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Codification Guide

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

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

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Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Treasury Department

Effective upon publication in the FEDERAL REGISTER, subparagraph (11) is added to § 6.303(a) as set out below.

§ 6.303 Treasury Department.

(a) *Office of the Secretary.* * * *

(11) One Deputy Assistant to the Secretary for Congressional Relations.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 61-1456; Filed, Feb. 16, 1961; 8:49 a.m.]

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

PART 11—SALES OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES

Subpart B—Agreements To Help Develop Foreign Markets for Agricultural Commodities

AUTHORITY: §§ 11.51 to 11.61 issued under sec. 104(a), 68 Stat. 456, as amended; 7 U.S.C. 1704(a). E.O. 10560, 19 F.R. 5927, 3 CFR, 1954 Supp; 19 F.R. 74.

§ 11.51 Definition of terms.

For the purpose of this subpart:

(a) "The act" means the Agricultural Trade Development and Assistance Act of 1954, as amended.

(b) A "cooperative program agreement" is an agreement by FAS and a cooperator to cooperate generally in the development of foreign markets for surplus agricultural commodities, more detailed provisions for such development to be embodied in cooperative project agreements.

(c) A "cooperative project agreement" is an agreement by FAS and a cooperator pursuant to which FAS contributes foreign currencies derived under the act and the cooperator contributes or causes to be contributed dollars, foreign currencies, property, services, or combinations thereof, all to be used in a cooperative project.

(d) A "cooperative project" is a project, as described under paragraph (i) of this section, operated by a cooperator, part of the financing being provided by FAS in accordance with the applicable cooperative project agreement.

(e) "Developing new markets" means creating new foreign markets for United States agricultural commodities as well as maintaining or expanding such foreign markets already in existence.

(f) "FAS" means the Foreign Agricultural Service, United States Department of Agriculture.

(g) "FAS contract" is a contract between FAS and a contractor, different from a cooperative agreement, pursuant to which FAS procures, for a stated consideration, property and services needed in developing markets for United States agricultural commodities.

(h) "FAS project" is a project as described under paragraph (i) of this section, operated directly by FAS with its own personnel or through direct procurement of property and services for needed market development.

(i) A "project" is a unit of market development work which constitutes the basis for programming as well as for budgeting and accounting for expenditures. A project may be directed at: (1) market promotion, that is, expanding and maintaining a market for United States agricultural commodities in foreign countries using such techniques as market studies, general publicity, commodity promotions, and exchanges of know-how and personnel; (2) marketing assistance, that is, assistance to foreign importers, processors and wholesale and retail dealers on distribution or technical problems; or (3) marketing research and surveys. A project may be a "cooperative project" or an "FAS project," as defined under paragraphs (d) and (h) of this section, respectively.

§ 11.52 Legal basis.

Section 104(a) of the act, as amended (7 U.S.C. 1704(a)), authorizes the President to use, or enter into agreements with friendly nations or organizations of nations to use, the foreign currencies which accrue under Title I of the act to help develop new markets for United States agricultural commodities on a mutually benefiting basis. By Executive Order 10560, dated September 9, 1954 (19 F.R. 5927), as amended, the President delegated the functions conferred upon him by Title I to the Secretary of Agriculture. The Administrator, FAS, is authorized to develop foreign markets for agricultural commodities pursuant to section 104(a) of the act by delegation of authority from the Secretary of Agriculture, 19 F.R. 74, except for utilization research which has been delegated by the same delegation to the Agricultural Research Service of the Department of Agriculture.

§ 11.53 Participation in projects.

As far as practicable, the United States Department of Agriculture relies upon representatives of private trade and agricultural groups in the United States and foreign countries as cooperators to carry out section 104(a) projects. In appropriate cases, such as where research or surveys are required, projects may be carried out in cooperation with, or under contract with, colleges, foundations, and similar educational institutions. Generally, cooperative agreements are not entered into with individual United States or foreign firms, except (a) on an experimental or pilot basis, or (b) where a trade group designates a particular firm to represent and act on behalf of the group. FAS projects are established where it is considered desirable to have the work done and where it is impracticable to establish a project on a cooperative basis.

§ 11.54 Contributions by cooperators.

In accordance with the policy established by the Foreign Agricultural Service, cooperators shall, and third parties making agreements with cooperators may, be required to contribute to project activities in accordance with cooperative agreements made by FAS and cooperators.

§ 11.55 Third party agreements.

When a cooperator carries out a share or all of a cooperative project agreement through a third party, the cooperator continues to be responsible for the project.

§ 11.56 Offices abroad.

With the approval of FAS, the cooperator may establish field offices in foreign countries to develop, supervise, and conduct market development activities.

§ 11.57 Reports.

A cooperator shall make reports, as required by FAS, in the course of the operation of the projects as well as upon their completion.

§ 11.58 Initiation of projects.

Market development projects may be initiated upon the suggestion of cooperators, FAS personnel, or other individuals or groups within or outside the Department of Agriculture.

§ 11.59 Consideration of project proposals.

Suggested projects are undertaken only if it is determined that such projects give promise of contribution to the effective creation, expansion, or maintenance of markets abroad for United States agricultural commodities, with primary emphasis on commercial markets.

§ 11.60 Delegations by Administrator.

(a) Authority to execute cooperative project agreements as defined in § 11.51 (c) is delegated by the Administrator, FAS, to the Assistant Administrator for Market Development and Programs.

(b) Authority to execute all other agreements, including FAS contracts as defined in § 11.51(g), pursuant to section 104(a) of the act is delegated by the Administrator, FAS, to the Assistant Administrator for Management, except that the Administrator, FAS, executes cooperative program agreements, as defined in § 11.51(b), and except that agreements for utilization research are executed by the Agricultural Research Service (see § 11.52).

(c) These authorities may not be redelegated.

§ 11.61 Further information.

Further information as to entering into agreements to develop new markets for United States agricultural commodities and as to operations under such agreements can be obtained, upon request, from the Director, Foreign Trade Promotion Division, FAS, U.S. Department of Agriculture, Washington 25, D.C.

Done at Washington, D.C., this 10th day of February 1961.

MAX MYERS,
Administrator,
Foreign Agricultural Service.

[F.R. Doc. 61-1453; Filed, Feb. 16, 1961; 8:49 a.m.]

PART 14—SALES OF AGRICULTURAL COMMODITIES ON CREDIT UNDER LONG-TERM SUPPLY CONTRACTS

Subpart A—Regulations Governing the Financing of Commercial Export Sales of Surplus Agricultural Commodities on Credit

AUTHORITY: §§ 14.1 to 14.17 issued under sec. 406, 73 Stat. 610; sec. 102, 68 Stat. 455, as amended, 69 Stat. 44; 7 U.S.C. 1736; 7 U.S.C. 1702; E.O. 10900, 26 F.R. 143. Interpret or apply secs. 401, 402, 404, 406, 73 Stat. 610; secs. 102, 106, 68 Stat. 455, 457; 7 U.S.C. 1731, 1732, 1734, 1736; 7 U.S.C. 1702, 1706.

§ 14.1 General statement.

(a) This subpart (hereinafter called the regulations) contains the regulations governing the sale and exportation of surplus agricultural commodities and the products thereof pursuant to authority contained in Title IV of Public Law 480, Agricultural Trade Development and Assistance Act of 1954, as amended. The regulations set forth procedures to be followed by importing countries in making application for purchase authorizations, the issuance of purchase authorizations by the Administrator, Foreign Agricultural Service, and the financing by Commodity Credit Corporation of the sale and exportation of such commodities and products thereof through private trade channels following agreements entered into by the governments of importing countries and the United States of America covering such financing of the sale and exportation of surplus agricultural commodities and products thereof for specified supply periods, including certain ocean transportation costs. Such agreements between importing countries and the United States will provide for repayment in United States dollars of the amount financed plus accrued interest thereon.

(b) After approval of the importing country's application therefor, purchase authorization(s) will be issued by the Administrator, Foreign Agricultural Service. The importing country through its authorized importers or agents will procure the commodities from U.S. private trade sources and will arrange for shipment in U.S.-flag vessels when such vessels are required to be used. Following issuance of credit purchase authorizations and upon application therefor, the Controller, Commodity Credit Corporation, will issue letters of commitment to U.S. banking institutions designated by the importing country. Prior approval for the use of all vessels must be obtained from the applicable office of the Commodity Stabilization Service, United States Department of Agriculture. The advice of vessel approval will state whether or not the cost of ocean transportation will be financed by Commodity Credit Corporation and the amount, if any, of the freight differential approved for each vessel. The U.S. suppliers will receive payment under letters of credit opened or requested by the approved applicant in the importing country, issued, confirmed or advised by the U.S. bank, for the cost of the commodities and, when authorized and included as a part of the commodity cost, the cost of ocean transportation and insurance. When the cost of ocean transportation is approved for financing and is to be financed separately from the commodity cost, the supplier will obtain payment from the importing country or its assignee. Commodity Credit Corporation will reimburse U.S. banks for payments made under letters of commitment and will reimburse the importing country or its assignee for the cost of ocean transportation which is financed separately from the commodity cost. The U.S. bank will forward documents and advice of the amount financed by Commodity Credit Corporation to the approved applicant which will notify the importing country.

(c) General information pertaining to this program or to the development and negotiation of agreements pursuant to Title IV of Public Law 480 may be obtained upon request to the General Sales Manager, Commodity Stabilization Service, United States Department of Agriculture, Washington 25, D.C. Information pertaining to credit purchase authorizations and related operations under this program may be obtained upon request to the Director, Programs Operations Division, FAS, United States Department of Agriculture, Washington 25, D.C. Information relating to financing operations under the program including forms prescribed for use thereunder, may be obtained upon request to the Controller, CCC, United States Department of Agriculture, Washington 25, D.C. Foreign Agricultural Service will make public, with respect to each credit purchase authorization, information necessary to enable suppliers to initiate negotiations for sales under the program. Such information will be issued daily or as often as necessary in the form of a public release.

§ 14.2 Definition of terms.

Terms used in this subpart are defined as follows:

(a) *Terms relating to the United States, its agencies and officials.* (1) "AMS" shall mean the Agricultural Marketing Service, United States Department of Agriculture.

(2) "CCC" shall mean the Commodity Credit Corporation, United States Department of Agriculture.

(3) "The Controller, CCC" shall mean the Controller, Commodity Credit Corporation, or his designee.

(4) "CSS" shall mean the Commodity Stabilization Service, United States Department of Agriculture.

(5) "CSS Offices" shall mean the CSS Divisions, the CSS Commodity Offices listed in § 14.17, and any other offices or agencies which may succeed to the functions of such offices.

(6) "FAS" shall mean the Foreign Agricultural Service, United States Department of Agriculture.

(7) "The Administrator" shall mean the Administrator of the Foreign Agricultural Service, or his designee.

(8) "United States" shall mean the fifty states, the District of Columbia, and Puerto Rico.

(b) *Terms relating to ocean transportation.* (1) Categories of carriers:

(i) "Dry bulk carriers" shall mean irregularly scheduled vessels, other than tankers, commonly referred to as "tramps". They go where full cargoes offer. Rates are negotiated by charter arrangements covering the movement of a specific quantity of a specific commodity, at a specific time from specific port or ports to specific destination port or ports. Cargoes under this category generally include grain, coal, fertilizers, lumber, pitch, salt, sugar, etc.

(ii) "Dry cargo liners" shall mean regularly scheduled vessels on specific trade routes. Any cargo can be shipped in this service including part-cargoes (parcels) of such bulk items as grain, coal, etc., generally not exceeding 60 percent of the capacity of the vessel. Petroleum, vegetable oils, and similar bulk liquids carried in deep tanks of dry cargo liner vessels are classified as liner cargoes.

(iii) "Tankers" shall mean vessels which are designed to carry full cargoes of liquids. Because of compartmentation, tankers can carry a combination of such cargoes, including bulk grain. Rates are negotiated by charter arrangements in the same manner as with dry bulk carriers.

(2) "CCC Form 106" shall mean "Advice of Vessel Approval" CCC Form 106-1 (Supplier of Commodity (except cotton)-yellow), 106-2 (ocean carrier-blue), or 106-3 (cotton-white) or any or all of them, as applicable.

(3) "Ocean bill of lading" shall mean a nonnegotiable copy (or photostat) of an "On-Board" bill of lading, or other type of ocean bill of lading with an "on-board" endorsement dated and signed or initialed on behalf of the carrier.

(4) "Ocean transportation" shall mean, and is interchangeable with, the term, "ocean freight".

(c) *Terms relating to purchase authorizations.* (1) "Credit purchase authorization" shall mean Form LTC 501, Credit Purchase Authorization Surplus Agricultural Commodities (Title IV, P.L. 480) issued to an importing country.

(2) "Purchase authorization" shall mean either Credit Purchase Authorization Form LTC 501, or Transportation Purchase Authorization Form LTC 502, or both forms.

(3) "Transportation purchase authorization" shall mean Form LTC 502, Credit Purchase Authorization for Ocean Transportation, issued to an importing country.

(d) *Other terms:* (1) "Affiliate" shall mean (i) a supplier which is a United States branch office of the importer, (ii) an importer which is owned or controlled by the supplier, or (iii) a firm (a corporation, partnership, individual or other legal entity) which (*a*) owns or controls the importer or supplier; (*b*) is owned or controlled by the importer or supplier; or (*c*) is owned or controlled by the same firm which owns or controls the importer or supplier.

(2) "Approved applicant" shall mean the bank in the importing country or other agency named in any letter of commitment issued to a banking institution under this subpart and shall include any agent authorized to act on behalf of such an applicant.

(3) "Banking institution" shall mean a banking institution organized under the laws of the United States, any State, or the District of Columbia.

(4) "Commodity" shall mean the surplus agricultural commodity or product thereof specified in the applicable purchase authorization.

(5) "Copy" shall mean a copy or photostat of an original document showing all data shown on the original, including signature or the name of the person signing the original, or if the signature or name is not shown on the copy, a statement that the original was signed.

(6) "Delivery" shall mean the transfer to or for the account of an importer of custody and right of possession of the commodity in export channels as specified in the credit purchase authorization.

(7) "Importer" shall mean any person or organization, governmental or otherwise, to which an importing country issues a subauthorization under a purchase authorization.

(8) "Importing country" shall mean any nation with which an agreement has been negotiated pursuant to Title IV.

(9) "Letters of credit" shall mean irrevocable commercial letters of credit issued, confirmed or advised by a banking institution on behalf of an approved applicant.

(10) "Supplier" shall mean any individual, partnership, corporation, or other legal entity who or which sells any agricultural commodity or products thereof to an importer under the terms of a credit purchase authorization for delivery to such an importer in export channels, or who or which sells ocean transportation to an importer or supplier under the terms of a purchase authorization.

(11) "Title IV" shall mean Title IV of the Agricultural Trade Development and Assistance Act of 1954, as amended.

§ 14.3 Purchase authorizations.

(a) *Application.* The importing country shall submit an Application for Authorization to Purchase Surplus Agricultural Commodities and Authorization to Procure Ocean Transportation (Form LTC 501-1) for each commodity to the Administrator. The application shall be submitted in triplicate and shall include such information as may be required by the Administrator. Upon request by the Administrator, the importing country shall submit such supplementary information as is required.

(b) *Issuance of purchase authorizations.* Upon approval of the application by the Administrator, appropriate purchase authorizations will be issued to the importing country as follows:

(1) Credit Purchase Authorization, Form LTC 501.

(2) Transportation Purchase Authorization, Form LTC 502.

(c) *Provisions of purchase authorizations*—(1) *Credit purchase authorizations.* Each credit purchase authorization will specify the commodity to be purchased, the approximate quantity and the maximum dollar amount, the CSS office which will administer the financing operation on behalf of CCC, the periods during which contracts between importers and suppliers may be entered into and during which deliveries may be made and any other provisions deemed necessary.

(2) *Transportation purchase authorizations.* Each transportation purchase authorization will specify the commodity to be shipped, the delivery period, the maximum dollar amount and any other provisions deemed necessary.

(3) *Applicability of this subpart.* In addition to the provisions of the particular purchase authorization, each purchase authorization shall be subject to the provisions of the regulations in this subpart to the same extent as though fully set forth in the purchase authorization.

(d) *Modification or revocation.* The Administrator reserves the right at any time for any reason or cause whatsoever to supplement, modify or revoke any purchase authorization, including the termination of deliveries thereunder. CCC shall reimburse suppliers, who would otherwise be entitled to be financed, for costs incurred in connection with firm sales contracts, and not otherwise recovered, as the result of such action by the Administrator: *Provided, however,* That such reimbursement shall not be made to a supplier if the Administrator determines that such action was taken because the supplier failed to comply with the requirements of these regulations or the applicable credit purchase authorizations.

§ 14.4 Subauthorizations.

The importing country will issue subauthorizations to importers within the terms of each credit purchase authorization. The importing country, in subauthorizing, shall instruct importers to use the credit purchase authorization number in placing orders, and shall specify to importers all the provisions of the credit purchase authorization which are applicable to the subauthorization. Each importer to whom a subauthorization has been issued by his government must inform his supplier that the transaction is to be financed under Title IV and must give to his supplier the credit purchase authorization number that has been given to him. Copies of credit purchase authorizations may be obtained from FAS. The importer must also inform his supplier of any special provisions which affect the supplier in carrying out the transaction.

§ 14.5 Eligible commodities.

(a) *Commodities grown or processed in the United States.* Only surplus agricultural commodities grown in the United States and, if processed, only the products of the surplus agricultural commodities grown and processed in the United States are eligible for financing.

(b) *Commodity description and specification.* Only the commodity described and specified in the purchase authorization shall be eligible for financing.

§ 14.6 Contracts between suppliers and importers.

(a) *Eligibility for financing.* In order to be eligible for financing under Title IV, contracts shall comply with the following requirements:

(1) Contracts between importers and suppliers must be entered into within the contracting period specified in the purchase authorization and shall provide for deliveries to the importer in accordance with the delivery terms and during the delivery period specified in the credit purchase authorization, unless an extension of such contracting or delivery period is granted in writing by the Administrator.

(2) Any contract for a commodity, under a credit purchase authorization which limits contracting to f.o.b. or f.a.s. terms, must be separate and apart from

the contract for ocean transportation of such commodity.

(3) The contracted price must not be on a cost plus-a-percentage-of-cost basis.

(4) The supplier must be engaged in the business of selling for export from or furnishing ocean transportation from the United States, must maintain a bona fide business office in the United States, and must have a person, principal or agent upon whom service of judicial process may be had in the United States.

(b) *Invitations to bid.* (1) Importers may make purchase through negotiation with a supplier or suppliers of the importer's choice or on the basis of invitations to submit competitive offers. If competitive offers are invited, such invitations shall not limit the right to submit offers to any specified group or class of suppliers but shall permit submission of offers by any supplier who meets the requirements of paragraph (a)(4) of this section.

(2) An importer's request for offers pursuant to which an export sales contract is entered into must not preclude such offers from being made for shipment from any United States port(s). This requirement does not preclude the importer from accepting offers on the basis of shipment from port(s) which result in the lowest total landed cost of the commodity.

(c) *Shipment prior to letter of credit.* It is the responsibility of the supplier to assure that he does not make shipments or deliveries of commodities until he has been informed by a banking institution in the United States that a letter of credit has been issued, confirmed or advised in his favor.

§ 14.7 Price provisions.

(a) *Maximum price.* The supplier's sales price must not exceed the prevailing range of export market prices (or such other maximum price level as may be specified in the credit purchase authorization) as applied to the terms of sale at the time of sale, as determined by CCC. "Time of sale" shall mean the day as of which the sales price is established in or pursuant to the contract between the importer and the supplier. In addition to the foregoing, the sales price for commodities sold to an affiliate of the supplier shall not be in excess of the aggregate amount of the following:

(1) The initial cost to the supplier for acquisition from U.S. sources;

(2) The actual cost, if available, otherwise the average cost incurred for any handling, processing and transportation to point of delivery; and

(3) Any markup regularly and customarily charged.

(b) *Refund of excess price.* In the event the sales price exceeds the maximum permissible under paragraph (a) of this section, the supplier shall refund the amount of such excess to CCC promptly after determination and notification of the amount thereof by CCC. If not promptly refunded, such amount may be set-off by CCC against monies owed by it to the supplier. CCC will credit the account of the importing country with the amount of the refund or set-off. The making of any such refund to CCC, or any set-off by CCC, shall not, however, prejudice the right of the supplier to challenge the correctness of such determination in a court action brought against CCC for recovery of the amount refunded or set-off.

(c) *Cotton.* In the case of cotton the following shall apply in lieu of the provisions of paragraph (b) of this section:

(1) The supplier shall, within 5 days after the date of export sale, forward to the Director, CSS Commodity Office, Wirth Building, 120 Marais Street, New Orleans 16, Louisiana, a copy of the sales confirmation furnished by the supplier to his purchaser, and if the supplier fails to do so, CCC shall have the right to refuse to finance the sale under the program.

(2) The CSS Commodity Office will undertake, on behalf of CCC, to check the sales confirmation as to price and to inform the supplier, within 3 business days from receipt of the sales confirmation, whether such price is in conformance with paragraph (a) of this section.

(i) If the CSS Commodity Office determines the sales price is in conformance with paragraph (a) of this section, the supplier will promptly be informed by telegram of the registration number assigned to the sale by CCC.

(ii) Failure by the CSS Commodity Office to so notify the supplier by telegram within 5 business days after receipt of the copy of the sales confirmation will indicate that the sales price is not acceptable and the sale will not be financed under the program unless the supplier satisfies CCC that the sales price is in conformance with paragraph (a) of this section.

§ 14.8 Adjustment refunds.

(a) *Credit purchase authorizations.* (1) All claims by importers against suppliers for adjustment refunds representing amounts financed by CCC arising out of the terms of the contract or out of the normal customs of the trade, including arbitration and appeal awards, amicable allowances, and claims for overpayment of ocean transportation included in the commodity price, shall be settled by payment by the supplier to the banking institution to which the supplier presented the documents covering the original transaction.

(2) The remittance to the banking institution shall be identified with the date and amount of the original payment, the applicable letter of credit number, and the applicable credit purchase authorization number.

(3) The banking institution shall remit the refund to the Controller, CCC, as provided in § 14.16(a)(9) and shall advise the approved applicant in writing of the amount of the refund and that the refund will be remitted to CCC as required by the regulations in this subpart.

(b) *Transportation purchase authorization.* (1) The supplier for whom ocean transportation is financed by CCC separately from the commodity cost shall remit directly to the Controller, CCC, the amount of any refunds due the contractor (charterer or booking agent) because of overpayments of ocean transportation. Suppliers shall advise the contractor of the amount of the refund.

(2) The remittance to the Controller and the advice to the contractor shall be identified with the name of the vessel, the date and amount of the original payment, and the applicable transportation purchase authorization number.

(c) *Credit to account of importing country.* CCC will credit the account of the importing country with the amount of refunds received by CCC pursuant to (a) and (b) above.

§ 14.9 Insurance on c.i.f. sales for account of importer.

The provisions of this Section apply only to transactions under credit purchase authorizations that specifically authorize c.i.f. sales in which the cost of insurance is included in the net c.i.f. invoice price of the commodity financed. When the supplier furnishes insurance in favor of or for the account of the importer, the policies or certificates of insurance shall include a loss payable clause which provides that all claims shall be paid in United States dollars to the Controller, CCC. Such payments shall be accompanied by advice of the credit purchase authorization number, the names and addresses of the supplier and importer, the nature of the claim, the quantity of the commodity involved in the claim, the date of shipment, the bill of lading number, and the name of the vessel. CCC will credit the account of the importing country with the amount of such payments received and will promptly notify the importing country of amounts so received and credited.

§ 14.10 Fees, discounts, commissions, and ship's dollar disbursements.

(a) *Consular fees.* Consular fees imposed in connection with the exportation of commodities for the issuance or legalization of consular invoices or certificates will not be financed by CCC.

(b) *Discounts.* If a contract provides for one or more discounts (including but not limited to trade or quantity discounts and discounts for prompt payment) whether expressed as such or as "commissions" to the importer, only the invoice amount after discount (supplier's contracted price less all discounts) will be eligible for financing.

(c) *Commissions.* (1) A commission to a bona fide commercial or selling agent employed or engaged by the supplier to obtain a contract will be financed to the extent that such commission is not in excess of the rate or percentage customarily and usually charged for the services performed and the commodity involved, as determined by CCC.

(2) If the supplier has employed any person or firm, other than a bona fide established commercial or selling agent, to obtain a contract under any agreement for a commission, percentage, or contingent fee, only the amount of the contract less the amount of any such commission, percentage or contingent fee will be eligible for financing.

(3) No commission paid or to be paid to any agent, broker, or other representative of the importer will be eligible for financing, whether included in the price of the commodity or separately stated

This is not applicable to ocean transportation brokerage commissions otherwise allowable under subparagraph (4) of this paragraph.

(4) With respect to ocean transportation, CCC will not finance:

(i) Address commissions, or

(ii) Brokerage commissions in excess of 2½ percent of the freight charged.

(d) *Ship's dollar disbursements.* CCC will not finance ship's dollar disbursements.

§ 14.11 Reimbursement for ocean transportation.

(a) *General.* CCC will reimburse importing countries for the cost of ocean transportation which is financed separately from the commodity cost, to the extent authorized in the transportation purchase authorization and as provided in § 14.13.

(b) *Assignment.* (1) The right to receive reimbursement under a transportation purchase authorization may be assigned by the importing country to any bank, trust company or other financing institution in the United States by sending a completed Instrument of Assignment, CCC Form 335, in an original and one copy, to the assignee.

(2) An original and two copies of the Notice of Assignment, CCC Form 334, must be prepared by the assignee and, together with one signed copy of the Instrument of Assignment, filed with the Controller, CCC. The signed copy of the Instrument of Assignment submitted with the Notice of Assignment must contain all of the signatures, seals, acknowledgments, etc., which appear on the original.

(c) *Limitation on assignment.* The assignment may be made only to a bank, trust company, or other financing institution in the United States. The assignment shall cover all amounts payable under the transportation purchase authorization and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in the financing.

(d) *Protection of assignee.* No supplement, modification or revocation of a transportation purchase authorization shall become effective as to irrevocable obligations issued by the assignee until the receipt by it from the Controller, CCC of written notice of such supplement, modification or revocation and such supplement, modification or revocation shall in no event affect or impair the right to obtain reimbursement to the extent of any payments made by such assignee prior to receipt of such notice, or any irrevocable obligation incurred under a letter of credit issued or confirmed by such assignee prior to receipt of such notice, for which the assignee has not been repaid by the importing country (without, however, any obligation on its part to obtain such repayment). The term "purchase authorization" as used in any assignment of the right to receive reimbursement under a transportation purchase authorization shall be deemed to include each such supplement or modification from and after receipt by the assignee from the Controller, CCC, of written notice of the same, subject always, however, to the foregoing terms and provisions preserving rights of reimbursement in its behalf.

(e) *Requests for reimbursement.* (1) All requests for reimbursement, supported by the required documentation, shall be submitted to the CSS Office named in the transportation purchase authorization not later than 210 days after expiration of the delivery period specified in such transportation purchase authorization or any extension thereof granted by the Administrator.

(2) One copy of each Notice of Assignment, CCC Form 334, bearing a receipt of notice executed by CCC must be attached to the first voucher or invoice for reimbursement submitted to CCC by an assignee.

(f) *Collection of improper payments.* Amounts improperly paid to an assignee by CCC may be collected by CCC by set-off from amounts due the assignee under the same transportation purchase authorization. Such overpayments may also be collected by CCC by set-off against amounts due the same assignee under other transportation purchase authorizations issued to the same importing country provided such assignee is notified of the amount to be collected by set-off at the time receipt of the assignment is acknowledged by CCC.

§ 14.12 Letters of Commitment to Banking Institutions.

(a) *General.* (1) Letters of commitment issued by the Controller, CCC, to banking institutions designated by the importing country will assure reimbursement to the banking institution, in accordance with the terms of such letters of commitment, for payments, not in excess of the amount specified in the letter of commitment, made under letters of credit for the account of the approved applicant.

(2) Each letter of commitment will name the Federal Reserve Bank(s) to which drafts shall be presented by the banking institution in order to obtain reimbursement of amounts paid under the letters of credit, and will name the CSS Office which will administer the financing operation under the letter of commitment on behalf of CCC.

(b) *Application.* (1) *Original applications.* The importing country shall apply for a letter of commitment by submitting the signed original of the Application for Letter of Commitment or Amendment, CCC Form 327, to the Controller, CCC. This form will identify the U.S. bank designated to receive the letter of commitment and the approved applicant, and show the maximum amount to be financed under the letter of commitment.

(2) *Amendments.* The importing country shall submit the signed original of CCC Form 327 to the Controller, CCC, to request changes in letters of commitment, except for reductions in amounts which may be made by banking institutions in accordance with paragraph (f) of this section.

(c) *Issuance.* Upon approval of the importing country's original application for a letter of commitment, the Controller, CCC, will issue the original and one copy of CCC Form 528, Letter of Commitment, to the designated banking institution. Upon approval of the importing country's application for an amendment of a letter of commitment, the Controller, CCC will issue the original and one copy of CCC Form 328-1, Amendment to Letter of Commitment, to the designated banking institution.

(d) *Acceptance by banking institution.* All letters of commitment and all amendments thereof issued in accordance with paragraph (c) of this section, except amendments which increase the amounts of letters of commitment, shall be accepted or rejected by the banking institution. The banking institution shall promptly return to CCC the copy of CCC Form 528, or CCC Form 328-1, indicating acceptance or rejection.

(e) *Advice to importing country.* The Controller, CCC, will send to the importing country a copy of each letter of commitment or amendment accepted by the banking institution, as well as amendments increasing the amounts of letters of commitment.

(f) *Reduction by banking institution.* The amount of a letter of commitment may be reduced by a banking institution, when so requested by the importing country, by issuing a Notice of Reduction of Letter of Commitment, CCC Form 328-2. The request of the importing country to the banking institution may be made by letter or telegram or other method acceptable to the banking institution. Instructions to the banking institution for the preparation and distribution of this form are contained on the form.

(g) *Successors.* The letter of commitment shall inure to the benefit of the banking institution's legal successors and assigns.

(h) *Issuance of letters of credit.* In issuing, confirming, or advising letters of credit pursuant to a letter of commitment, the banking institution shall observe the following:

(1) *General.* The application or request for, and any agreement relating to, any letter of credit issued, confirmed, or advised in connection with a letter of commitment to a banking institution, may contain such terms and provisions as the approved applicant and the banking institution may agree upon, and the approved applicant and the banking institution may agree to any extension of the life of, or any other modification of, or variation from the terms of any such letter of credit: *Provided,* That such terms and provisions and any such extension, modification or variance shall be in no respect inconsistent with or contrary to the terms and provisions of the letter of commitment. In case of any such inconsistency, or conflict, the terms and provisions of the letter of commitment shall prevail. In any event, every application for a letter of credit shall provide for submission to the banking institution of the documentation required by this

subpart and by the credit purchase authorization.

(2) *Identification.* Each letter of credit, modification, or extension shall bear the numbers of the applicable letter of commitment and credit purchase authorization.

(3) *Commodity description.* The commodity description in letters of credit shall not be inconsistent with the description in the credit purchase authorization. In making payments under letters of credit the banking institution shall, on the basis of the description contained in the required documents, other than Form CCC-529, Invoice-and-Contract Abstract, act in accordance with good commercial practice.

(i) *Availability of information to CCC.* The banking institution shall make available to CCC upon request, a copy of each letter of credit issued, confirmed, or advised by it, and of any extension or modification thereof, a copy of each application and agreement relating to such letter of credit, a copy of each document in its possession received by it under the letter of credit, and detailed advice of the interest, commissions, expenses, or other items charged by it in connection with each such letter of credit.

(j) *Acceptability of documents.* Acceptance by the banking institution of any documents in the ordinary course of business in good faith as being genuine and valid and sufficient in the premises, and the delivery thereof to the Federal Reserve Bank, or the CSS Office as required, shall constitute full compliance by the banking institution with any provision of this subpart, the credit purchase authorization, or the letter of commitment requiring delivery of a document of the sort that the document actually so delivered purports to be. The banking institution shall be entitled to receive and retain reimbursement of the amount of all payments made by it against documents so accepted, notwithstanding that such payments may be made in connection with a cotton sale for which a sales confirmation has not been furnished CCC as required by § 14.7(c)(1), or a sale of any commodity at a price in excess of the maximum specified in § 14.7.

(k) *Truth or accuracy of supplier's statements.* The banking institution shall have no responsibility for the truth or accuracy of the statements contained in the supplier's certificate or invoice-and-contract abstract. The rights of the banking institution under the letter of commitment will not be affected by the fact that such abstracts may be incomplete, or may indicate noncompliance with any provision of this subpart, or of the credit purchase authorization or of the letter of commitment, or may be inconsistent with other required documents.

(l) *Notice of supplement, modification or revocation.* No supplement, modification or revocation of any credit purchase authorization or letter of commitment shall become effective as to the banking institution until the receipt by it from the Controller, CCC, of written notice of such supplement, modification or revocation, and such supplement, modification or revocation shall in no event affect or impair the right of reimbursement to the extent of any payments made prior to receipt of such notice, or obligation incurred under a letter of credit, issued or confirmed by it, prior to receipt of such notice, for which the banking institution has not been repaid by the approved applicant (without, however, any obligation on its part to obtain such repayment). The term "credit purchase authorization" as used in a letter of commitment shall be deemed to include each such supplement or modification from and after receipt by the banking institution from the Controller, CCC, of written notice of the same, subject always, however, to the foregoing terms and provisions preserving the rights of reimbursement in its behalf.

(m) *Compliance with changes in credit purchase authorizations.* In the event the Administrator shall revoke a credit purchase authorization, or supplement or modify the same in relation to the disposition of any document(s) and the Controller, CCC, shall give the banking institution written notice thereof, the banking institution shall in all respects comply with the instruction of the Controller, CCC, to the extent it may do so without impairing or affecting any irrevocable obligation or liability theretofore incurred by it under any letter of credit issued or confirmed by it, and it shall be repaid and reimbursed by CCC for the costs, expenses and liabilities paid or incurred by it in relation to such instruction. Such repayment and reimbursement shall be made by CCC upon application therefor filed with the CSS Office named in the letter of commitment and supported by an itemized statement of the costs, expenses, and liabilities certified to by an officer of the banking institution. The banking institution shall have no obligation whatsoever to the approved applicant for anything done or omitted to be done by it pursuant to such instructions of the Controller, CCC.

(n) *Payments in anticipation of letter of commitment.* Payments made by a banking institution in anticipation of a letter of commitment, and falling within the scope of payments authorized by such letter of commitment when issued, will be deemed to be payments to be reimbursed thereunder.

(o) *Deadline for submission of drafts.* Drafts drawn by banking institutions on CCC shall be presented not later than 210 days after expiration of the delivery period specified in the applicable credit purchase authorization or any extension thereof granted by the Administrator.

§ 14.13 Ocean transportation.

(a) *General.* Unless otherwise specifically provided in the applicable credit purchase authorization or unless otherwise requested by CSS, the terms of all proposed charters (whether single voyage charters, consecutive voyage charters or time charters) and all proposed liner bookings must be submitted to the appropriate CSS Office for review and approval prior to the fixture of the vessel. Tentative advance approvals may be obtained by telephone or telegram, provided CCC Form 105, Ocean Shipment Data, is furnished promptly confirming the information supplied by telephone or telegram. Approvals of charters and liner bookings will be given on CCC Form 106, Advice of Vessel Approval. The CCC Form 106 will state whether the vessel is a dry cargo liner, dry bulk carrier, or tanker, and whether or not financing of ocean transportation by CCC is authorized. If the credit purchase authorization requires that a part of the commodity shall be shipped on privately-owned United States-flag commercial vessels, the Director of the CSS Office shall determine the quantity of the commodity under each sale which must be shipped on such United States-flag vessel.

(b) *Request for vessel approval.* In order to obtain approval of proposed vessel bookings the following forms shall be submitted in duplicate to the office indicated:

(1) For cotton—CCC Form 105 (Cotton), Ocean Shipment Data, shall be submitted to the Director, CSS Commodity Office, U.S. Department of Agriculture, Wirth Building, 120 Marais Street, New Orleans 16, Louisiana.

(2) For commodities other than cotton—CCC Form 105, Ocean Shipment Data, shall be submitted to the Director, Transportation and Storage Services Division, CSS, U.S. Department of Agriculture, Washington 25, D.C.

(c) *Special requirements for charter parties on required U.S.-flag vessels.* Where a charter is involved in connection with the required use of a U.S.-flag vessel, a copy of the charter party shall be forwarded immediately after its execution to the Director, Transportation and Storage Services Division, for review and approval prior to issuance of CCC Form 106-2. In the event there is any conflict between the provisions of this subpart and the charter party, the provisions of this subpart shall prevail. Each charter party for a United States-flag chartered vessel shall:

(1) Show the name of each party participating in the ocean freight brokerage commission (if any) and the percentage payable to each party;

(2) Provide that if there is any failure on the part of the supplier of ocean transportation to perform the charter party after the vessel has tendered at the loading port, the charterer shall be entitled to incur all expenses which in the judgment of the Administrator are required to enable the vessel to undertake and carry out her obligations under the charter party, including, but not limited to, expenses for lifting any liens asserted against the vessel.

(3) Provide that such expenses may be deducted from the freight earned under the charter party notwithstanding any prior assignments of freight made by the owner or operator; and

(4) Provide that the supplier of ocean transportation shall release a copy of the ocean bill of lading to the supplier of the commodity promptly upon completion of loading of the vessel.

(d) *Notice of arrival.* A notice of arrival when required by § 14.14(d)(1) must be furnished promptly by the importing country or its designated agent, and must include the name of the vessel, the purchase authorization number, the name of first port of discharge, and the date of arrival.

(e) *Advice of vessel approval.* Advice of vessel will be issued as follows:

(1) *For cotton*—CCC Form 106-3 (white) signed for the Director, New Orleans CSS Commodity Office, will be issued to the supplier of the commodity on sales made on a c.i.f. or c.&f. basis. In the event the shipment of cotton is to be made on an f.o.b. or f.a.s. basis, two signed original copies of this form will be issued—one to the supplier of the commodity and the other to the ocean carrier.

(2) *For commodities other than cotton*—CCC Form 106 signed for the Director, Transportation and Storage Services Division, will be issued as follows:

(i) On shipments to be made on an f.o.b. or f.a.s. basis the original of CCC Form 106-1 (yellow) will be issued to the supplier of the commodity and the original of CCC Form 106-2 (blue) will be issued to the ocean carrier.

(ii) On shipments to be made on a c.i.f. or c.&f. basis the original of CCC Form 106-1 (yellow) will be issued to the supplier of the commodity.

(f) *Non U.S.-flag vessels.* CCC will not finance the cost of ocean transportation on flag vessels of the importing country, either as a part of the contracted price or separate therefrom. The cost of ocean transportation will be financed by CCC on flag vessels of other than the importing country only when specifically provided for in the applicable credit purchase authorization.

(g) *U.S.-flag vessels.* Where it is required that the commodity be shipped on a United States-flag vessel, CCC Form 106 will set forth the amount of the ocean freight differential, if any, which the Director of the CSS Office determines to exist between the prevailing foreign-flag vessel rate and the United States-flag vessel rate. The amount of such ocean freight differential is authorized to be reimbursed by CCC to the extent of the tonnage for which the ocean freight is authorized to be financed by CCC.

(h) *Ocean transportation financed by CCC.* Where ocean transportation will be financed by CCC, either separately from or as part of the contracted price, the following shall apply:

(1) Loading, trimming, other related shipping expenses, and dues and taxes assessed by the importing country against the cargo will not be financed by CCC as items separate from the dollar cost of ocean transportation. Discharge costs may be included in the dollar cost of ocean transportation financed separately by CCC or be for the account of the vessel when ocean transportation is financed as part of the contract price only when in accordance with trade customs. The cost of "dead freight" will not be financed by CCC.

(2) In the case of transshipment from a United States-flag vessel to a foreign-flag vessel, the cost of ocean freight from the port of transshipment to the importing country will not be financed by CCC.

(3) The ocean freight will be financed only to the extent that the rate charged does not exceed any of the following rates: The prevailing United States-flag rate for similar contracts; the rate paid to the supplier for similar services during the same period of time by other customers similarly situated; or in the case of dry cargo liner shipment, the conference rate for such service, if any.

(4) Reimbursement will be made for the cost of shipment from points of loading to points of discharge at rates established in the applicable charter party or liner booking contract but not to exceed, in the case of dry cargo liner shipments, the conference rate for such service, if any.

(5) If the charter party or liner booking contract provides for more than one rate because of optional ports of loading or discharge, alternate routes, or any other option arising from ocean transportation, CCC will finance initially the lowest of such rates. Increased amounts (if any) due because of the use of the higher-rated port, route, or other option will be financed by CCC when reimbursement is requested therefor in accordance with the provisions of § 14.14 (d)(7). Notwithstanding the foregoing provisions of this subparagraph, if the option is exercised conclusively prior to the issuance of ocean bills of lading, and such exercise of the option is clearly reflected in such ocean bills of lading, the rate applicable to the option so exercised will be financed initially by CCC.

(i) *Ocean transportation financed separately from the commodity price.* Reimbursement for the cost of ocean transportation will be made by CCC subject to the following: *Provided,* That the pertinent documentation required in § 14.14 is submitted:

(1) In the case of liner booking contracts, reimbursement will be made for 100 percent of the dollar cost of ocean transportation if the carrier's invoice includes a certification by the carrier that the contract does not provide for dispatch earnings. When the invoice does not include a certification by the carrier that the liner booking contract does not provide for dispatch earnings, reimbursement will be made for not to exceed 90 percent of the dollar cost of ocean transportation.

(2) In the case of bookings covered by charter parties, notice of vessel's arrival at first port of discharge is required as a condition of reimbursement for any part of the cost of ocean freight, unless such requirement for notice is waived by the Controller, CCC, as provided for in this paragraph or in § 14.14(d)(2). Reimbursement will be made for not to exceed 90 percent of the dollar cost of ocean transportation upon notice from the importing country or its designated agent of the vessel's arrival at first port of discharge. If the supplier of ocean transportation furnishes to CCC financial coverage in the form of an acceptable letter of credit or freight refund bond, the Controller, CCC will waive the requirement for the notice of arrival as a condition for reimbursement of 90 percent of the cost of ocean freight. The amount of such financial coverage to be furnished should be not less than:

(i) 90 percent of the cost of ocean freight based upon the related on-board ocean bill of lading, a copy of which bill of lading must be furnished to the Controller, CCC, if coverage is furnished after loading, or

(ii) an amount determined by multiplying the rate per ton by the quantity in the charter party, without tolerance, if coverage is furnished before loading.

(3) Reimbursement for any balance of the cost of ocean freight, not included in payments made under subparagraphs (1) and (2) of this paragraph, will be made upon submission of the documents required by § 14.14(d)(6).

(4) Demurrage incurred in excess of dispatch earnings will not be financed. Amounts earned for dispatch shall be credited first against demurrage, if any, incurred in connection with the same voyage; any balance of dispatch shall be deducted from the amount of the final request for reimbursement. Discharge costs may be for the account of the vessel only when in accordance with trade customs.

(5) Contracts for ocean transportation shall not be eligible for financing by CCC if the supplier of the ocean transportation is also the supplier of the commodity, or is an affiliate of such supplier of the commodity, unless the supplier of ocean transportation is the owner of the vessel named in the CCC Form 106 or is the operator of such vessel by time charter, and the ocean freight rate for which reimbursement is claimed is not in excess of the rate originally contracted for with the importer.

(j) *Ocean transportation financed as part of the contracted price.* (1) The cost of ocean transportation will be financed as part of the contracted price only to the extent specifically provided in the applicable credit purchase authorization. In the absence of a specific provision in the applicable credit purchase authorization, the cost of ocean transportation will not be financed by CCC as part of the contract price and must not be covered by the net invoice price.

(2) CCC Form 106 issued for vessels for which the cost of ocean transportation will not be financed by CCC, will require that the supplier's detailed invoice covering the commodity shipped on such vessels show a deduction for ocean transportation.

§ 14.14 **Documentation.**

(a) *General.* Requests for payment submitted to banking institutions by suppliers, and requests submitted to CCC for reimbursement of ocean transportation, shall be supported by the documents required by this section unless previously submitted to CCC, except when and to the extent the Controller, CCC, determines that the intended purpose of a document is served by documents otherwise available to or under the control of CCC, or by alternate documents specified in such determination. The documents required herein are in addition to any other documents the supplier may be required to submit to a bank under the applicable letter of credit.

(b) *Identification.* (1) Each document must be identified as provided below with the appropriate purchase authorization number or be readily identifiable therewith:

(i) Documents to be submitted by suppliers to banking institutions with request for payment of commodity price (including ocean transportation and insurance when covered by the commodity price) shall be identified with the credit purchase authorization number.

(ii) Documents to be submitted to CCC to obtain reimbursement under a transportation purchase authorization shall be identified with the transportation purchase authorization number, including the "OT" suffix, except that the copy of the ocean bill of lading may bear the credit purchase authorization number.

(2) The supplier must put the appropriate purchase authorization number on all documents specified in this section which are prepared under his control. He should arrange for the appropriate purchase authorization number to be put on all other required documents at the time of their preparation.

(c) *Documents relating to commodity price (including ocean transportation and insurance when covered by the commodity price) to be submitted by suppliers.* (1) Signed originals of supplier's certificates, with invoice-and-contract abstract on the reverse side (CCC Form 529) as follows:

(i) When the cost of ocean transportation is financed by CCC, in whole or in part, two CCC Forms 529 are required:

(*a*) One covering the supplier's net invoice price expressed in dollars (to be executed by the supplier of the commodity), and

(*b*) One covering the cost of ocean transportation expressed in dollars (to be executed by the ocean carrier).

(ii) When no part of the cost of ocean transportation is being financed by CCC, only one CCC Form 529 covering the supplier's net invoice price for the commodity expressed in dollars, executed by the supplier of the commodity, is required.

(2) One copy of the ocean bill of lading.

(3) One copy of supplier's detailed invoice showing quantity, description, contracted price and net invoice price expressed in dollars and basis of delivery (e.g., f.o.b. vessel, c. & f.) of the commodity. In the event the importer procured the commodity through his affiliate, this copy of the invoice shall include an itemization of the amounts specified in § 14.7(a) or the supplier must furnish such information in a separate signed statement to the CSS Office named in the purchase authorization. Whenever the CCC Form 106 provides for an ocean freight rate differential on a c. & f. or c.i.f. sale and authorizes financing of ocean transportation costs by CCC, the supplier's detailed invoice shall show a computation of the dollar amount of ocean freight differential. In arriving at the net invoice price there shall be deducted:

(i) The cost of ocean transportation, or portion thereof, which is not being financed by CCC when the cost of ocean transportation is included in the contracted price.

(ii) All discounts from the supplier's contracted price through payments, credits, or other allowances made or to be made to the importer, his agent or consignee.

(iii) All purchasing agents' commissions applicable.

(4) Signed original of CCC Form 106-1 or 106-3.

(5) One nonnegotiable copy of the insurance certificate or policy where the cost of insurance is covered by the price of the commodity to be financed by CCC. Such certificate or policy must contain a loss payable clause running to CCC as provided in § 14.9.

(6) Signed original of CCC Form 329-3, Statement of Transmittal of Ocean Bills of Lading, showing that two nonnegotiable copies of ocean bills of lading have been sent to the Administrator, Foreign Agricultural Service, USDA, Washington 25, D.C.

(7) Requests for additional payments, submitted in connection with transactions for which all or part of the required documents have been previously submitted to the banking institution shall be suported by the following documents as applicable:

(i) The supplier's certificate, with the invoice-and-contract abstract on the reverse and the supplier's detailed invoice, as required by subparagraphs (1) and (3) of this paragraph, covering the additional amount requested. The supplier's invoice must show the date, serial number and the amount of the original invoice and the basis for the additional amount claimed.

(ii) If the payment is stated to be due because of the exercise of a higher-rated option provided in a liner booking contract or charter party, a statement signed by the ship's master or owner (or agent of either of them) showing exercise of the higher-rated option. An agent's signature is acceptable.

(8) Any additional or substitute documentation that may be required by the purchase authorization or the letter of commitment.

(d) *Documents required for reimbursement of ocean transportation which is financed separately from commodity price.* (1) Signed original of supplier's certificate, with invoice-and-contract abstract on the reverse side (CCC Form 529) to be executed by the carrier, covering the dollar cost of ocean transportation.

(2) One copy of the ocean bill of lading and, if required by the related CCC Form 106-2, a notice of arrival at the first port of discharge of the vessel named in the CCC Form 106-2, except that a notice of arrival will not be required in the event the vessel is lost or unable to proceed to destination after completion of loading because of damage caused by perils of the sea or other waters, collisions, stranding, jettison, wreck, fire from any cause, Act of God, public enemies or pirates, or by arrest or restraint of princes, rulers or peoples without the fault of the supplier of the ocean transportation, wars, public disorders, captures or detention by public authority in the interest of public safety, provided the owner or operator supplies evidence satisfactory to CCC of such disability. Upon receipt of satisfactory evidence of force majeure the Controller, CCC, will waive the requirement for the notice of arrival. The requirement for the notice of arrival may also be waived by the Controller, CCC, under § 14.13(i)(2).

(3) One copy of carrier's detailed invoice marked "Paid".

(4) Signed original of the 106-2 or 106-3 in the case of cotton.

(5) One copy of the charter party in the case of shipment by dry bulk cargo vessel or tanker.

(6) Requests for payment of any balance claimed on a shipment involving dispatch after initial reimbursement of 90 percent of the dollar cost of ocean transportation as provided in § 14.13(i)(2) shall be supported by the following documents:

(i) A copy of the carrier's final invoice marked "Paid".

(ii) A copy of the laytime statement(s) signed by the ship's master or owner and the charterer or consignee. Agent's signatures are acceptable.

(iii) If a copy of the charter party was not presented pursuant to subparagraph (5) of this paragraph, a copy of the freight contract showing the terms of dispatch and demurrage.

(iv) Supplier's certificate for the balance claimed.

(7) Requests for payment of any amounts claimed because of the exercise of a higher-rated option following payment of a lower-rated option pursuant to § 14.13(h)(5) shall be supported by the following documents:

(i) Copy of the carrier's detailed invoice marked "Paid".

(ii) Supplier's certificate for the balance claimed.

(iii) A statement signed by the ship's master or owner showing the exercise of the higher-rated option. An agent's signature is acceptable.

(8) Any additional or substitute documents that may be required by the purchase authorization.

(e) *Weight certificates.* Whenever a copy of a weight certificate is required by the purchase authorization, the supplier shall submit a weight certificate issued by or on authority of a State or other governmental Weighing Department, Chamber of Commerce, Board of Trade, Grain Exchange, or other independent organization or firm providing public weighing services (1) having qualified, impartial, paid employees who are stationed at storage or other facilities where weights customarily are determined, one of whom performed the weighing covered by the certificate, or (2) having qualified, independent, impartial, supervised weighmasters stationed at storage or other facilities where weights are customarily determined one of whom supervised the employees of such a facility in the performance of the weighing covered by the certificate.

(f) *Inspection certificate.* The terms of the credit purchase authorization will specify the particulars of any required inspection certificate.

§ 14.15 Documents in support of drafts drawn on CCC by banking institutions.

Drafts drawn on CCC by banking institutions under letters of commitment for reimbursement of amounts disbursed to suppliers shall be supported by the following documents:

(a) *Documents to be obtained from suppliers.* Documents specified in § 14.14 and such additional or substitute documents as may be required with respect to any particular transaction as specified in the credit purchase authorization or in the letter of commitment. A banking institution holding a letter of commitment is not required by CCC to obtain from suppliers any documents other than those specified in § 14.14.

(b) *Document originated by banking institutions.* CCC Form 331, "Advice of Payment or Acceptance of Draft", signed by an officer of the banking institution.

§ 14.16 Responsibilities of banking institutions.

(a) For transactions under letter of commitment, the banking institution is responsible only for the following:

(1) *Delivery of documents.* The banking institution shall deliver to the Federal Reserve Bank named in the credit purchase authorization documents required by this subpart, the letter of commitment and the credit purchase authorization.

(2) *Advice to approved applicant.* The banking institution shall give advice of the amount of dollar disbursement to the approved applicant, which advice shall accompany documents transmitted thereto. There shall be included in the transmittal a request that the approved applicant notify his Government that "the net amount of the supplier's invoice financed by CCC under the transaction is $______."

(3) *Examination of documents.* The banking institution shall examine documents in accordance with good commercial practice.

(4) *Delivery date.* The banking institution shall ascertain that the shipping documents bear a date within the delivery period specified in the credit purchase authorization.

(5) *Destination.* The banking institution shall ascertain that the required documents are consistent, under good commercial practice, with shipment or transshipment to the importing country shown in the credit purchase authorization.

(6) *Description.* Section 14.12(h)(3) provides that the commodity description in letters of credit shall not be inconsistent with the description in the credit purchase authorization. In making payment under letters of credit the banking institution shall, on the basis of the description contained in the required documents other than Form CCC 529, Invoice-and-Contract Abstract, act in accordance with good commercial practice.

(7) *Verification of computation of ocean freight differential and notification to approved applicant.* Whenever CCC Form 106 provides for an ocean freight rate differential on a c.&f. or c.i.f. sale and authorizes financing of ocean transportation costs by CCC, the banking institution shall determine that the supplier's detailed invoice shows a computation of the dollar amount of ocean freight differential; shall verify the computation of such amount of differential, using the rate stated in CCC Form 106 and the gross weight shown on the supplier's detailed invoice or the bill of lading, whichever is less; and shall include with the advice of dollar disbursement under the letter of credit a request that the approved applicant notify his Government that: "The amount of $______ paid to the beneficiary includes an ocean freight differential of $______. The importing country is indebted to the Government of the United States for the net amount of $______." (See also § 14.6(a)(2).)

(8) *Reimbursement of CCC for losses.* Upon demand therefor made by the CSS Office named in the letter of commitment, the banking institution shall promptly reimburse CCC for any losses sustained as a direct result of failure on the part of the banking institution to carry out its responsibilities as required by this section.

(9) *Adjustment refunds.* The banking institution shall, at the end of each calendar quarter, remit to the Controller, CCC, the total amount of any adjustment refunds received during the quarter. A copy of each advice sent to approved applicants or agents shall accompany each quarterly report. (See also § 14.8(a)(3).)

(10) *Credit purchase authorization number.* The banking institution shall examine required documents to determine that they bear the appropriate credit purchase authorization number or are readily identifiable therewith.

(11) *Additional requirements.* Any additional particulars for which the banking institution is to be responsible will be specified in the credit purchase authorization or letter of commitment as (i) additional required documents, (ii) additional statements to be contained in the required documents or (iii) additional actions to be performed.

(b) The banking institution shall have limited responsibilities for transactions under letter of commitment as follows:

(1) *Contracting.* Section 14.6(a) provides that contracts must meet certain specified requirements in order to be eligible for financing. The banking institution is responsible only to the extent of ascertaining that the required documents show delivery terms as required by the credit purchase authorization (f.o.b., f.a.s., c.&f. or c.i.f.). The banking institution has no responsibility under § 14.6(b) with regard to invitations to bid.

(2) *Vessel approval.* The banking institution shall not make payment under the letter of credit unless the name of the vessel shown on CCC Form 106 is identical with the name of the vessel shown on the bill of lading. The banking institution is not required to verify the signature appearing on CCC Form 106 or to make an independent inquiry as to the correctness of the information shown thereon.

(3) *Discounts, purchasing agent's commissions and consular fees.* The banking institution is not required to make independent inquiry as to whether the net invoice price includes either discounts (whether expressed as such or as "commissions" to the importer, or made or to be made through payments, credits or other allowances to the buyer or consignee), commissions payable to purchasing agents, or consular fees, but shall not honor any such items when disclosed by the required documents other than Form CCC-529, Invoice-and-Contract Abstract. The provisions of § 14.10(c) regarding commissions are included primarily for the instruction of suppliers, and banking institutions are not responsible for compliance therewith except to the extent set forth above.

(4) *Weight certificate.* The banking institution is responsible for ascertaining that a weight certificate is included in the documentation when required by the credit purchase authorization and that the quantity invoiced does not exceed the weight shown on the certificate. The banking institution is not responsible for ascertaining that the weight certificate meets the requirement of § 14.14(e).

(5) *Insurance.* The banking institution shall be responsible for determining compliance with § 14.9 only to the extent of ascertaining that the policy or certificate of insurance includes a loss payable clause which provides for payment of any claims in United States dollars to the Controller, CCC.

(6) *Deduction for ocean transportation on c.&f. or c.i.f. invoices.* If CCC Form 106 provides that the cost of ocean transportation is not to be financed by CCC, the banking institution shall not make payment under the letter of credit unless a deduction for the cost of ocean transportation is shown on the CCC copy of the supplier's detailed invoice. The banking institution is not required to verify the correctness of the amount(s) of such deduction(s).

(c) For transactions under a letter of commitment, the banking institution is not responsible for the following:

(1) *Supplier's certification.* The banking institution shall have no responsibility for the truth or accuracy of the statements contained in the supplier's certificates or in any special certification required by this subpart, the terms of the purchase authorization or the letter of commitment. The banking institution is entitled to rely on such certifications.

(2) *Invoice-and-contract abstract.* The banking institution is not responsible for the truth or accuracy of information contained in the invoice-and-contract abstract, for the sufficiency or completeness of such information, or for any indication by such information of noncompliance with any provision of this subpart or of the purchase authorization, or for any inconsistency with other required documents.

(3) *Contracting period.* The credit purchase authorization specifies the

period during which contracts may be entered into by suppliers and importers. A banking institution has no responsibility with regard to compliance with this requirement.

(4) *Other required documents.* The banking institution is not responsible for the truth or accuracy of the statements contained in any of the required documents. A banking institution is not obliged to look beyond these documents nor to make independent investigation as to the accuracy of statements made therein.

(5) *Affiliate.* The banking institution is not responsible for determining whether or not the supplier and the importer are affiliates. Also the banking institution is not responsible for the furnishing or verification of any information required to be furnished pursuant to § 14.14(c)(3).

(d) *Responsibilities under reimbursement method of financing for transportation purchase authorizations.* Purchase authorizations for the procurement of ocean transportation are of the reimbursement type. No letters of commitment are issued for such purchase authorizations.

§ 14.17 CSS Commodity Offices.

The addresses of the CSS Commodity Offices are as follows:

CSS Commodity Office, U.S. Department of Agriculture, 222 East Central Parkway, Cincinnati 2, Ohio.

CSS Commodity Office, U.S. Department of Agriculture, 500 South Ervay Street, Dallas, Tex.

CSS Commodity Office, U.S. Department of Agriculture, 2201 Howard Street, Evanston, Ill.

CSS Commodity Office, U.S. Department of Agriculture, 560 Westport Road, Kansas City 41, Mo.

CSS Commodity Office, U.S. Department of Agriculture, 6400 France Avenue, South, Minneapolis 10, Minn.

CSS Commodity Office, U.S. Department of Agriculture, 120 Marais Street, New Orleans 16, La.

CSS Commodity Office, U.S. Department of Agriculture, 1218 Southwest Washington Street, Portland 5, Oreg.

Effective date. Done at Washington, D.C., this 13th day of February 1961. Witness my hand and the seal of the Department of Agriculture.

[SEAL] ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 61-1437; Filed, Feb. 16, 1961; 8:47 a.m.]

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[Amdt. 11]

PART 719—RECONSTITUTION OF FARMS, FARM ALLOTMENT, AND FARM HISTORY AND SOIL BANK BASE ACREAGES

Transfer of Allotment From the Pool

Basis and purpose. This amendment is issued pursuant to section 375(b) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1375(b)) and section 124 of the Soil Bank Act (7 U.S.C. 1812) and interprets and applies section 378 of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1378). The purpose of the amendment is to make the procedures for the transfer of allotment from the pool under 7 U.S.C. 1378 more effective in preventing the sale of allotments from the pool or the transfer of allotments from the pool for the benefit of some person other than the displaced owner.

Since applications under 7 U.S.C. 1378 are now pending and many more will be filed in the near future, it is hereby determined that compliance with the notice, public procedure, and effective date requirements of the Administrative Procedure Act (5 U.S.C. 1003) is impracticable and contrary to the public interest and this amendment shall become effective upon publication in the FEDERAL REGISTER.

Section 719.12(d)(2) (23 F.R. 7694) is amended to read as follows:

(2) *Transfer of allotment from the pool.* Upon written application by the displaced owner by August 29, 1961 or within three years after such owner is displaced, whichever is later, to the county committee of the county in which the farm which is to receive allotment from the pool is located, the county committee shall determine whether the transaction by which the displaced owner claims to have acquired the farm to which it is requested that the allotment be transferred and the requested transfer is for the purpose of reestablishing the farming operations of the displaced owner or is a scheme or device to sell the allotment or to transfer the allotment for the benefit of some person other than the displaced owner. The application for transfer shall contain a certification by the applicant that he has made no side agreement with any person for the purpose of obtaining an allotment from the allotment pool for a person other than himself. Before an application is acted upon by the county committee the applicant shall personally appear before the county committee after reasonable notice and bring with him all pertinent documents for examination by the committee and answer all pertinent questions bearing on the proposed transfer, unless the State committee determines from facts presented to it on behalf of the applicant that the applicant would be unduly inconvenienced by such an appearance on account of illness or other good cause and an appearance by the applicant before the county committee would serve no useful purpose. If an allotment is transferred hereunder and it is later determined by the county committee that the transfer was obtained by misrepresentation by or on behalf of the applicant the allotment for the farm shall be reduced by the amount of the transfer for each year the transfer purportedly was in effect and if the time for withdrawal from the pool has not expired the amount of the reduction shall be returned to the pool. The action of the county committee in approving or disapproving an application or in reducing the allotment for misrepresentation shall be effective only upon approval of the State committee or its representative and the issuance of an appropriate allotment notice under the applicable commodity regulations. If the county committee determines that the transaction by which the displaced owner acquired the farm to which the allotment is to be transferred and the proposed transfer is for the bona fide purpose of reestablishing the farming operations of the displaced owner and is not a scheme or device to sell the allotment or to transfer the allotment for the benefit of some person other than the displaced owner the county committee shall determine the allotment or increase of allotment to be transferred from the pool to such farm. The allotment to be transferred for a commodity shall be no greater than an amount required to establish an allotment comparable with allotments determined for other farms in the same area which are similar except for the past acreage of the commodity, taking into consideration the land, labor and equipment available for the production of the commodity, crop-rotation practices, and the soil and other physical factors affecting the production of the commodity: *Provided, however,* That the acreage transferred from the pool shall not exceed the allotment most recently established for the farm acquired from the applicant and placed in the pool. When all or a part of the allotment placed in the pool is transferred and used to establish or increase the allotment for other farms owned or purchased by the displaced owner, all or the proportionate part of the past acreage history for the farm from which the owner was displaced shall be transferred to, and considered for purposes of future allotments, to have been planted on the farm for which an allotment is established or increased under this section. If only a part of the available allotment is transferred from the pool, the remaining part of the allotment and past acreage history shall remain in the pool for transfer to other farms of the displaced owner until all such allotment acreage has been transferred or until the period of eligibility for establishing or increasing allotments under this section has expired.

(Sec. 375, 52 Stat. 66, as amended; 7 U.S.C. 1375; sec. 124, 70 Stat. 198; 7 U.S.C. 1812; interprets and applies sec. 378, 72 Stat. 988, as amended; 7 U.S.C. 1378)

Done at Washington, D.C., this 14th day of February, 1961.

H. D. GODFREY,
Administrator,
Commodity Stabilization Service.

[F.R. Doc. 61-1452; Filed, Feb. 16, 1961; 8:48 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Types of Financial Protection

A comprehensive revision of the financial protection requirements in Part 140 was published in the FEDERAL REGISTER on April 7, 1960 (25 F.R. 2944).

The revision of Part 140 established fixed amounts of financial protection to be required of licensees of reactors having relatively low power levels. For power and testing reactors having a higher thermal power level, Part 140 prescribed a formula for computing financial protection. The basic elements of the formula were thermal power level and reactor location.

Early in 1960, representatives of the nuclear energy liability insurance syndicates ("NELIA" and "MAELU") urged the Commission to adopt a financial protection formula which would, in most cases, require reactor licensees to maintain higher levels of financial protection than those required under the revised Part 140. The recommendations of the insurance industry are embodied in a letter dated January 22, 1960, from Mr. Charles J. Haugh, Vice President, Travelers Insurance Company.

In prescribing the revised financial protection requirements in Part 140 as published April 7, 1960, the Commission announced that it planned to re-evaluate, no later than December 31, 1960, its financial protection requirements in light of comments and suggestions submitted to the Commission by the insurance industry and by interested members of the public. The Commission further requested that interested persons submit their comments on the proposals filed by the nuclear energy liability insurance syndicates.

The Commission has completed the re-evaluation of its financial protection requirements. In connection therewith careful consideration has been given to the insurers' proposal and to all comments and suggestions submitted by the insurers, the reactor industry, and other interested persons.

As a result of its study the Commission has concluded that:

a. Revision of the fixed amounts of financial protection presently prescribed by Part 140 would not be justified;

b. With respect to the formula prescribed by § 140.12 of Part 140, for determining amounts of financial protection other than the fixed amounts prescribed by §140.11, revision of the population factor of the formula is desirable for the reasons given herein; and that revision of the value assigned in the formula to the base amount of financial protection would not be justified.

The amended financial protection formula set forth below does not vary, therefore, from the formula presently prescribed by Part 140 with respect to the base amount of financial protection required ($150 per kilowatt of thermal energy capacity). The base amount prescribed by Part 140 is consistent with the principle that the quantity of fission products that could escape in the event of an incident varies roughly in direct proportion to power level.

The range specified for the location (population) factor in the formula, however, has been extended from 1 to 1.5 to a range of 1 to 2. The NELIA-MAELU proposal of January 22, 1960 urged that a more realistic range would be 1 to 4. Both the insurers and the Commission agree, however, that since no scientific basis is possible for either range of values, any range used must necessarily reflect a substantial element of judgment.

Statistics compiled from hazards summary reports for some 19 power reactors in operation, under construction or presently planned, indicate that population densities within areas surrounding the reactor sites actually differ by a factor of approximately 10. Therefore, on the basis of adjacent population alone, it appears that a location factor ranging from 1 to 1.5 is too narrow. However, surrounding population is not the only parameter pertinent to the prescription of the "location factor" to be used in the financial protection formula. Credit must also be given to those safeguards that are inherently part of the reactor design or that have been specially engineered into the plant complex in recognition of the proximity and density of population surrounding the reactor site. No scientific basis exists, however, for determining the relative value that might be assigned to such safeguards. The value, therefore, must necessarily be based largely upon subjective evaluation. After careful study, the Commission has concluded that the range presently specified in Part 140 (1 to 1.5) gives more limited effect, and that proposed by the insurance syndicates (1 to 4) gives greater effect to differences in location than is believed justified. In the absence, however, of any scientific method for determining what the range should be, the Commission has concluded that, in any case, an increase in the span of the range is required and that a difference of 100 percent between the upper and lower limits is reasonable. The Commission has, therefore, adopted a location factor range of 1 to 2. The following amendment to 10 CFR 140 gives effect to this broader range.

Effective 60 days after publication in the FEDERAL REGISTER, 10 CFR Part 140, § 140.12(b)(4)(ii), is amended to read as follows:

(ii) *Step 2.* Identify all minor civil divisions according to the same census which are in whole or in part within the circle determined in Step 1. Determine the population of each such minor civil division (according to the same census or later data available from the Bureau of the Census). For each minor civil division, divide its population by the square of the estimated distance to the nearest mile from the reactor to the geographic center of the minor civil division: *Provided,* That no such distance shall be deemed to be less than one mile. If the sum of the quotients thus obtained for all minor civil divisions wholly or partly within the circle is 1,000 or less, the population factor is 1. If the sum of these quotients is more than 1,000 but not more than 3,000, the population factor is 1.2. If the sum of these quotients is more than 3,000 but not more than 5,000, the population factor is 1.4. If the sum of these quotients is more than 5,000 but not more than 7,000, the population factor is 1.6. If the sum of these quotients is more than 7,000 but not more than 9,000, the population factor is 1.8. If the sum of these quotients is more than 9,000 the population factor is 2.0.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201. Interpret or apply sec. 4, Pub. Law 85-256)

Dated at Germantown, Md., this 7th day of February 1961.

For the Atomic Energy Commission.

WOODFORD B. MCCOOL,
Secretary.

[F.R. Doc. 61-1438; Filed, Feb. 16, 1961; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Reg. Docket No. 443; Amdt. 60-23]

PART 60—AIR TRAFFIC RULES

Re-establishment of the Base of Continental Control Area

Draft Release No. 60-12, published in the FEDERAL REGISTER on July 14, 1960 (25 F.R. 6634), gave notice that the Federal Aviation Agency proposed the adoption of an amendment to Part 60 of the Civil Air Regulations to re-establish the lower limit of the continental control area.

The reasons for the amendment were set forth in detail in the draft release. It recalled that at the time the continental control area was implemented, a second phase was anticipated when the air traffic control system reached the degree of proficiency which would permit it to accept the greater demands which would result from lowering the floor of the continental control area. It stated that the additional trained personnel, the new and improved radar systems and displays, the additional peripheral radio communications facilities and the semi-automatic calculating equipment were some of the improvements in the air traffic control system which now make this action possible. The draft release pointed out that higher Visual Flight Rules (VFR) minimum weather criteria would apply within the newly designated continental control area. The minimum visibility for VFR flight would be 5 miles, while the clearance-from-clouds minimums would be 1,000 feet vertically and 1 mile horizontally. These more stringent minimums are considered both reasonable and necessary in view of the high performance aircraft which typically operate at the higher flight levels. The increased capability of air traffic control to provide services to pilots who desire to operate aircraft under Instrument Flight Rules (IFR) would preclude, for the most part, any adverse effect upon flight operations within the new continental control area.

In addition, the rule adopted herein was stated to be consistent with the overall airspace planning of the Agency which contemplates the establishment of a three level route structure. Specific proposals regarding the establishment of this system were published for comment in a separate rule making action (Airspace Docket No. 60-WA-53). Since comments in response to that proposal will be recognized in consideration of the airspace rule, it is not appropriate to discuss in detail either the content of that proposal or comments relative thereto.

The majority of the comments received in response to Draft Release No. 60-12 endorse the concepts of the proposal. The Aircraft Owners and Pilots Association and the National Aviation Trades Association, however, tempered their endorsement with the recommendation that the base of the new continental control area be established in such a manner as to retain the use of 14,500 feet m.s.l. as a VFR cruising altitude without the more stringent visibility and clearance-from-clouds minimums applicable to VFR flight conducted within the continental control area. It was contended that the requirement to observe the higher minimums would impose an unnecessary and undue hardship upon VFR pilots. These recommendations were considered valid. Section 60.30, Basic VFR Minimum Weather Conditions, is therefore revised herein to stipulate that, should the base of controlled airspace be coincident with a VFR cruising altitude prescribed in § 60.32, the provisions of § 60.30 applicable to the immediately underlying airspace shall apply.

The Department of the Air Force also concurred with the proposal to lower the floor of the continental control area. However, it stated that its concurrence is qualified with respect to action taken relative to Airspace Docket No. 60-WA-53. Since this is a separate rule making proposal, comments relative thereto and the final action taken are not considered directly relevant to this proposal.

The Department of the Army did not establish a definite position relative to the proposed amendment except to recommend that the proposed definition of the continental control area be amended to provide for the exclusion of flight test areas. Their recommendation was based upon "the adverse effects by the imposition of airway traffic control above 14,500 feet m.s.l. within the Fort Rucker flight test area." The flight test areas, as described in the Flight Information Manual, are approved by the Administrator for the purpose of confining these activities to sparsely populated areas and areas of light air traffic. However, flights by local or itinerant pilots within these areas are not prohibited. The proposed continental control area would impose no greater restrictions upon flight testing activities than those which are currently applicable to flight testing operations conducted within the present continental control area. Therefore, lowering the base of the continental control area should impose no significant adverse effect upon the flight testing activity conducted within the Fort Rucker flight test area.

The Department of the Navy also stated that it agrees with the basic proposal to re-establish the base of the continental control area. However, it recommended that provision be made for recognition of "Caution Areas" which extend above 14,500 feet m.s.l. "Caution Areas" were established by the Airspace Panel of the now dissolved Air Coordinating Committee (ACC). They were defined in the terms of reference of that group as "an area established by the appropriate agency, upon recommendation of the Panel, in which a visible hazard to aircraft exists." The terms of reference went on to state "although flight is not restricted in Caution Areas, hazards exist therein which may be avoided if proper vigilance is exercised by local and transiting aircraft." "Caution Areas" as such, are not officially recognized by the FAA. It is considered that flight vigilance must be maintained at all times and that "vigilance" is essentially a consummate condition and not subject to appreciable increase. Publication of a "Caution Area," established by the ACC, on aeronautical charts in no way precludes the utilization of such areas by pilots of aircraft totally uninformed as to the existence of the area or the reason for which it was established.

The Department of the Navy cited certain of these areas which would be affected, mentioning C-488 and C-198, as well as Warning Area W-155. Since Warning Areas are established only outside the continental limits of the United States, the amendment adopted herein will not affect such areas in any way. The Department of the Navy contended that, in view of an existing and continuing need for airspace of a "Caution Area" category, the rule should be amended to recognize the existence of those Caution Areas which extend above 14,500 feet m.s.l. It further recommended that the weather minimums for VFR flight within the controlled airspace of such areas remain at 3 miles visibility with proximity to cloud minimums remaining at 500 feet beneath, 1,000 feet above and 2,000 feet horizontally from clouds. The Agency is currently giving consideration to the establishment of airspace similar to "Caution Areas"; however, the requirement for and the provisions attendant to the use of such airspace have not been determined. If appropriate, this matter will later become the subject of a separate rule making proposal.

Minor editorial changes have been made in the definition of continental control area for purposes of clarity and in consideration of comments received.

In consideration of the foregoing, Part 60 of the Civil Air Regulations is amended as follows:

1. By amending the introductory text of § 60.30 to read as follows:

§ 60.30 Basic VFR minimum weather conditions.

Aircraft shall not be flown VFR in weather conditions below those specified herein except as provided in § 60.31. When VFR flight operations are conducted in accordance with the provisions of § 60.32 at an altitude coincident with the designated base of the continental control area, control area or transition area, the visibility and clearance-from-cloud requirements applicable to the immediately underlying airspace shall govern.

2. By amending the definition of "continental control area" to read as follows:

§ 60.60 Definitions.

* * * * *

Continental Control Area. The Continental Control Area consists of the airspace of the continental United States at and above 14,500 feet MSL but excludes: (1) The State of Alaska, (2) the airspace less than 1,500 feet above terrain, and (3) prohibited and restricted areas except those restricted areas specified in Part 601 of this Title.

These amendments shall become effective on April 6, 1961.

(Sec. 307; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on February 13, 1961.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 61-1422; Filed, Feb. 16, 1961; 8:45 a.m.]

[Reg. Docket No. 656]

PART 60—AIR TRAFFIC RULES

Reports of Navigation and Communications Equipment Malfunctions; Special Civil Air Regulation

Under this special regulation, pilots in command of aircraft being operated in controlled airspace under the instrument flight rules (IFR) must report immediately any malfunctions of navigation or communications equipment to Air Traffic Control.

Part 60 of the Civil Air Regulations contains the Air Traffic Rules and prescribes in § 60.2 that the pilot in command of an aircraft is directly responsible for that aircraft and "shall have final authority" as to its operation. This authority includes the responsibility to utilize available facilities at his disposal when a malfunction occurs which curtails the pilot's ability to navigate by reference to ground radio aids or communicate with ground facilities while operating under instrument flight rules.

Information regarding the airborne malfunction of a component which may affect the ability to navigate or communicate should be made available immediately to Air Traffic Control in order that the system will be alerted to the fact that the pilot may not be able to fully comply with the requirements of the system, or that an emergency situation may develop. Such immediate notification will permit a more complete utilization of the resources of the system.

For many years, it has been a common practice for pilots to report malfunctions of communications or navigation equipment to Air Traffic Control. However, there have been instances wherein an equipment malfunction has not been communicated to Air Traffic Control and where subsequent handling of the aircraft might conceivably have been more effective if the circumstances had been properly reported. It is, therefore, no longer feasible to continue the reporting relationship on a voluntary basis for IFR operations in controlled airspace. Accordingly, this regulation is being promulgated.