's license application.

(2) *Where to file.* All appeals shall be addressed to the Appeals Board, U.S. Department of Commerce, Washington, D.C. 20230.

(d) *Consideration of appeals*—(1) *Initial referral to the Office of Export Control.* Customarily, any appeal which has not already been considered under administrative review (see § 389.2) is initially referred by the Appeals Board to the Office of Export Control. After appropriate action, the Office of Export Control will submit its recommendation for the consideration of the Board.

(2) *Referral by the Office of Export Control.* Where unusual circumstances warrant, the Office of Export Control on its own initiative, may request the Appeals Board to consider an application for an export license at the Appeals level. In such case, the Appeals Board will so notify the appellant.

(3) *Oral presentations.* In a case where the appellant so requests or the Appeals Board believes it to be necessary to a proper determination, the appellant may be granted an opportunity to present orally further facts and argument. A date will be set and notice of the time and place (in Washington, D.C.) will be given the appellant by the Appeals Board at least 10 days before the date set for the oral presentation unless waived by appellant. Such presentation will be heard informally; generally, no oaths will be administered to witnesses; and the Appeals Board will not necessarily abide by the rules of evidence. An appellant need not be represented by counsel unless he so wishes.

(4) *Records.* Records concerning an appeal may be made available for inspection and copying by persons properly concerned, upon written application. Such application shall be addressed to the Appeals Board, U.S. Department of Commerce, Washington, D.C. 20230, and shall set forth the applicant's interest, a description of the material or information contained in the record to be inspected or copied, and the purposes for which it is sought.

(e) *Decisions.* All appeals will be considered and decided within a reasonable time after they are filed. An appeal may be granted or denied, in whole or in part, or dismissed at the request of the appellant. The decision on an appeal signed by the Chairman of the Appeals Board will be communicated to the appellant in writing.

[1] A rejection of an export license application on the ground that the proposed export is contrary to the national interest may be appealed.

[2] See §§ 388.4, 388.11, 388.13, and 388.15 for the appeals procedure regarding administrative proceedings.

[3] A rejection of an export license application on the ground that the proposed export is contrary to the national interest may be appealed.

PART 390—GENERAL ORDERS

Sec.

390.1 Commodity advisory panels and committees.
390.2 Conduct of business and practice in connection with export control matters.
390.3 Export Control authority to be exercised by U.S. Department of Commerce Field Office Directors in the event of enemy attack on the United States.
390.4 Disclosure of license issuance and other information.
390.5 Extension of validity period of licenses affected by longshoremen's work stoppage.

AUTHORITY: The provisions of this Part 390 issued under sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.

§ 390.1 Commodity advisory panels and committees.

(a) *Purpose.* (1) The purpose of this § 390.1 is to establish a procedure whereby the Office of Export Control may consult with the export trade and obtain advice and recommendations concerning export licensing policies and procedures under the Export Control Law.

(2) The provisions of this § 390.1 are not to be construed as prohibiting individuals or groups of individuals from seeking discussions with employees of the Office of Export Control.

(b) *Organization of panels and committees*—(1) *Representation by commodities.* It is intended, for convenient operation and size, to provide representation of the export trade by commodities. Wherever practicable, segments of the trade handling different commodities (or groups of commodities) will be represented by separate panels or committees. Where a panel is formed, the membership may be called upon to meet as a whole, or committees may be organized from among the members to consider specific problems as they arise. The panels and committees will be selected by the Office of Export Control.

(2) *Standards of selection.* As the purpose of the panel or commitee is to give

advice and make recommendations to the Office of Export Control affecting the trade as a whole, or segments thereof, the members of the panel or committee will be selected in an effort to obtain advice and recommendations which will represent the viewpoint of all parts of the trade involved. The panel or committee will be formed of the minimum number of persons necessary to represent a fair cross-section of the trade in the commodity (or groups of commodities) from the standpoints of (i) large, medium, and small-sized companies, (ii) geographical distribution, (iii) segments of the export trade involved—e.g., by types of exporters (such as manufacturers, manufacturers' representatives, merchant exporters, combination export managers, etc.), (iv) types of commodities, and (v) trade association membership and nonmembership.

(3) *Special conferences.* If export trade advice is sought on a special problem and there is no foreseeable need to seek the continuing advice of the trade, a special conference may be called. Except for omission of formal establishment of a panel or committee, the procedure for calling and conducting a special conference shall be the same as set forth under the provisions of this § 390.1.

(4) *Representation of small business.* In forming a commodity advisory panel or committee, the Office of Export Control will be governed by the principles of Senate Concurrent Resolution 14 (80th Congress) and the President's memorandum to heads of Executive Departments and Agencies of December 12, 1947, with respect to the representation of small business on Government committees.

(5) *No compensation allowed.* Members of the panels and committees pay their own expenses and are entitled to no compensation for their services.

(c) *Functions of panels and committees*—(1) *Authorized activities.* The functions of a commodity advisory panel or committee formed by the Office of Export Control under this § 390.1 are to give advice and make recommendations through one or more commodity advisory committees to the Office of Export Control, at committee meetings, on export licensing policies and procedures affecting those parts of the export trade represented by the committee. Where deemed appropriate, in view of the nature of a specific licensing policy or procedure, the Office of Export Control will authorize the holding of full panel meetings.

(2) *Unauthorized activities.* (i) No other activities by a commodity advisory panel or committee or by its members is sponsored or authorized by the U.S. Department of Commerce or the Office of Export Control. No meeting of the commodity advisory panel or committee, or any part thereof, is sponsored or authorized by the U.S. Department of Commerce or the Office of Export Control unless such meeting is called and conducted by appropriate officials of the Office of Export Control in accordance with the provisions of this § 390.1.

(ii) The panel or committee is not authorized to determine policies for the export trade nor is it authorized to compel or coerce any person to comply with any request, order, or regulation made by the U.S. Department of Commerce or the Office of Export Control.

(d) *Meetings of panels and committees*—(1) *Calling of meetings.* (i) Commodity advisory panel meetings and commodity advisory committee meetings will be called by the Office of Export Control in connection with the promulgation of export licensing policies or procedures affecting the parts of the export trade represented by the panel or committee, as the case may be, except where the necessary timing or other public exigency does not permit such prior consultation.

(ii) A meeting of a trade advisory panel or committee may be proposed by any three of its members. Such proposal should be addressed to the Government presiding officer and state the reasons for proposing the meeting. The Government presiding officer is responsible for determining whether a meeting should be called.

(2) *Agenda and presiding officer.* (i) The agenda of the meeting will be prepared by the Office of Export Control. A representative of the Office of Export Control will preside at every panel meeting and every committee meeting.

(ii) Prior to a meeting, members of a panel or committee may propose subjects for the agenda to the Government presiding officer, but during a meeting may not introduce any subject not included on the agenda.

(3) *Attendance at meetings.* (i) Attendance at meetings shall be limited to duly appointed members and invited Government representatives. The attendance of other persons at meetings, such as industry or trade observers or alternates for accredited members, is not authorized. If it is essential for the purpose of a particular meeting to invite a nonmember expert or technician who can provide advice concerning a specialized subject, a special written invitation from the Office of Export Control will be required requesting the attendance of such person at the meeting.

(ii) A meeting of a segment or segments of an advisory panel or committee may be called to discuss subjects of interest to only that part of the trade, provided the segment of the trade is representative or additional representatives are appointed in order to make it representative.

(4) *Conduct during meetings.* During a meeting, members are restricted to expressions of advice and recommendations, and may not make resolutions nor submit or request submission of a vote regarding a recommendation under discussion.

(5) *Minutes.* The Office of Export Control will keep minutes of each meeting and, where practicable, will make summaries available to members of the commodity advisory panel, the committee, the export trade, and the press.

§ 390.2 Conduct of business and practice in connection with export control matters.

(a) *Exclusion of Persons Guilty of Unethical Conduct or Not Possessing Required Integrity and Ethical Standards*—(1) *Who may be excluded.* Any person, whether acting on his own behalf or on behalf of another, who shall be found guilty of engaging in any unethical activity or who shall be demonstrated not to possess the required integrity and ethical standards, may be excluded from (denied) export privileges on his own behalf, or may be excluded from practice before the Bureau of International Commerce of the U.S. Department of Commerce on behalf of another, in connection with any export control matter, or both, as provided in Part 388.

(2) *Grounds for exclusion.* Among the grounds for exclusion are the following:

(i) Inducing or attempting to induce by gifts, promises, bribes, or otherwise, any officer or employee of the Bureau of International Commerce of the U.S. Department of Commerce or any customs or post office official, to take any action with respect to the issuance of licenses or any other aspects of the administration of the Export Control Law, whether or not in violation of any regulation;

(ii) Offering or making gifts or promises thereof to any such officer or employee for any other reason;

(iii) Soliciting by advertisement or otherwise the handling of business before the Bureau of International Commerce on the representation, express or implied, that such person, through personal acquaintance or otherwise, possesses special influence over any officer or employee of the Bureau of International Commerce;

(iv) Charging, or proposing to charge, for any service performed in connection with the issuance of any license, any fee wholly contingent upon the granting of such license and the amount or value thereof. This provision will not be construed to prohibit the charge of any fee agreed to by the parties: *Provided*, That the out-of-pocket expenditures and the reasonable value of the services performed, whether or not the license is issued and regardless of the amount thereof, are fairly compensated; and

(v) Knowingly violating or participating in the violation of, or an attempt to violate, any regulation with respect to the export of commodities or technical data, including the making of or inducing another to make any false representations to facilitate any export in violation of the Export Control Law or any order or regulation issued thereunder.

(3) *Definition.* As used in this § 390.2, the terms "practice before the Bureau of International Commerce" and "appear before the Bureau of International Commerce" include:

(i) The submission on behalf of another of applications for export licenses or other documents required to be filed with the Bureau of International Commerce, or the execution of the same;

(ii) Conferences or other communications on behalf of another with officers or employees of the Bureau of International Commerce for the purpose of soliciting or expediting approval by the Bureau of International Commerce of applications for export licenses or other documents, or with respect to quotas, allocations, requirements or other export control actions, pertaining to matters within the jurisdiction of the Bureau of International Commerce.

(iii) Participation on behalf of another in any proceeding pending before the Bureau of International Commerce; and

(iv) The submission to a customs official on behalf of another of a license or Shipper's Export Declaration or other export control document.

(4) *Proceedings.* All proceedings under this § 390.2 shall be conducted in the same manner as provided in Part 388.

(b) *Employees and former employees.* Persons who are or at any time have been employed on a full-time or part-time, compensated or uncompensated, basis by the U.S. Government are subject to the provisions of title 18, United States Code §§ 203, 205 and 207 (Public Law 87-849, 87th Congress) in connection with representing a private party or interest before the U.S. Department of Commerce in connection with any export control matter.

§ 390.3 Export control authority to be exercised by U.S. Department of Commerce Field Office Directors in the event of enemy attack on the United States.

(a) *Delegation to Field Office Director.* In the event of an enemy attack on the United States, each Director of a U.S. Department of Commerce field office is authorized to exercise control over exports from the area assigned to him for purposes of this regulation.

(b) *Areas for which Field Office Directors may control exports.* The area of jurisdiction assigned to each Director will be his area of jurisdiction at the time of an attack.

(c) *Orders from U.S. Department of Commerce.* The authorization set forth in paragraph (a) of this § 390.3 shall be subject to any orders or directives transmitted from the U.S. Department of Commerce.

§ 390.4 Disclosure of license issuance and other information.

By order of the Secretary of Commerce, the Office of Export Control will make available daily, for each export license granted on the previous business day:

(a) A general description of the commodity or technical data licensed for export;

(b) The total value of the licensed commodity; and

(c) The country of destination of the export.

No other specific information regarding any validated export license will be made available to the public by the Office of Export Control, except with the approval of the Secretary of Commerce.

§ 390.5 Extension of validity period of licenses affected by longshoremen's work stoppage.

Effective February 5, 1969, the validity period of any validated export license which covers an export to be made by water from any port affected by the current work stoppage of longshoremen, and which expired or will expire during any month while this work stoppage was or is in effect, is hereby extended to the last day of the month following the month in which the strike terminates.

PARTS 391–398 [RESERVED]

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Sec.

399.1 Commodity Control List.
399.2 Commodity Interpretations.

AUTHORITY: The provisions of this Part 399 issued under sec. 3, 63 Stat. 7, 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–63 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–63 Comp.

§ 399.1 Commodity Control List; incorporation by reference.

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

(b) The Commodity Control List is available at the following places:

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

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

§ 399.2 Commodity Interpretations; incorporation by reference.

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

(b) The Commodity Interpretations are available at the following places:

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

(c) Revisions, amendments, revocations, deletions, recodifications, redesignations, and corrections will be issued in Export Control Bulletins, from time to time by the Office of Export Control and an historic file will be maintained by the Office of Export Control.

[F.R. Doc. 69-6416; Filed, June 2, 1969; 8:45 a.m.]