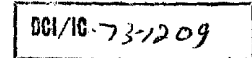
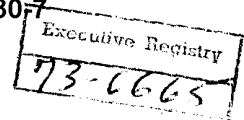




OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D. C. 20301



INSTALLATIONS AND LOGISTICS

18 OCT 1973

Honorable William E. Colby  
Director, Central Intelligence  
Central Intelligence Agency  
Washington, D. C. 20505

Dear Mr. Colby:

Attached for your information is a memorandum for the Assistant Secretaries (I&L) of the Army, Navy, Air Force and Directors of interested agencies of the Department of Defense requesting their comments and recommendations on complete revisions to the industrial priorities regulations and orders of the Bureau of Competitive Assessment and Business Policy (BCABP) of the Department of Commerce.

As the head of an associated agency of the Department of Defense, you currently are utilizing industrial priorities and allocations in your procurement under a delegation of authority from the Department of Defense. It would be appreciated, therefore, if you would furnish your comments and recommendations on the attached proposed BCABP regulations and orders to this office by 12 November 1973.

Please have a member of your staff furnish the name and telephone number of a representative knowledgeable in industrial priorities and allocations to serve as your point of contact for this area to Mr. M. J. Friedman, Directorate for Management Evaluation and Materiel Control, OASD(I&L), telephone OX 7-0351.

Sincerely,

(Signed)  
ELI T. REICH  
Vice Admiral, USN  
Deputy Assistant Secretary of Defense  
(Production Engineering & Materiel Acquisition)

Attachments  
As stated



INSTALLATIONS AND LOGISTICS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D. C. 20301

18 OCT 1973

MEMORANDUM FOR Assistant Secretary of the Army (I&L)  
Assistant Secretary of the Navy (I&L)  
Assistant Secretary of the Air Force (I&L)  
Director, Defense Communications Agency  
Director, Defense Mapping Agency  
Director, Defense Nuclear Agency  
Director, Defense Supply Agency  
Director, National Security Agency

SUBJECT: Complete Revision of Proposed Regulations and Orders  
Governing Use of Priorities and Allocations for Defense  
Production and Procurement

The Department of Commerce, Bureau of Competitive Assessment and Business Policy (BCABP, formerly BDSA), has issued Notices of Proposed Rulemaking concerning revised and simplified Defense Materials System (DMS) and Defense Priorities System (DPS) regulations and orders. These regulations and orders, published in Part II of the Federal Register of 1 October 1973, are complete revisions of current regulations and orders. They are as follows:

DMS Regulation 1 - Basic Rules of the Defense Materials System  
DPS Regulation 1 - Basic Rules of the Defense Priorities System  
DPS Order 1 - Metalworking Machines  
DPS Order 2 - Nickel

The proposed regulations and orders set forth rules for assuring acceptance and performance of national defense contracts and orders in accordance with Title I (Priorities and Allocations) of the Defense Production Act of 1950, as amended. Current priorities and allocations authorities which have been delegated to you are vital in assuring timely deliveries of your contracts and orders from industry. They encompass procurement transactions (including, but not limited to, R&D, production and construction) within the United States, its territories and possessions, and procurement by overseas commands requiring supporting resources from the United States.

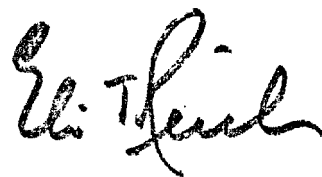
The proposed (BCABP) issuances relate to the general field of industrial operations and will have the force of law when published. They govern the business transactions in the fields they cover and, therefore, have the greatest effect on defense procurement.

Three copies of the subject regulations and orders are attached for your review, comments and recommendations. It is requested that you furnish your Department or Agency views to this office by 12 November 1973 to permit formulation of a consolidated DoD position and timely submission to the Commerce Department. Remarks should be annotated to specific page and paragraph references shown in the Federal Register, Part II, Monday, October 1, 1973, Volume 38, Number 189.

The normal procedure for clearing Commerce Department regulations and orders within the Department of Defense and associated agencies is specified in Section 9 of the DoD Priorities and Allocations Manual (PAM). Under its provisions, and in order to expedite coordination, copies of proposed BCABP regulations and orders are being provided directly to DoD Departmental Priorities and Allocations Officers designated by you to this office under DoD Instruction 4400.1. However, since these are complete revisions of existing policies and procedures, final views of your Department or Agency should be furnished through your office.

The Department of Defense, in performing its functions of procurement, is vitally concerned with the rules and procedures established in the BCABP regulations and orders, first to see that their provisions are adequate to channel material into DoD procurement items, and then to operate the implementing procedures which give DoD procurement its preferential status in industry. Thus, it is important that close analysis be given to the proposed changes to determine their effect upon current procurement and their effectiveness as work-in procedures under mobilization conditions.

This office may contact your designated Departmental Priorities and Allocations Representatives directly to apprise them of significant developments in the course of the DoD review of the Commerce Department regulations and orders, or to try to resolve major issues as provided in the Order Clearance Procedure.



ELI T. REICH

Vice Admiral, USN

Deputy Assistant Secretary of Defense

(Production Engineering & Materiel Acquisition)

Attachments

As stated

**EXECUTIVE SECRETARIAT**

**Routing Slip**

TO:

		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	DDS&T				
4	DDI				
5	DDO				
6	DDM&S				
7	D/DCI/IC				
8	D/ONE				
9	OGC				
10	OLC				
11	IG				
12	D/PPB				
13	D/Pers				
14	D/OS				
15	D/Trng				
16	SAVA				
17	ASST/DCI				
18	AO/DCI				
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SUSPENSE \_\_\_\_\_ Date \_\_\_\_\_

Remarks:  
*For direct response & reply  
 coordinate with IC Staff*

Executive Secretary

# **federal register**

**MONDAY, OCTOBER 1, 1973**

**WASHINGTON, D.C.**

**Volume 38 ■ Number 189**

**PART II**



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## **DEPARTMENT OF COMMERCE**

**Domestic and International  
Business Administration**

■

### **DEFENSE MATERIALS SYSTEM AND DEFENSE PRIORITIES SYSTEM**

**Proposed Rulemaking**

**DEPARTMENT OF COMMERCE**  
**Domestic and International Business**  
**Administration**  
**[ 32A CFR Chapter VI ]**  
**DEFENSE MATERIALS SYSTEM**  
**Basic Rules**

Notice is hereby given that the Deputy Assistant Secretary for Competitive Assessment and Business Policy, pursuant to section 704 of the Defense Production Act of 1950, as amended and extended, and Executive Order 10480, as amended, is proposing to amend DMS Regulation 1. Section 1 describes the contents of and tells what the proposed amended regulation does.

Interested persons who desire to submit written views or comments on the proposed amended regulation should file them, in triplicate, with the Deputy Assistant Secretary for Competitive Assessment and Business Policy, U.S. Department of Commerce, Washington, D.C. 20230, Ref: DMS Reg. 1, on or before November 30, 1973.

The proposed amended regulation is presented below:

**DMS REG. 1.—BASIC RULES OF THE**  
**DEFENSE MATERIALS SYSTEM**

**Sec.**

1. What this regulation does.
2. Definitions.
3. Requirements and related procedures.
4. Allotment and self-authorization procedures.
5. Types of authorized controlled material orders and preferential status.
6. Directives and preferential status.
7. Mandatory use of program determination, allotment, self-authorization and rating authority.
8. Self-authorization procedure for Class A and Class B products.
9. Statements and certifications to accompany ACM orders and rated orders for Class A and Class B products.
10. Elements of ACM orders.
11. Limitations on use of self-authorization.
12. Grouping or combination of orders.
13. Restrictions on placing ACM orders and on use of controlled materials.
14. Rated orders and ratings.
15. Transition provisions for acquisition of controlled materials.
16. Intracompany deliveries.
17. Delivery for unlawful purposes prohibited.
18. Applicability of regulations and orders.
19. Defense against claims for damages.
20. Records and reports.
21. Requests for adjustment or exception.
22. Communications.
23. Violations.

**Schedule**

- I. Controlled materials.
- II. Authorized Program Identifications and Claimant and Sub-Claimant Agencies.
- III. Mill Lead Times.
- IV. Minimum Mill Quantities.
- V. Form for Statement of Requirements for Class A products.

**Direction**

1. Self-authorization procedure for MRO needed to fill mandatory acceptance orders.
2. Controlled materials producers and distributors.

**AUTHORITY:** Defense Production Act of 1950, as amended (64 Stat. 816; 50 U.S.C. App. 2061 et seq.); Executive Order 10480, as amended, 18 FR 4939, 6201, 19 FR 3807, 7249, 21 FR 1673, 23 FR 5061, 6971, 24 FR 3779, 27

FR 9683, 11447, 3 CFR 1949-1953 Comp., p. 919; Executive Order 11725, 38 FR 17175; DMO 8400.1, 32A CFR 15; Department of Commerce Organization Order 10-3, as amended, 37 FR 25555, 38 FR 4278; and Department of Commerce, Domestic and International Business Administration Organization and Function Orders 45-1, 38 FR 9326, and 45-2, 38 FR 9327.

**Section 1. What this regulation does.**

(a) This regulation is a major revision and simplification of the Defense Materials System and supersedes DMS Reg. 1 of December 1, 1959 (including its Schedules, Directions and Amendments). DMS not only helps to keep current defense, atomic energy, and space programs on schedule but also provides an established mechanism that can be expanded or converted if the need arises. This regulation complements and is being issued concurrently with a major revision of Defense Priorities System Regulation 1.

(b) Defense contractors and their suppliers should thoroughly familiarize themselves with the provisions of DPS Reg. 1 and with the provisions of this regulation which defines their rights and obligations and sets forth the basic rules of the Defense Materials System. One of the principal differences between DPS and DMS, which complement each other, is that the former relates primarily to products and materials other than controlled materials while the latter relates primarily to controlled materials (steel, copper, aluminum and nickel alloys).

(c) Persons engaged in production, construction or research and development for defense programs are required to follow all the applicable rules of this revised regulation. Proper identification of delivery orders placed for products and materials needed to fill defense orders and contracts is particularly important. The rule for mandatory identification of orders is an essential part of both the Defense Materials System and the Defense Priorities System. It avoids delays which could adversely affect timely completion of defense programs by requiring preferential delivery against properly identified orders and by furnishing a mechanism for expediting assistance where needed.

(d) The changes effected by this revised regulation are comprehensive in scope and include, but are not limited to:

(1) Under the former DMS Reg. 1 allotments of controlled materials were made by the Office of Emergency Preparedness to Claimant Agencies which then made allotments to Allotting Agencies. The latter, in turn, made allotments to prime consumers producing Class A products. This revised regulation provides for controlled material authorizations by the General Services Administration to Claimant Agencies and for allotments by Claimant Agencies to Sub-Claimant Agencies (a new term which replaces the former designation of "Allotting Agencies"). However, allotments to prime consumers have been eliminated in the interest of simplification and all defense contractors and sub-contractors under DMS are now self-authorizing consumers. Section 15 of this regulation

explains the status of outstanding allotments.

(2) The definitions of Class A product and Class B product have been modified. The principal effect of these modifications is to make the definitions self-contained so that defense contractors may operate under DMS without reference to any other separate publication.

(3) Self-authorizing consumers (producers of Class A and Class B products) are now required, with certain exceptions, to use their inventory first in filling rated orders.

(4) The revised regulations expressly prohibits discrimination against rated orders by imposing higher prices or different terms than for comparable unrated orders.

(5) Modifications have been made in Schedules I through V and in Directions 1 and 2. These modifications are principally, but not entirely, technical and procedural rather than substantive. Former Direction 2 (Small Order Procedure for Allotting Agencies) has been eliminated and former Direction 3 (Controlled Materials Producers and Distributors) has been renumbered as Direction 2.

(6) Numerous other changes, simplifications and consolidations have been effected in this revised regulation, the full text of which (including its Schedules I through V and Directions 1 and 2) should be studied carefully by defense contractors and their suppliers.

**Sec. 2. Definitions.**

As used in this regulation:

(a) "Person" means any individual, corporation, partnership, association or any other organized group of persons, and includes any agency of the United States Government or any other government.

(b) "BCABP" means the Bureau of Competitive Assessment and Business Policy, Domestic and International Business Administration, of the United States Department of Commerce.

(c) "GSA" means the General Services Administration of the United States Government.

(d) "Controlled material" means domestic and imported steel, copper, aluminum, and nickel alloys, in the forms and shapes specified in Schedule I of this regulation, whether new, remelted, re-rolled or redrawn.

(e) "Claimant Agency" means the Department of Defense, the Atomic Energy Commission, BCABP or any other Government agency or subdivision thereof designated as such by GSA for submission to it of controlled material program requirements. Schedule II of this regulation lists the Claimant Agencies.

(f) "Sub-Claimant Agency" means any Government agency or subdivision thereof designated as such by GSA for submission of controlled material program requirements to a Claimant Agency. Schedule II of this regulation lists the Sub-Claimant Agencies.

(g) "Authorized program" means a military, atomic energy or other program specifically approved by GSA and which is subject to any regulation or order of BCABP.

(h) "Program determination" means an authorization by GSA of the amount and kind of controlled materials which may be procured or used by or for a Claimant Agency, or which may be allotted by a Claimant Agency to a Sub-Claimant Agency, for authorized programs during specified periods of time.

(i) "Allotment" means an authorization by a Claimant Agency of the amount and kind of controlled materials which may be procured or used by or for a Sub-Claimant Agency for authorized programs during specified periods of time.

(j) "Set-aside" means the amount and kind of any product or material, including controlled materials, which a person is required to reserve for filling mandatory acceptance orders during specified periods of time, as prescribed by BCABP.

(k) "Self-authorizing consumer" means any person who receives authority to obtain controlled material by self-authorization pursuant to the provisions of this regulation. A self-authorizing consumer for a construction project may designate another person to act as the self-authorizing consumer for him.

(l) "Class A product" means any product containing controlled material made to special specifications for authorized programs and which is not itself a controlled material. It also includes a construction project or research and development which requires for its completion any controlled material or Class A product.

(m) "Class B product" means any product containing controlled material which is not made to special specifications for authorized programs (usually civilian-type products) and which is not itself a controlled material. It also includes a service which requires for its completion any controlled material.

(n) "Delivery order" means any purchase order, contract, shipping or other instruction calling for delivery of any material or product, or performance of construction or service, on a particular date or dates or within specified periods of time.

(o) "Authorized controlled material order" (ACM order) means any delivery order for any controlled material (as distinct from a product containing controlled material) bearing an authorized program identification and the certification required by this regulation or any other applicable regulation or order of BCABP. The term "ACM order" shall have the same meaning as "authorized controlled material order."

(p) "Rated order" means any contract, purchase or delivery order for any product, service or material other than controlled material bearing an authorized rating and the certification required by this regulation, DPS Reg. 1 or any other applicable regulation or order of BCABP.

(q) "Mandatory acceptance order" means a rated order, an ACM order or any other purchase or delivery order which a person is required to accept pursuant to any regulation or order of BCABP, or pursuant to a specific authorization or directive of BCABP.

(r) "Controlled materials distributor" means (1) a distributor of steel controlled materials as defined in DMS Order 1, (2) a distributor of nickel alloy controlled materials as defined in DMS Order 2, (3) a distributor of aluminum controlled materials as defined in DMS Order 3, or (4) a distributor of copper controlled materials as defined in DMS Order 4.

(s) "Construction" means the erection of any building, structure, or project, or addition or extension thereto, or alteration thereof, through the incorporation-in-place on the site of materials or products which are to be an integral and permanent part of the building, structure, or project, but it does not include maintenance and repair.

(t) "Project" means a construction plan contemplated for execution, irrespective of the time when it is to be put into effect in full or in part, involving all or portions of a single building or structure, or involving two or more buildings or structures, or portions thereof, which are physically contiguous, or are parts of an integrated design or plan, so that each is an element of a single operation. In addition, a project also means a type of construction which is not a building or structure, but which requires a construction operation for its completion, such as a freight yard, airport runway or oil refinery.

### Sec. 3. Requirements and related procedures.

(a) Claimant Agencies will submit controlled material requirements for authorized programs to GSA in accordance with procedures prescribed by GSA.

(b) Sub-Claimant Agencies will submit controlled material requirements for authorized programs to Claimant Agencies in accordance with procedures prescribed by GSA or Claimant Agencies.

(c) GSA will issue program determinations to each Claimant Agency.

(d) Each Claimant Agency, pursuant to program determinations, will make allotments to Sub-Claimant Agencies.

(e) BCABP may establish set-asides, in support of program determinations, for acceptance of ACM orders by controlled materials producers.

(f) Any self-authorizing consumer, upon the request of a Claimant or Sub-Claimant Agency for whom he is a supplier, must submit a statement of controlled material requirements for Class A products for authorized programs of such agency. This information must be submitted to the requesting agency on Form DMS-4A (production or research and development), Form DMS-4C (construction) or other prescribed forms.

(g) Any self-authorizing consumer, upon the request of another self-authorizing consumer for whom he is a supplier, must submit a statement of his controlled material requirements to fill a rated order for Class A products for authorized programs. This information must be submitted to the requesting consumer on Form DMS-6 (contained in Schedule V of this regulation) in accordance with the instructions stated therein.

### Sec. 4. Allotment and self-authorization procedures.

(a) An allotment must be identified by an allotment number consisting of the appropriate program identification (as listed in Schedule II of this regulation) and shall specify the quantities and kinds of controlled materials authorized for delivery in specified periods of time. Unless otherwise prescribed by BCABP, allotments shall be made in the following terms, in each case without further breakdown:

- (1) Carbon steel (including wrought iron).
- (2) Alloy steel (except stainless steel).
- (3) Stainless steel.
- (4) Copper and copper-base alloy brass mill products.
- (5) Copper wire mill products.
- (6) Copper and copper-base alloy foundry products and powder.
- (7) Aluminum.
- (8) Nickel alloys.

(b) A person who receives a rated order for a Class A product or a Class B product is a self-authorizing consumer and must obtain his requirements of controlled materials and other products and materials under the provisions of section 8 of this regulation.

### Sec. 5. Types of authorized controlled material orders and preferential status.

(a) Two types of ACM orders are authorized, an ACM order and an ACM-DX order. ACM orders must contain the appropriate program identification and the calendar quarter in which delivery is required, for example, A-6-2Q74. ACM-DX orders must contain the appropriate program identification and the calendar quarter in which delivery is required, followed by the suffix DX, for example, A-6-2Q74-DX. Schedule II of this regulation contains a list of authorized program identifications.

(b) In addition to the identifications prescribed in paragraph (a) of this section, all ACM orders and all ACM-DX orders must contain the date or dates on which delivery is required and must be certified as provided in section 9 of this regulation.

(c) All ACM orders shall have equal preferential status and shall take precedence over orders previously or subsequently received which do not bear a program identification. All ACM-DX orders shall have equal preferential status and shall take precedence over ACM orders previously or subsequently received and over orders previously or subsequently received which do not bear a program identification.

### Sec. 6. Directives and preferential status.

(a) A person shall comply with each directive issued to him by BCABP. A recipient of a directive from BCABP shall not use such directive to obtain any products, materials or services from a supplier by placing a mandatory acceptance order, unless expressly authorized in the directive.

(b) Directives issued by BCABP shall take precedence over ACM-DX orders, ACM orders, DX rated orders, DO rated orders and unrated orders previously or

## PROPOSED RULES

subsequently received, unless a contrary instruction appears in the directive.

**Sec. 7. Mandatory use of program determination, allotment, self-authorization and rating authority.**

(a) Each Claimant and Sub-Claimant Agency must use its program determination, allotment and rating authority, as appropriate, in acquiring controlled materials and other products and materials needed for completion of authorized programs.

(b) Each person who has received a rated order for a Class A or a Class B product must acquire controlled materials and other products and materials to fill such order or to replace in inventory products and materials used to fill such order by self-authorization, pursuant to section 8 of this regulation.

(c) The mandatory provisions of this section need not be followed in the case of any individual purchase order of \$500 or less.

**Sec. 8. Self-authorization procedure for Class A and Class B products.**

(a) A producer of Class A or Class B products who has accepted a rated order for such products is a self-authorizing consumer.

(b) A self-authorizing consumer must use the program identification indicated on his rated order in placing ACM orders to obtain controlled materials needed to fill such order or to replace in inventory controlled materials used to fill such rated order. However, with respect to inventory replacement of controlled materials he shall place such ACM orders only in the calendar month in which such materials were taken from inventory or in the immediately succeeding two calendar months. If it is impracticable for him to determine the exact requirements of controlled materials needed to fill a rated order for Class A or Class B products, he must place ACM orders for delivery of an amount not exceeding his best estimates of controlled materials needed to fill such rated order.

(c) A self-authorizing consumer must use the rating indicated on his rated order in obtaining products and materials other than controlled materials needed to fill such order or to replace in inventory products and materials used to fill such rated order. However, with respect to inventory replacement of products and materials other than controlled materials he shall place rated orders only in the calendar month in which such products and materials were taken from inventory or in the immediately succeeding two calendar months. If it is impracticable for him to determine the exact requirements of products and materials other than controlled materials needed to fill a rated order for Class A or Class B products, he must place rated orders for delivery of an amount not exceeding his best estimates of such products and materials needed to fill such rated order.

(d) If the requirement that he use the program identifications or ratings in-

dicated on his customers' rated orders is impracticable because they are varied or numerous, a self-authorizing consumer may use the program identification or rating B-5 in lieu thereof.

(e) A self-authorizing consumer shall fill a rated order with products and materials from his inventory (to the extent that he has such products and materials in inventory) and replace such products and materials in accordance with the provisions of this or any other applicable regulation or order of BCABP. However, if the requirement that he use products and materials from inventory would stop or interrupt his operations during the next 60 days in a way which would cause a substantial loss of total production or a substantial delay in his operations, he need not do so.

(f) A person who has accepted a rated order shall not discriminate against such order by imposing higher prices or by imposing different terms and conditions for such order than for generally comparable unrated orders, or in any other manner.

**Sec. 9. Statements and certifications to accompany ACM orders and rated orders for Class A and Class B products.**

(a) Each Claimant Agency, Sub-Claimant Agency and self-authorizing consumer placing a rated order for a Class A or a Class B product or placing an ACM order must, in addition to indicating the appropriate rating or program identification and delivery date or dates on such order, furnish his supplier with a statement reading substantially as follows:

You are required to follow the provisions of DMS Reg. 1 and of all other applicable regulations and orders of BCABP in obtaining controlled materials and other products and materials needed to fill this order.

This statement must appear on the order or on a separate piece of paper attached to the order.

(b) Unless another form of certification is specifically prescribed by an applicable regulation or order of BCABP, every rated order must contain the certification prescribed in DPS Reg. 1 or the following certification:

Certified for national defense use under DMS Reg. 1

and shall be signed as provided in paragraph (e) of this section. This certification accompanying a rated order shall have the same effect as a certification under DPS Reg. 1.

(c) Unless another form of certification is specifically prescribed by an applicable regulation or order of BCABP, every ACM order must contain the following certification:

Certified for national defense use under DMS Reg. 1

and shall be signed as provided in paragraph (e) of this section.

(d) The certifications provided for in paragraphs (b) and (c) of this section shall constitute a representation to the supplier and to BCABP that subject to

the criminal penalties provided in applicable United States statutes, (1) the amount ordered by the purchaser is within the amount needed by him to fill the related mandatory acceptance order accepted by him and (2) the purchaser is expressly authorized by BCABP, or by any applicable regulation or order of BCABP, to place such mandatory acceptance order.

(e) A certification on an ACM order or a rated order must be signed by a responsible individual who is duly authorized in writing to sign for that purpose. The signature must be either by hand or in the form of a facsimile reproduction of a handwritten signature. If a facsimile signature is used, the individual who uses it must be duly authorized in writing to use it for this purpose by the person whose signature it is, and a written record of the authorization must be retained on file. A certification may be authenticated by a method other than a signature or a facsimile signature, such as by automatic data processing transmission, in which case a record must be maintained by the user describing the manner in which the authentication is transmitted and the manner in which the authentication is authorized.

(f) An ACM order or a rated order may be placed orally or by telegram. In such event the purchaser must immediately transmit to the supplier a confirming ACM order or rated order, as appropriate, complying with the requirements of this section.

**Sec. 10. Elements of ACM orders.**

(a) A delivery order placed with a controlled materials producer or a controlled materials distributor for a controlled material is an ACM order only if it is specifically designated as an authorized controlled material order by any regulation or order of BCABP; or if it complies with this section and contains (1) the appropriate program identification and the calendar quarter in which delivery is required, (2) the date or dates on which delivery is required and (3) the certification specified in section 9(c) of this regulation. As an example, an ACM order calling for delivery in the second quarter of 1974 placed pursuant to a rated order bearing the program identification A-6, must contain the following: A-6-2Q74 and, in addition, the delivery date or dates and certification.

(b) Each person who has accepted a DX rated order must use the letters "DX" to identify ACM orders placed by him to fill such order or to replace in inventory controlled materials used to fill such order. Such an order is referred to as an "ACM-DX order" and shall be identified as prescribed in section 5 of this regulation. No person may use the letters "DX" to identify ACM orders except as provided in this regulation or in any other regulation or order of BCABP. The letters "DX" appearing on an ACM order shall entitle such order to priority in acceptance or delivery over other



ACM orders as provided in this regulation, in Direction 2 to this regulation or in any other regulation or order of BCABP.

(c) An ACM order must be in sufficient detail to permit entry on mill schedules and must be received by the controlled materials producer at such time in advance of the month of required shipment as is specified in Schedule III of this regulation, except for ACM-DX orders as provided in Direction 2 to this regulation, or at the earliest subsequent date that the controlled materials producer may find it practicable to accept the same.

#### Sec. 11. Limitations on use of self-authorization.

(a) Each person who has accepted a rated order for a Class A or a Class B product must acquire controlled materials and other products and materials to fill such order or to replace in inventory products and materials used to fill such order by self-authorization, pursuant to section 8 of this regulation.

(b) Products and materials which may be obtained by a person pursuant to the self-authorization provisions of this regulation to fill a rated order shall include only:

(1) (i) Those which will be physically incorporated into the product or material covered by the rated order and the portion of such products and materials normally consumed or converted into scrap or by-products in the course of processing.

(ii) Chemicals used directly in production to fill the rated order.

(iii) Products and materials used for packaging or containers required to make delivery against the rated order. They shall not include:

(2) (i) Products and materials for plant improvement, expansion or construction unless they will be physically incorporated into a construction project covered by a rated order.

(ii) Production equipment or products and materials to be used for the manufacture of production equipment.

(iii) Maintenance, repair and operating supplies (MRO). Direction 1 to this regulation provides a separate self-authorization procedure to obtain MRO needed to fill mandatory acceptance orders.

(c) In the event a person is not permitted to place a mandatory acceptance order because of the restrictions prescribed in paragraph (b) of this section, and he needs special priorities authorization, he shall apply for such authorization in accordance with section 11 of DPS Reg. 1.

(d) In the event a person has placed a mandatory acceptance order and needs expediting assistance to obtain timely delivery, or if he cannot find a supplier who will accept a mandatory acceptance order he attempts to place, he shall apply for assistance in accordance with section 12 of DPS Reg. 1.

(e) A person shall not place a mandatory acceptance order for products or

materials in anticipation of receipt by him of a mandatory acceptance order.

#### Sec. 12. Grouping or combination of orders.

(a) No person shall combine an ACM order with an order which is not an ACM order. However, if the total of both types of orders is less than the minimum mill quantity specified in Schedule IV of this regulation, and is not procurable from a distributor, then an ACM order shall be placed for such minimum mill quantity.

(b) ACM orders identified by different program identification may be combined if the portion covered by each is specifically identified by the appropriate program identification, unless the program identification B-5 is used as provided in section 8(d) of this regulation. In addition, if the quantity of controlled material needed to fill rated orders is less than the minimum mill quantity specified in Schedule IV of this regulation, and is not procurable from a distributor, an ACM order shall be placed for such minimum mill quantity, using the program identification B-5. However, no person shall place separate ACM orders solely for the purpose of obtaining minimum mill quantities to fill such separate orders.

#### Sec. 13. Restrictions on placing ACM orders and on use of controlled materials.

(a) No person shall place an ACM order unless he is entitled to do so. No person shall place an ACM order calling for delivery of any controlled material in a greater amount or on an earlier date than required to fill his rated orders.

(b) Each person who has obtained controlled materials pursuant to an ACM order in accordance with this or any other regulation or order of BCABP shall use such materials only (1) to fill rated orders, or (2) to replace in inventory controlled materials used to fill any such rated orders. If he cannot use the controlled materials for any such purpose, he may use them to fill unrated orders or dispose of them, unless otherwise ordered or directed in writing by BCABP.

#### Sec. 14. Rated orders and ratings.

(a) The detailed rules for designation and use of rated orders and ratings are contained in DPS Reg. 1 which should be studied carefully by persons who receive rated orders and by persons who place rated orders.

(b) As provided in DPS Reg. 1 ratings must contain the prefix DO or DX, as the case may be, followed by the appropriate program identification. Schedule II of this regulation and Schedule I of DPS Reg. 1 contain a list of authorized program identifications. Rated orders must show the rating authorized, for example DO-A-6, the date or dates on which delivery is required and must be certified as provided in section 9 of this regulation or section 8 of DPS Reg. 1.

#### Sec. 15. Transition provisions for acquisition of controlled materials.

(a) Nothing in this revised regulation shall be construed to cancel outstanding

allotments of controlled materials for whatever purpose received. A person who has received an allotment and who may obtain controlled materials for the same purpose by self-authorization pursuant to this amended regulation, shall use either the allotment or self-authorization to obtain controlled materials for such purpose: *Provided*, That he shall not use the allotment or self-authorization to obtain more controlled materials than needed.

(b) The changes made in Schedule I (Controlled Materials), Schedule III (Mill Lead Times) and Schedule IV (Minimum Mill Quantities) of this amended regulation shall not be construed to affect outstanding orders placed pursuant to any regulation or order of BCABP.

#### Sec. 16. Intracompany deliveries.

The provisions of this regulation apply not only to deliveries to other persons, including affiliates and subsidiaries, but also to deliveries from one branch, division or section of a single enterprise to another branch, division or section of the same or any other enterprise under common ownership or control.

#### Sec. 17. Delivery for unlawful purposes prohibited.

No person shall deliver any product or material which he knows or has reason to believe will be accepted, redelivered, held or used in violation of any regulation or order of BCABP.

#### Sec. 18. Applicability of regulations and orders.

(a) All regulations and orders of BCABP, unless specifically stated otherwise in such regulations and orders, shall apply to transactions in any state, territory or possession of the United States and the District of Columbia.

(b) All regulations and orders of BCABP shall apply to all subsequent transactions even though they are covered by contracts previously entered into.

(c) Nothing in this regulation shall be construed to relieve any person from complying with all other applicable regulations and orders of BCABP. In case compliance by any person with the provisions of any such regulation or order would prevent fulfillment of a mandatory acceptance order, he shall immediately report the matter to BCABP which will thereupon take such action as is deemed appropriate, but unless and until otherwise expressly authorized or directed by BCABP, such person shall comply with the provisions of such regulation or order.

(d) This regulation complements DPS Reg. 1. Defense contractors and their suppliers should be thoroughly familiar with both this regulation and DPS Reg. 1.

#### Sec. 19. Defense against claims for damages.

No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with any BCABP regulation, order, direction, directive or other written instruction, notwithstanding that

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any such regulation, order, direction, directive or other written instruction shall thereafter be declared by judicial or other competent authority to be invalid.

#### Sec. 20. Records and reports.

(a) Each person participating in any transaction covered by this regulation shall make, and preserve for at least three years thereafter, accurate and complete records thereof. Such records shall include all rated orders, ACM orders and directives received by such person, copies of all rated orders and ACM orders placed by such person, records of purchases, receipts, inventories, production, use, sales, and deliveries of all materials acquired, sold or delivered pursuant to mandatory acceptance orders. Records shall be maintained in sufficient detail to permit the determination, upon examination or audit, whether or not each transaction complies with the provisions of this regulation or any other applicable regulation or order of BCABP. However, this regulation does not specify any particular accounting method or system to be used. Records may be retained in the form of microfilm or other record-keeping systems which provide the information contained in the original records.

(b) All records required by this regulation shall be made available for inspection and audit by duly authorized representatives of BCABP at the usual place of business of the person involved.

(c) Persons subject to this regulation shall develop and maintain such records and submit such reports to BCABP as it shall require, subject to the terms of the Federal Reports Act of 1942 (44 U.S.C. 3501-3511).

#### Sec. 21. Requests for adjustment or exception.

Any person subject to any provision of this regulation may submit a request for adjustment or exception upon the ground that such provision works an undue or exceptional hardship upon him not suffered generally by others in the same trade or industry, or that its enforcement against him would not be in the interest of the national defense or in the public interest. The submission of a request for adjustment or exception shall not relieve any person of his obligation to comply with any such provision. In examining requests for adjustment or exception claiming that the public interest is prejudiced by the application of any provision of this regulation, consideration will be given to the requirements of public health and safety, civil defense, and dislocation of labor and resulting unemployment that would impair the defense program. Each request shall be in writing, by letter in triplicate, addressed as provided in section 22 of this regulation, and shall set forth all pertinent facts and the nature of the relief sought, and shall state the justification therefor.

#### Sec. 22. Communications.

All communications concerning this regulation or requests for adjustment or

exception pursuant to section 21 of this regulation shall be addressed to the Bureau of Competitive Assessment and Business Policy, U.S. Department of Commerce, Washington, D.C. 20230, Ref: DMS Reg. 1.

#### Sec. 23. Violations.

(a) Any person who willfully violates any provision of this regulation, or who willfully furnishes false information or conceals any material fact in the course of operation under this regulation, is guilty of a crime and upon conviction may be punished by fine or imprisonment or both.

(b) Violation of any provision of this regulation may subject any person committing or participating in such violation to administrative action to suspend his privilege of employing mandatory acceptance orders in making or receiving deliveries of products or materials, or using products, materials or facilities. In addition to such administrative action, an injunction and order may be obtained from a court of appropriate jurisdiction prohibiting any such violation and enforcing compliance with the provisions hereof.

(c) For the purpose of any administrative action or civil proceeding for the enforcement of this regulation or any criminal prosecution for violation of this regulation, the terms "authorized controlled material order," "ACM order," "rated order," "rating" and "certification" shall be deemed to include every purported authorized controlled material order, ACM order, rated order, rating and certification whether or not such order, rating or certification shall have been authorized as provided in this regulation and irrespective of the form of such order, rating or certification.

NOTE.—All reporting and record-keeping requirements of this regulation have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated September 21, 1973.

#### BUREAU OF COMPETITIVE ASSESSMENT AND BUSINESS POLICY,

GARY M. COOK,  
*Acting Deputy Assistant Secretary for Competitive Assessment and Business Policy.*

#### SCHEDULE I TO DMS REG. 1 CONTROLLED MATERIALS

(See sections 2(d) and 15(b))

#### CARBON STEEL (INCLUDING WROUGHT IRON)<sup>1</sup>

<sup>1</sup> For the purpose of this schedule "carbon steel (including wrought iron)" means any steel customarily so classified and also includes: (1) Ingot iron; (2) all grades of electrical sheet and strip; (3) high-strength low-alloy steels; (4) clad and coated carbon steels not included with alloy steels: e.g., galvanized, tin, terne, copper (excluding copper wire mill products) or aluminum clad and/or coated carbon steels; and (5) leaded carbon steels. "High-strength low-alloy steels" means only the proprietary grades promoted and sold for this purpose, and Navy high-tensile steel grade HT Specification Mil-S-16113 (Ships).

(a) Bar, bar shapes.

Includes:

Bar, hot-rolled, stock for projectile and shell bodies.<sup>2</sup>

Bar, hot-rolled, other (including light shapes).

Bar, reinforcing (straight lengths—as rolled).

Bar, cold finished.

(b) Sheet, strip (uncoated and coated).

Includes:

Sheet, hot-rolled.

Sheet, cold-rolled.

Sheet, galvanized.

Sheet, all other coated.

Sheet, enameling.

Roofing, galvanized, corrugated, V-crippled channel drains.

Ridge roll, valley, and flashing.

Siding, corrugated and brick.

Strip, hot-rolled.

Strip, cold-rolled.

Strip, galvanized.

Electrical sheet and strip.

Tin mill black plate.

Tin plate, hot-dipped.

Termes, special coated manufacturing.

Tin plate, electrolytic.

(c) Plate.<sup>3</sup>

(d) Structural shapes,<sup>4</sup> piling.

(e) Pipe, tubing—seamless and welded.<sup>5</sup>

Includes:

Standard pipe (including type of couplings furnished by mill).<sup>6</sup>

Oil country goods (casing, tubing and drill pipe, including type of couplings furnished by mill).

Line pipe (including type of couplings furnished by mill).

Pressure tubing.

Mechanical tubing.

(f) Wire, wire products.

Includes:

Wire-drawn.

<sup>2</sup> Includes projectile body stock, sizes under 2½ inches.

<sup>3</sup> Carbon plate not only includes the following specifications, but also floor plates of any thickness:

0.180 inch or thicker, over 48 inches wide.

0.230 inch or thicker, over 8 inches wide.

7.53 pounds per square foot or heavier,

over 48 inches wide.

9.62 pounds per square foot or heavier,

over 8 inches wide.

<sup>4</sup> "Structural shapes" means rolled flanged sections having at least one dimension of their cross section 3 inches or greater, commonly referred to as angles, channels, beams, and wide flange sections.

<sup>5</sup> Steel pipe or tubing exceeding 36 inches O.D. is not a controlled material, but is a Class A product.

<sup>6</sup> Standard pipe includes the following:

Ammonia pipe.

Bedstead tubing.

Driven well pipe.

Drive pipe.

Dry kiln pipe.

Dry pipe for locomotives.

English gas and steam pipe.

Fence pipe.

Furniture pipe.

Ice machine pipe.

Mechanical service pipe.

Nipple pipe.

Pipe for piling.

Pipe for plating and enameling.

Pump pipe.

Signal pipe.

Standard pipe coupling.

Structural pipe.

Turbine pump pipe.

Water main pipe.

Water well casing.

Water well reamed and drifted pipe.

Nails—bright steel wire, steel cut, galvanized, cement-coated, and painted.  
Spikes and brads—steel wire, galvanized, and cement-coated.

Staples, brigs and galvanized (farm and poultry).

Wire rope and strand.

Welded wire mesh and woven wire netting.  
Barbed and twisted wire.

Wire fence, woven and welded (farm and poultry).

Bale ties.

Coiled automatic baler wire.

(g) Tool steel (all forms including die blocks and tool steel forgings).

(h) Other mill forms and products (excluding castings and forgings).

Includes:

Ingots.

Billets, for shell body stock only.<sup>7</sup>

Billets, for shell component parts and rockets.

Blooms, slabs, other billets, tube rounds, sheet bars.

Skelp.

Wire rod.

Rails.

Joint bars (track).

Tie plates (track).

Track spikes.

Wheels, rolled or forged (railroad).

Axles (railroad).

ALLOY STEEL<sup>8</sup> (EXCEPT STAINLESS STEEL<sup>9</sup>)

(a) Bar, bar shapes.

Includes:

Bar, hot-rolled stock for projectile and shell bodies.

Bar, hot-rolled, other (including light shapes).

Bar, cold-finished.

(b) Sheet, strip.

Includes:

Sheet, hot-rolled.

Sheet, cold-rolled.

Sheet, galvanized.

Strip, hot-rolled.

Strip, cold-rolled.

(c) Plate.<sup>10</sup>

Includes:

Roller armor.

Other.

<sup>7</sup> Includes only projectile body stock, sizes 2½ inches and larger, rounds, and round-cornered squares.

<sup>8</sup> For purposes of this schedule "alloy steel" means steel containing 50 percent or more of iron or steel and any one or more of the following elements in the following amounts: manganese, maximum of range in excess of 1.65 percent; silicon, maximum of range in excess of 0.60 percent (excepting electrical sheet and strip); copper, maximum of range in excess of 0.60 percent; aluminum, boron, chromium (less than 10 percent), cobalt, columbium, molybdenum, nickel, tantalum, titanium, tungsten, vanadium, zirconium, or any other alloying elements in any amount specified or known to have been added to obtain a desired alloying effect. Clad steels which have an alloy steel base or carbon steel base for which nickel and/or chromium is contained in the coating or cladding material (e.g., inconel, monel, or stainless) are alloy steels.

<sup>9</sup> "Stainless steel" means heat- and corrosion-resisting steel containing 50 percent or more of iron or steel and 10 percent or more of chromium whether with or without nickel, molybdenum, or other elements.

<sup>10</sup> Alloy steel plate includes the following specifications:

0.180 inch or thicker, over 48 inches wide.

0.230 inch or thicker, over 8 inches wide.  
7.53 pounds per square foot or heavier, over 48 inches wide.

9.62 pounds per square foot or heavier, over 8 inches wide.

(d) Structural shapes.<sup>4</sup>

(e) Pipe, tubing—seamless and welded.<sup>5</sup>

Includes:

Oil-country goods.

Pressure tubing.

Mechanical tubing.

(f) Wire.

(g) Tool steel (all forms including die blocks and tool steel forgings).

(h) Other mill forms and products (excluding castings and forgings).

Includes:

Ingots.

Billets, projectile and shell stock.

Blooms, slabs, other billets, tube rounds, sheet bars.

Wire rods.

Rails.

Wheels, rolled or forged (railroad).

Axles (railroad).

#### STAINLESS STEEL<sup>9</sup>

(a) Bar, bar shapes.

Includes:

Bar, hot-rolled (including light shapes).

Bar, cold-finished.

(b) Sheet, strip.

Includes:

Sheet, hot-rolled.

Sheet, cold-rolled.

Strip, hot-rolled.

Strip, cold-rolled.

(c) Plate.<sup>11</sup>

(d) Structural shapes.<sup>4</sup>

(e) Pipe, tubing—seamless and welded.<sup>5</sup>

Includes:

Pipe.

Pressure tubing.

Mechanical tubing.

(f) Wire, wire products.

Includes:

Wire, drawn.

Wire rope and strand.

(g) Other mill forms and products (excluding castings and forgings).

Includes:

Ingots.

Blooms, slabs, billets, tube rounds.

Sheet bars, wire rods.

#### COPPER AND COPPER-BASE ALLOY BRASS MILL PRODUCTS<sup>12</sup>

Copper (unalloyed):

(a) Bar, shapes, wire (except electrical wire).

(b) Rod.

(c) Sheet, plate, 24 inches wide and over.

(d) Rolls and strip up to 24 inches in width.

(e) Pipe, tube (seamless).

Copper-base alloy:<sup>13</sup>

(a) Bar, wire, shapes.

(b) Free cutting brass rod.

(c) Other rod.

(d) Sheet, and plate 24 inches wide and over.

(e) Rolls and strip up to 24 inches in width.

(f) Military ammunition cups and discs.

(g) Circles.

(h) Pipe, tube (seamless).

#### COPPER WIRE MILL PRODUCTS

All copper wire and cable for electrical conduction, including but not limited to:  
Bare and tinned.  
Weatherproof.

<sup>11</sup> Stainless steel plates include the following size specifications: ⅜ inch (0.1875) or thicker, over 10 inches wide.

<sup>12</sup> Includes anodes—rolled, forged, or sheared from cathodes.

<sup>13</sup> "Copper-base alloy" means any alloy in the composition of which the percentage of copper metal equals or exceeds 40 percent by weight of the metallic content of the alloy. It does not include alloyed gold produced in accordance with U.S. Commercial Standard CS 67-38.

Magnet wire.

Insulated building wire.

Paper and lead power cable.

Paper and pulp telephone cable.

Plastic insulated telephone cable.

Asbestos cable.

Portable and flexible cord and cable.

Communication wire and cable.

Shipboard cable.

Automotive and aircraft wire and cable.

Insulated power cable.

Signal and control cable.

Coaxial cable.

Copper-clad steel wire containing over 20 percent copper by weight regardless of end use.

Copper-clad aluminum wire containing over 20 percent copper by weight regardless of end use.

#### COPPER AND COPPER-BASE ALLOY FOUNDRY PRODUCTS AND POWDER

Includes:

Copper, brass, and bronze castings.<sup>14</sup>

Copper, brass, and bronze powder (including copper powder, granular and flake, and copper-base alloy powder, granular and flake).

#### ALUMINUM

Roller bar, rod, structural shapes, and bare wire.

Aluminum conductor steel reinforced (ACSR) and bare aluminum cable.

Insulated or covered wire or cable.

Extruded bar, rod, shapes, and tube (extruded, drawn and welded tube).

Sheet and plate.

Ingot, granular or shot, and molten metal.

Foil.

Powder, flake, paste.

#### NICKEL ALLOYS<sup>15</sup>

Ingots, blooms, slabs, and billets.

Plate, sheet, strip, and foil.

Rods, bars (including anode bars), pipe, tubing, and shapes.

Wire and wire rod.

Powder (produced mechanically from nickel shot).

#### SCHEDULE II TO DMS REG. 1

AUTHORIZED PROGRAM IDENTIFICATIONS AND CLAIMANT AND SUB-CLAIMANT AGENCIES

(See sections 2(e), 2(f), 4(a), 5(a), and 14(b))

The program identification symbols listed in this schedule are the only ones authorized under the Defense Materials System and the Defense Priorities System and must be used in accordance with this regulation, DPS Reg.

<sup>14</sup> Cast copper and copper-base alloy shapes or forms suitable for ultimate use without remelting, rolling, drawing, extruding, or forging. (The process of casting includes the removal of gates, risers, and sprues, and sand-blasting, tumbling, and dipping, but does not include any further machining or processing. For centrifugal castings the process includes the removal of the rough cut in the inner and/or outer diameter before delivery to a customer.) Castings include anodes cast in a foundry or by an ingot maker.

<sup>15</sup> "Nickel alloys" means those alloys for which the specified nickel content is 5 percent or more up to and including pure nickel, and which do not contain as much as 50 percent of iron or steel, nor as much as 40 percent of copper, nor as much as 50 percent of aluminum. It does not include primary nickel in the forms of electrolytic cathodes, pigs, rondelles, cubes, pellets, shot, oxide (including sintered oxide), salts, or chemicals; nor does it include primary nickel in the form of ingots used for remelting or powder derived directly from ore concentrates; nor does it include ferronickel.

1 and other applicable regulations and orders of BCABP.

The symbols are not listed in alphabetical or numerical sequence but are grouped by Claimant Agencies and Sub-Claimant Agencies. Within each group, the Claimant and Sub-Claimant Agencies listed in Column 3 are authorized to employ the program identifications listed in Column 1 for purposes of placement by them and their suppliers of ACM orders and rated orders in support of the programs listed in Column 2.

The full names of the Claimant Agencies and Sub-Claimant Agencies shown by initials in Column 3 are:

AEC—Atomic Energy Commission.  
BCABP—Bureau of Competitive Assessment and Business Policy.  
CIA—Central Intelligence Agency.  
FAA—Federal Aviation Administration.  
NASA—National Aeronautics and Space Administration.

Column 1	Column 2	Column 3	
Program Identification	Program	Claimant agency	Subclaimant agency
<b>For Department of Defense and associated programs:</b>			
A-1..... Aircraft.....		Department of Defense.	Army. Navy (including Coast Guard). Air Force. CIA. FAA. NASA.
A-2..... Missiles.....			
A-3..... Ships.....			
A-4..... Tank-automotive.....			
A-5..... Weapons.....			
A-6..... Ammunition.....			
A-7..... Electronic and communications equipment.....			
B-1..... Military building supplies.....			
B-2..... Production equipment (for defense contractor's account).....			
B-3..... Production equipment (Government owned).....			
C-2..... Department of Defense construction.....			
C-3..... Maintenance, repair and operating supplies (MRO) for Department of Defense facilities.....			
C-4..... Controlled materials for Defense Industrial Supply Center Center (DISC).....			
C-5..... Miscellaneous.....			
<b>For Atomic Energy Commission programs:</b>			
E-1..... Construction.....		AEC	
E-2..... Operations—including maintenance, repair, and operating supplies (MRO).....			
E-3..... Privately owned facilities.....			
<b>For other Defense, Atomic Energy, and related programs:</b>			
B-5..... Certain self-authorizing consumers (see sec. 8(d) of DMS Reg. 1).....		BCABP	

Column 1 Program Identification	Column 2 Program	Column 3	
		Claimant agency	Subclaimant agency
C-4.....	Certain munitions items purchased by friendly foreign governments through domestic commercial channels for export.		
C-5.....	Canadian Military Programs.....		
C-6.....	Certain direct defense needs of friendly foreign governments other than Canada.		
D-1.....	Controlled Materials Producers.....		
D-2.....	Approved state and local civil defense programs.....		
D-3.....	Further Converters (Steel).....		
D-4.....	Private domestic production.....		
D-5.....	Private domestic construction.....		
D-6.....	Canadian production and construction.....		
D-7.....	Friendly foreign nations (other than Canada) production and construction.		
D-8.....	Distributors of controlled materials.		
D-9.....	Maintenance, Repair and Operating Supplies (MRO) (see Dir. 1 to DMS Reg. 1).		
E-4.....	Canadian Atomic Energy Program.		
K-1.....	General Services Administration's Supply Distribution Facility Program.		
AM.....	Aluminum Controlled Materials Producers.....		
AM-0000.....	Aluminum Controlled Materials Distributors.....		
FC.....	Further Converters (steel and nickel alloys).....		

State and local governments will be authorized to use the program identification symbol D-2 only upon application to the Defense Civil Preparedness Agency of the Department of Defense, sponsorship by the Office of the Assistant Secretary of Defense (Installations and Logistics) and specific approval by BCABP.

#### SCHEDULE III TO DMS REG. 1—MILL LEAD TIMES

(See sections 10(c) and 15(b))

Name of Product <sup>1</sup>	Minimum number of days in advance of first day of month in which shipment is required			
	Steel			Aluminum, copper, and nickel alloys
	Carbon	High-strength low-alloy	Stainless	
Steel:				
Bar, bar shapes (including light shapes):				
Bar, hot-rolled stock for projectile and shell bodies.....	45	75		75
Bar, hot-rolled, other (including light shapes).....	45	75	90	75
Bar, reinforcing (straight lengths—as rolled).....	45			75
Bar, cold-finished.....	75	105	105	105
Sheet, strip (uncoated and coated):				
Sheet, hot-rolled.....	45	75	90	75
Sheet, cold-rolled.....	45	75	105	90
Sheet, galvanized.....	45			
Sheet, all other coated.....	45			
Sheet, enameling.....	45			
Roofing, galvanized, corrugated, V-crippled channel drains.....	45			
Ridge roll, valley, and flashing.....	45			
Siding, corrugated and brick.....	45			
Strip, hot-rolled.....	45	75	90	75
Strip, cold-rolled.....	45	75	105	90
Strip, galvanized.....	45			
Electrical sheet and strip.....	(*)			
Tin mill black plate.....	45			

Name of Product <sup>1</sup>	Minimum number of days in advance of first day of month in which shipment is required			
	Carbon	High-strength low-alloy	Stainless	Aluminum, copper, and nickel alloys
Tin plate, hot-dipped.....	45			
Termes, special coated manufacturing.....	45			
Tin plate, electrolytic.....	45			
Plate.....	45	75	90	75
Structural shapes, piling.....	45	75	150	90
Pipe, tubing—seamless and welded:				
Standard pipe (including couplings furnished by mill).....	45		120	
Oil-country goods (casing, tubing and drill pipe, including type of couplings furnished by mill).....	45			60
Line pipe (including couplings furnished by mill).....	45	75		
Pressure tubing.....	60		120	120
Mechanical tubing.....	60		120	120
Wire, wire products:				
Wire, drawn.....	45	75	90	75
Nails—bright steel wire, steel cut, galvanized, cement-coated, and painted.....	45			
Spikes and brads—steel wire, galvanized, and cement coated.....	45			
Staples, bright and galvanized (farm and poultry).....	45			
Wire rope and strand.....	45		105	
Welded wire mesh and woven wire netting.....	45			
Barbed and twisted wire.....	45			
Wire fence, woven and welded (farm and poultry).....	45			
Bale ties.....	45			
Coiled automatic baler wire.....	45			
Tool steel (all forms including die blocks and tool steel forgings).....	60			90
Other mill forms and products (excluding castings and forgings):				
Ingot.....	45	75	75	75
Billets, projectile and shell stock.....	45	75		75
Blooms, slabs, other billets, tube rounds, sheet bars.....	45	75	75	75
Skelp.....	45	75	90	75
Wire rod.....	45	75	90	75
Rails.....	45			90
Joint bars (track).....	45			
Tie plates (track).....	45			
Track spikes.....	45			
Wheels, rolled or forged (railroad).....	45			90
Axles (railroad).....	45			90
Copper and copper-base alloy brass mill products:				
Copper (un alloyed):				
Bar, shapes, wire (except electrical wire).....	45			
Rod.....	45			
Sheet, plate, 24 inches wide and over.....	45			
Rolls and strip up to 24 inches in width.....	45			
Pipe, tube (seamless).....	45			
Copper-base alloy:				
Bar, wire, shapes.....	10 45			
Free cutting brass rod.....	10 45			
Other rod.....	10 45			
Sheet, and plate 24 inches wide and over.....	10 45			
Rolls and strip up to 24 inches in width.....	10 45			
Military ammunition cups and discs.....	10 45			
Circles.....	10 45			
Pipe, tube (seamless).....	10 45			
Copper wire mill products:				
Copper wire and cable:				
Bare and tinned.....	35			
Weatherproof.....	35			
Magnet wire.....	35			
Insulated building wire.....	35			
Paper and lead power cable.....	60			
Paper and poly telephone cable.....	45			
Plastic insulated telephone cable.....	45			
Asbestos cable.....	45			
Portable and flexible cord and cable.....	45			

Name of Product <sup>1</sup>	Minimum number of days in advance of first day of month in which shipment is required			
	Carbon	High-strength low-alloy	Stainless	Aluminum, copper, and nickel alloys
Communication wire and cable.....				60
Shipboard cable.....				60
Automotive and aircraft wire and cable.....				45
Insulated power cable.....				60
Signal and control cable.....				60
Coaxial cable.....				45
Copper-clad steel wire containing over 20 percent copper by weight regardless of end use.....				35
Copper-clad aluminum wire containing over 20 percent copper by weight regardless of end use.....				45
Copper and copper-base alloy foundry products and powder:				
Copper, brass, and bronze castings.....				14
Copper, brass, and bronze powder (including copper powder, granular and flake, and copper-base alloy powder, granular and flake).....				30
Aluminum:				
Roller bar, rod, structural shapes, and bare wire.....				60
Aluminum conductor steel reinforced (ACSR) and bare aluminum cable.....				60
Insulated or covered wire or cable.....				60
Extruded bar, rod, shapes, and tube (extruded, drawn and welded tube).....				60
Sheet and plate.....				60
Ingot, granular or shot.....				60
Molten metal.....				60
Foil.....				60
Powder, flake, paste.....				60
Nickel Alloys:				
Rods and bars (except anode bars):				
Hot-rolled.....				90
Forging quality.....				105
Cold-finished.....				120
Sheet and strip:				
Hot-rolled.....				90
Cold-rolled.....				120
Foil.....				120
Plate.....				120
Pipe, tubing.....				90
Wire.....				120
Other mill forms:				
Ingot.....				75
Blooms, slabs, billets.....				75
Wire rod.....				90
Powder (produced mechanically from nickel shot).....				90
Shapes and forms not listed above (including anode bars).....				11

<sup>1</sup> See definitions contained in footnotes to Schedule I of this regulation.<sup>2</sup> For clad products, add 45 days to lead time indicated.<sup>3</sup> If cold-finished, add an additional 15 days.<sup>4</sup> For electrical sheet and strip, use this table:

Grade	Lead time	Definition
Low.....	45	ATSI M47, M45, M43, M36.
Medium.....	45	ATSI M27, M22, M19.
High.....	60	ATSI M16 and oriented.

<sup>5</sup> Rolled armor plate is subject to negotiation between mill and its customer. If no acceptable arrangements are worked out, BCABP should be notified.<sup>6</sup> Applies to special rolled shapes including angles and channels.<sup>7</sup> For welded tubing or high carbon spring steel strip, 75 days.<sup>8</sup> If cold-finished, add an additional 15 days.<sup>9</sup> Lead time applies to unmachined castings after approval of patterns for production.<sup>10</sup> For refractory alloys, 60 days.<sup>11</sup> Small simple castings to fit 12x16 inch flask, 7 days.<sup>12</sup> By negotiation between mill and its customer. If no acceptable arrangements are worked out, BCABP should be notified.

## PROPOSED RULES

## SCHEDULE IV TO DMS REG. 1—MINIMUM MILL QUANTITIES

(SEE SECTIONS 12(A) AND 15 (B))

		Minimum quantity for each size and grade of any item for mill shipment at any one time to any one destination		
Name of product <sup>1</sup>	Steel <sup>2</sup>		Aluminum, copper and nickel alloys (pounds)	
	Carbon	Alloy		
<b>Steel:</b>				
Bar, bar shapes (including light shapes):				
Bar, hot-rolled stock for projectile and shell bodies	(3)	(3)		
Bar, hot-rolled, other (including light shapes):				
Round bars up to and including 3 inches, and squares, hexagons, half rounds, ovals, etc., of approximately equivalent section area		5	(3)	
Round and square bars over 3 inches to, but not including, 8 inches		15	(3)	
Bar-size shapes (angles, tees, channels, and zees under 3 inches)		5	(3)	
Bar, reinforcing (straight lengths, as rolled)		5		
Bar, cold-finished		5	(3)	
Sheet, strip (uncoated and coated):				
Sheet, hot-rolled		5	(3)	
Sheet, cold-rolled		5	(3)	
Sheet, galvanized	(3)			
Sheet, all other coated		5		
Sheet, enameling		5		
Roofing, galvanized, corrugated, V-cripped channel drains	(3)			
Ridge roll, valley, and flashing	(3)			
Siding, corrugated and brick	(3)			
Strip, hot-rolled	(3)		(3)	
Strip, cold-rolled	(3)		(3)	
Strip, galvanized	(3)			
Electrical sheet and strip		5		
Tin mill black plate		5,000		
Tin plate, hot-dipped		5,000		
Tin plate, special coated manufacturing		5,000		
Tin plate, electrolytic		5,000		
<b>Plate:</b>				
Roller armor	(3)		(3)	
Continuous strip mill production		10	(3)	
Sheared, universal, or bar mill production		3	(3)	
<b>Structural shapes, piling</b>				
(3)	(3)		(3)	
<b>Pipe, tubing:</b>				
Standard pipe (including couplings furnished by mill)	(3)		(3)	
Oil-country goods (casings, tubular goods, couplings furnished by mill)	(3)		(3)	
Line pipe (including couplings furnished by mill)	(3)		(3)	
<b>Pressure and mechanical tubing (seamless and welded):</b>				
<b>Seamless cold-drawn (O.D. in inches):</b>				
Up to 1/4, inclusive		1,000	1,000	
Over 1/4 to 1/2, inclusive		800	800	
Over 1/2 to 3/4, inclusive		600	600	
Over 3/4 to 1, inclusive		400	400	
Over 1 to 2, inclusive		250	250	
Over 2 to 3, inclusive	(3)		(3)	
Over 3 to 6, inclusive	(3)		(3)	
Over 6	(3)		(3)	
Seamless hot-rolled	(3)		(3)	
Welded	(3)		(3)	
<b>Wire, wire products:</b>				
Wire, drawn	(3)		(3)	
Nails—bright steel wire, steel cut, galvanized, cement-coated, and painted		5		
Spikes and brads—steel wire, galvanized, cement-coated		5		
Staples, bright and galvanized (farm and poultry)		5		
Wire rope and strand	(3)			
Welded wire mesh	(3)			
Woven wire netting		5		
Barbed and twisted wire		5		
Wire fence, woven and welded (farm and poultry)		5		
Bale ties		5		
Coiled automatic baler wire		5		
Tool steel (all forms including die blocks and tool steel forgings)		500	500	
<b>Other mill forms and products (excluding castings and forgings):</b>				
Ingot		25	(3)	
Billets, projectile and shell stock	(3)	25	(3)	
Blooms, slabs, other billets, tube rounds, sheet bars		25	(3)	
Skelp	(3)		(3)	
Wire rod	(3)		(3)	
Rails and track accessories	(3)		(3)	
Wheels, rolled or forged (railroad)	(3)		(3)	
Axles (railroad)	(3)		(3)	
<b>Copper and copper-base alloy brass mill products:</b>				
<b>Copper (Unalloyed):</b>				
Bar, shapes, wire (except electrical wire)				500
Rod				1,000
Sheet, plate 24 inches wide and over				1,000
Rolls and strip up to 24 inches in width				2,000
Pipe, tube (seamless)				1,000
<b>Copper-base alloy:</b>				
Bar, wire, shapes				500
Free cutting brass rod				2,000
Other rod				500
Sheet, and plate 24 inches wide and over				2,000
Rolls and strip up to 24 inches in width				2,000
Military ammunition cups and discs				500
Circles				500
Pipe, tube (seamless)				1,000

See footnotes at end of table.

## 6. Detailed Instructions

- 1 See definitions contained in footnotes to Schedule I of this regulation.
- 2 All stainless steel products are by negotiation. If no acceptable arrangements are worked out, BCABF should be notified.
- 3 By negotiation between mill and its customer. If no acceptable arrangements are worked out, BCABF should be notified.
- 4 Published carload minimum (mixed sizes and grades).
- 5 Quantity refers to any assortment of wire merchant trade products.
- 6 For forging quality, product of one heat.
- 7 Product of one heat.
- 8 Standard package quantities as published by each mill.
- 9 Standard minimum quantities as established by each mill.

## SCHEDULE V TO DMS REG. 1—FORM FOR STATEMENT OF REQUIREMENTS FOR CLASS A PRODUCTS

(See sec. 3(g))

[Budget Bureau No. ....]

Form DMS-6

U.S. DEPARTMENT OF COMMERCE BUREAU  
OF COMPETITIVE ASSESSMENT AND BUSI-  
NESS POLICY

**Statement of Controlled Material Requirements for  
Class A Products**

**INSTRUCTIONS:** Submit to requesting customer the number of copies he requests and retain one (1) copy. Read the detailed instructions below before filling out this form.

1. FROM: (Name and address of company submitting statement—Street, City, State, ZIP)

2. Name and title of person to communicate with regarding this statement

4. Description of Class A Product. (Give name and description of product or item covered by this statement)

3. RETURN TO: (Name and address of requesting customer—Street, City, State, ZIP)

5. Quantity of listed controlled materials required to produce ..... unit(s) of the product or item described in block 4.

a. *Who may use this form.* Any person who needs information regarding the controlled material requirements for the production of Class A products being supplied to him to fill rated orders may use this Form DMS-6, or a facsimile thereof, to request his suppliers of Class A products to submit such requirements information to him. This form may be duplicated in any quantity necessary. The requesting person must fill in the name and address of his company in Block 3 and enter a description of the Class A product for which the information is requested in Block 4. He should also send his supplier, with copies of the form, a letter describing the information he desires, the number of copies he needs, and the time when they should be submitted to him. He should also refer to Section 3 of DMS Reg. 1 as his authority for using this form.

In addition to the eight categories of controlled materials printed in Block 5, the requesting person may ask for further breakdown of the printed controlled materials categories. In no case should the further breakdown requested be in any greater detail than the listing on Form DMS-4S. Such further breakdown, if requested, shall be supplied on Form DMS-4S and shall show only the total requirements which coincide with those requirements shown in Form DMS-6. Unless otherwise requested, such total requirements shall be listed in Column (e), the "Total" column, of Form DMS-4S and the quarterly requirements columns shall remain blank.

b. *Who must submit this form.* Any producer of Class A products who is requested by his customer to supply the information called for on this form must submit it in accordance with Section 3(g) of DMS Reg. 1 and his customer's request.

c. *How to fill out this form.* A producer of Class A products who has been requested by his customer to submit this form must include the following information:

(1) Enter name and address of submitting company in Block 1.

(2) Enter name and title of employee of submitting company to whom communications should be addressed regarding the information submitted on this form.

(3) Enter on top line of Block 5, in the blank space, the number of units of the Class A product identified in Block 4 covered by the quantity of materials shown in Column 3 of Block 5. Enter in Column 3 of Block 5 the quantity of each of the controlled materials listed in Column 1 required to produce the number of units of the Class A product described in Block 4 indicated on top line of Block 5. The quantities entered in Column 3 of Block 5 must include the following:

(1) The quantities of the controlled materials listed in Column 1 needed by the submitting producer for incorporation in the Class A product produced by him described in Block 4.

(II) The quantities of controlled materials listed in Column 1 required for incorporation in any Class A products (components or subassemblies) which are produced by suppliers in all degrees of remoteness for incorporation in the Class A product produced by him described in Block 4.

(iii) The quantities of controlled materials listed in Column 1 needed for packaging or containers required to make delivery of the Class A product described in Block 4.

7. CERTIFICATION: The undersigned company and the official executing this certification on its behalf hereby certify that the information contained in this report is correct



and complete to the best of their knowledge and belief.

-----  
(Company name)  
By -----  
(Signature of authorized official)  
-----  
(Title)

-----  
(Date)

DMS Reg. 1, Dir.

#### SELF-AUTHORIZATION PROCEDURE FOR MRO NEEDED TO FILL MANDATORY ACCEPTANCE ORDERS

##### Sec.

1. What this direction does.
2. Definitions.
3. Procurement of products and materials for MRO.
4. Applicability of other regulations and orders.
5. Small order exception.

##### Section 1 What this direction does.

This amended direction establishes a self-authorization procedure by which a person who is unable to fill a mandatory acceptance order because of inability to obtain materials for maintenance, repair, and operating supplies and installation (referred to collectively as "MRO") is required to use program identifications and ratings to obtain MRO needed to enable him to fill such order. Suppliers of such MRO items obtain products and materials needed for their production under the provisions of DPS Reg. 1, DMS Reg. 1 or other appropriate regulation or order of BCABP.

##### Sec. 2. Definitions.

As used in this direction:

(a) "Maintenance" means the minimum upkeep necessary to continue any plant, facility, or equipment in sound working condition. "Repair" means, with respect to any person, the restoration of any plant, facility, or equipment to sound working condition when it has been rendered unsafe or unfit for service by wear and tear, damage, failure of parts, or the like, where such repair is not capitalized according to his established accounting practice. Neither "maintenance" nor "repair" includes the replacement of any plant, facility, or equipment; nor does it include the improvement of any plant, facility, or equipment by replacing material which is still in sound working condition with material of a new or different kind, quality, or design.

(b) "Operating supplies" means any kind of material carried by a person as operating supplies according to his established accounting practice. It includes expendable tools, jigs, dies, and fixtures used on production equipment, regardless of the accounting practice of the person. It also includes items, such as hand tools, purchased by an employer for sale to his employees solely for use in his business if such items would have

constituted operating supplies had they been issued to employees without charge.

(c) "Installation" means the setting up or relocation of machinery, fixtures, or equipment in position for service and connection thereof to existing service facilities.

(d) "MRO" means materials for maintenance, repair, and operating supplies, and for installation. Materials produced or obtained for sale to other persons or for installation upon or attachment to the property of another person, and materials required for the production of such materials are not "MRO" as to the producer or supplier.

(e) "Established accounting practice" means, in the case of a person in operation on or before December 31, 1972, the accounting practice in use by such person on that date or on the last day of his operation prior thereto. In the case of a person whose operation begins after December 31, 1972, the term means the accounting practice established by him in such operation.

(f) "Mandatory acceptance order" means a rated order, an ACM order or any other purchase or delivery order which a person is required to accept pursuant to any regulation or order of BCABP, or pursuant to a specific authorization or directive of BCABP.

(g) "ACM-DX order" means an authorized controlled material order identified by the suffix "DX" as provided in section 5 of DMS Reg. 1.

##### Sec. 3. Procurement of products and materials for MRO.

(a) If inability to obtain MRO would result in failure by a person to fill a mandatory acceptance order he must obtain such MRO as follows:

(1) In obtaining controlled materials needed for such MRO he must place ACM orders in accordance with the provisions of DMS Reg. 1 and must indicate thereon the program identification D-9 and the calendar quarter in which delivery of the controlled materials is required: *Provided*, That if the inability to obtain such controlled materials would result in failure to fill a DX rated order or an ACM-DX order he must identify his ACM orders with the suffix DX, in addition to the program identification D-9 and the quarterly identification.

(2) In obtaining products and materials other than controlled materials needed for such MRO he must place rated orders in accordance with the provisions of DPS Reg. 1 and must indicate thereon the rating DO-D-9: *Provided*, That if the inability to obtain such products and materials would result in failure to fill a DX rated order or an ACM-DX order he must use the rating DX-D-9.

(b) In no event shall a person use the provisions of this direction to acquire products and materials in a greater

amount or on an earlier date than required to provide the MRO necessary to enable him to fill his mandatory acceptance orders.

##### Sec. 4. Applicability of other regulations and orders.

(a) Any person who is entitled to obtain MRO for a particular purpose under any other regulation, order, or direction of BCABP, shall not use the procedures of this direction to obtain MRO for such purpose.

(b) Nothing in this direction shall be construed to relieve any person from complying with all other applicable regulations and orders of BCABP. The provisions of DMS Reg. 1 regarding authorized controlled material orders, and the provisions of DPS Reg. 1 regarding rated orders, except as otherwise provided in this direction, shall apply to operations under this direction.

##### Sec. 5. Small order exception.

The provisions of this direction requiring persons to use ratings and program identifications need not be followed in the case of any individual purchase order of \$500 or less.

DMS Reg. 1, Dir. 2

#### CONTROLLED MATERIALS PRODUCERS AND DISTRIBUTORS

##### Sec.

1. What this direction does.
2. Definitions.
3. Rules applicable to controlled materials producers.
4. Production requirements of controlled materials producers.
5. Rules applicable to controlled materials distributors.
6. Small order exception.

##### Section 1. What this direction does.

This amended direction (formerly Direction 3 to DMS Reg. 1) sets forth certain rules governing operations of controlled materials producers and distributors under the Defense Materials System. These rules are supplementary to the provisions of DMS Order 1 (steel), DMS Order 2 (nickel alloys), DMS Order 3 (aluminum), and DMS Order 4 (copper).

##### Sec. 2. Definitions.

As used in this direction:

(a) "Mandatory acceptance order" means an ACM order or any other purchase or delivery order for controlled materials which a person is required to accept pursuant to any regulation or order of BCABP, or pursuant to a specific authorization or directive of BCABP.

(b) "Lead time" means the period of time in advance of the month of required shipment for controlled materials as specified in Schedule III of DMS Reg. 1.

(c) "Set-aside" means the amount and kind of any controlled material which a person is required to reserve for



filling mandatory acceptance orders during specified periods of time, as prescribed by BCABP.

(d) "ACM-DX order" means an authorized controlled material order identified by the suffix "DX" as provided in section 5 of DMS Reg. 1.

(e) "Production material" means, with respect to any controlled materials producer, any products or materials (including controlled materials) which will be physically incorporated into controlled materials which he produces and the portion of such products and materials normally consumed or converted into scrap or by-products in the course of processing. It also includes chemicals used directly in the production of the materials he produces, and products and materials used for packaging or containers required to make delivery of the materials he produces. It does not include products and materials for plant improvement, expansion or construction, production equipment, or maintenance, repair and operating supplies (MRO).

### Sec. 3. Rules applicable to controlled materials producers.

(a) Each controlled materials producer must comply with such production and other directives as may be issued from time to time by BCABP and with the provisions of all applicable regulations and orders of BCABP.

(b) A controlled materials producer must accept all mandatory acceptance orders; however, he may reject ACM orders in the following cases, but he shall not discriminate among customers in rejecting or accepting such orders:

(1) If the order is received after commencement of lead time: *Provided*, That an ACM-DX order must be accepted without regard to lead time unless it is impracticable for him to make delivery within the required delivery month in which event he must accept such order for the earliest practicable delivery date.

(2) If the order is one for less than the minimum mill quantity specified in Schedule IV of DMS Reg. 1.

(3) If the person seeking to place the order is unwilling or unable to meet such producer's regularly established prices and terms of sale or payment.

(4) If the order need not be accepted under the provisions of DMS Order 1 (steel), DMS Order 2 (nickel alloys), DMS Order 3 (aluminum), DMS Order 4 (copper) or of any other applicable regulation or order of BCABP: *Provided*, That acceptance by a controlled materials producer prior to the date he opens his order books of (a) an ACM order directly from the Department of Defense or the Atomic Energy Commission or (b) an ACM-DX order, shall not effect an opening of his books so as to require acceptance of other ACM orders: *Provided further*, That an ACM-DX order must be accepted even though the applicable set-aside has been or will be exceeded by such acceptance.

(c) A controlled materials producer who receives an ACM order must transmit written notification to the person who tendered such order of its accept-

ance or rejection within ten consecutive calendar days after its receipt, except that in the case of an ACM-DX order such notification must be transmitted within five consecutive calendars after its receipt.

(d) A controlled materials producer must make shipment on each ACM order as close to the requested delivery date as is practicable. If a producer, after accepting an ACM order finds that, due to contingencies which he could not reasonably have foreseen, he is obliged to postpone the shipment date, he must promptly advise his customer of the approximate date when shipment can be made, and keep his customer advised of any changes in that date. Shipment of any such carry-over order must be scheduled and made in preference to any order originally scheduled for a later date. When the new date for shipment on a carry-over order falls within a later quarter than that indicated on the original order, the producer must make shipment on the basis of the original order even if that order shows a quarterly identification earlier than the one in which shipment is actually made.

### Sec. 4. Production requirements of controlled materials producers.

(a) Except as provided in paragraph (b) of this section, a controlled materials producer must use the program identification D-1 and indicate the calendar quarter in which delivery is required in obtaining production materials consisting of controlled materials needed to fill mandatory acceptance orders or to replace in inventory such production materials which he has used to fill such orders: *Provided*, That instead of using the program identification D-1, (1) a steel controlled materials producer must obtain steel controlled materials in accordance with DMS Order 1, (2) a nickel alloy controlled materials producer must obtain nickel alloy controlled materials in accordance with DMS Order 2, (3) an aluminum controlled materials producer must obtain aluminum controlled materials in accordance with DMS Order 3, and (4) a copper controlled materials producer must obtain copper controlled materials in accordance with DMS Order 4.

(b) Notwithstanding the provisions of any other regulation or order of BCABP, a controlled materials producer who requires controlled materials to fill an ACM-DX order or to replace in inventory controlled materials used to fill an ACM-DX order must, in addition to complying with the provisions of paragraph (a) of this section, indicate the suffix DX on his purchase orders for such controlled materials.

(c) Except as provided in paragraph (d) of this section, a controlled materials producer must use the rating DO-D-1 in obtaining production materials other than controlled materials needed to fill mandatory acceptance orders or to replace in inventory such production materials used by him to fill such orders.

(d) Notwithstanding the provisions of any other regulation or order of BCABP, a controlled materials producer who re-

quires production materials other than controlled materials to fill an ACM-DX order or to replace in inventory such production materials used to fill an ACM-DX order must use the rating DX-D-1 on his purchase orders for such production materials.

(e) A controlled materials producer may combine his requirements of controlled materials needed to fill mandatory acceptance orders in one or more ACM orders. He may also combine his requirements for other production materials needed to fill mandatory acceptance orders in one or more rated orders. In placing such combined orders he must show the amount of production materials to which each program identification applies.

(f) Persons obtaining controlled materials or products and materials other than controlled materials to replace in inventory materials used to fill mandatory acceptance orders pursuant to the provisions of this section shall place ACM orders or rated orders, as appropriate, for such inventory replacement, only in the calendar month in which such products or materials were taken from inventory to fill such mandatory acceptance orders, or in the immediately succeeding two calendar months.

### Sec. 5. Rules applicable to controlled materials distributors.

(a) Each controlled materials distributor must comply with such directives as may be issued from time to time by BCABP and with the provisions of all applicable regulations and orders of BCABP.

(b) An ACM order placed with a controlled materials distributor shall be considered as calling for immediate delivery unless such order specifically provides otherwise.

(c) A controlled materials distributor must accept all mandatory acceptance orders; however, he may reject ACM orders in the following cases, but he shall not discriminate among customers in rejecting or accepting such orders:

(1) If the order is not for immediate delivery.

(2) If he does not have the material ordered in his stock, unless he knows that such material is in transit to him.

(3) If the person seeking to place the order is unwilling or unable to meet such distributor's regularly established prices and terms of sale or payment.

(4) If the order need not be accepted under the provisions of DMS Order 1 (steel), DMS Order 2 (nickel alloys), DMS Order 3 (aluminum), DMS Order 4 (copper) or of any other applicable regulation or order of BCABP.

(d) Except as provided in paragraph (e) of this section, a controlled materials distributor must obtain controlled materials needed to fill mandatory acceptance orders or to replace in inventory controlled materials used to fill such orders in accordance with the provisions of DMS Order 1 (steel), DMS Order 2 (nickel alloys), DMS Order 3 (aluminum), and DMS Order 4 (copper).

(e) Notwithstanding the provisions of any other regulation or order of BCABP,

a controlled materials distributor who requires controlled materials to fill an ACM-DX order or to replace in inventory controlled materials used to fill an ACM-DX order must, in addition to complying with the provisions of paragraph (d) of this section, indicate the suffix DX on his purchase orders for such controlled materials.

#### Sec. 6. Small order exception.

The provisions of this direction requiring controlled materials producers and distributors to use ratings and program identifications need not be followed in the case of any individual purchase order of \$500 or less.

[FR Doc.73-20610 Filed 9-28-73;8:45 am]

### [ 32A CFR Chapter VI ] DEFENSE PRIORITIES SYSTEM Basic Rules

Notice is hereby given that the Deputy Assistant Secretary for Competitive Assessment and Business Policy, pursuant to section 704 of the Defense Production Act of 1950, as amended and extended, and Executive Order 10480, as amended, is proposing to amend DPS Regulation 1. Section 1 describes the contents of and tells what the proposed amended regulation does.

Interested persons who desire to submit written views or comments on the proposed amended regulation should file them, in triplicate, with the Deputy Assistant Secretary for Competitive Assessment and Business Policy, U.S. Department of Commerce, Washington, D.C. 20230, Ref: DPS Reg. 1, on or before November 30, 1973.

The proposed amended regulation is presented below:

#### DPS REG. 1—BASIC RULES OF THE DEFENSE PRIORITIES SYSTEM

##### Sec.

1. What this regulation does.
2. Definitions.
3. General provisions.
4. Types of ratings and preferential status.
5. Directives and preferential status.
6. Mandatory use of ratings.
7. Self-authorization procedure for rated orders.
8. Statements and certifications to accompany rated orders.
9. Delivery, acceptance and performance dates for rated orders.
10. Limitations on use of self-authorization.
11. Special priorities authorizations.
12. Expediting assistance and assistance in placing mandatory acceptance orders.
13. Use of ratings to obtain services.
14. Grouping or combination of orders.
15. Restrictions on placing rated orders and on use of materials.
16. Sequence of filling rated orders.
17. Rules for acceptance of rated orders.
18. Rules for rejection of rated orders.
19. How changes in orders affect ratings.
20. Cancellation of ratings.
21. Intracompany deliveries.
22. Delivery for unlawful purposes prohibited.
23. Applicability of regulations and orders.
24. Defense against claims for damages.
25. Records and reports.
26. Requests for adjustment or exception.

27. Communications.

28. Violations.

##### Schedule

I. Authorized Program Identifications and Defense Agencies.

II. Materials and Services Not Subject to BCABP Rating Authority.

**AUTHORITY:** Defense Production Act of 1950, as amended (64 Stat. 816; 50 U.S.C. App. 2061 et. seq.); Executive Order 10480, as amended, 18 FR 4939, 6201, 19 FR 3807, 7249, 21 FR 1673, 23 FR 5061, 6971, 24 FR 3779, 27 FR 9683, 11447, 3 CFR 1949-1953 Comp., p. 919; Executive Order 11725, 38 FR 17175; DMO 8400.1, 32A CFR 15; Department of Commerce Organization Order 10-3, as amended, 37 FR 25555, 38 FR 4278; and Department of Commerce, Domestic and International Business Administration Organization and Function Orders 45-1, 38 FR 9326, and 45-2, 38 FR 9327.

##### Section 1. What this regulation does.

(a) This regulation is a major revision and simplification of the Defense Priorities System and supersedes DPS Reg. 1 of March 23, 1953 (including its List A, Directions, Amendments and published Interpretations). DPS not only helps to keep current defense, atomic energy and space programs on schedule but also provides an established mechanism that can be expended or converted if the need arises. This regulation complements and is being issued concurrently with a major revision of Defense Materials System Regulation 1.

(b) Defense contractors and their suppliers should thoroughly familiarize themselves with the provisions of DMS Reg. 1 and with the provisions of this regulation which defines their rights and obligations and sets forth the basic rules of the Defense Priorities System. One of the principal differences between DMS and DPS, which complement each other, is that the former relates primarily to controlled materials (steel, copper, aluminum, and nickel alloys) while the latter relates primarily to products and materials other than controlled materials.

(c) Persons engaged in production, construction or research and development for defense programs are required to follow all the applicable rules of this revised regulation. Proper identification of delivery orders placed for products and materials needed to fill defense orders and contracts is particularly important. The rule for mandatory identification of orders is an essential part of both the Defense Priorities System and the Defense Materials System. It avoids delays which could adversely affect timely completion of defense programs by requiring preferential delivery against properly identified orders and by furnishing a mechanism for expediting assistance where needed.

(d) The changes effected by this revised regulation are essentially simplifications of a procedural or technical type but they do include some substantial changes:

(1) Defense contractors are now required, with certain exceptions, to use their inventory first in filling rated orders.

(2) The revised regulation expressly prohibits discrimination against rated orders by imposing higher prices or different terms than for comparable unrated orders.

(3) A new Schedule I has been added to the revised regulation. It lists Authorized Program Identifications and Defense Agencies.

(4) A new Schedule II has been added to the regulation. It supersedes and revises the former List A to DPS Reg. 1 and lists Materials and Services Not Subject to BCABP Rating Authority.

(5) Direction 2 (Limitation on Use of Ratings to Obtain Nickel), Direction 3 (Notice of Acceptance or Rejection of DX Rated Orders and of Delayed Shipment of Certain DO Rated Orders) and Direction 4 (Establishment of a Lead Time for the Placement of Rated Orders for the Delivery of Nickel and Ferromagnetic) to DPS Reg. 1 are being revoked. The substance of former Direction 4, however, has been revised and is being published concurrently with this proposed regulation as proposed DPS Order 2 (Nickel).

(6) Numerous other changes, simplifications and consolidations have been effected in this revised regulation, the full text of which (including its Schedules I and II) should be studied carefully by defense contractors and their suppliers.

##### Sec. 2. Definitions.

As used in this regulation:

(a) "Person" means any individual, corporation, partnership, association or any other organized group of persons, and includes any agency of the United States Government or any other government.

(b) "BCABP" means the Bureau of Competitive Assessment and Business Policy, Domestic and International Business Administration, of the United States Department of Commerce.

(c) "GSA" means the General Services Administration of the United States Government.

(d) "Material" means any raw, in-process, or manufactured commodity, equipment, component, accessory, part, assembly or product of any kind.

(e) "Controlled material" means domestic and imported steel, copper, aluminum, and nickel alloys, in the forms and shapes specified in Schedule I of DMS Reg. 1, whether new, remelted, rerolled or redrawn.

(f) "Maintenance, repair and operation supplies" (MRO) means materials for maintenance, repair and operating supplies, and for installation, as defined in Direction 1 to DMS Reg. 1.

(g) "Production equipment" means any item used in producing materials or furnishing services which is carried by a person as capital equipment according to his established accounting practice.

(h) "Established accounting practice" means, in the case of a person in operation on or before December 31, 1972, the accounting practice in use by such person on that date or on the last day of his

operation prior thereto. In the case of a person whose operation begins after December 31, 1972, the term means the accounting practice established by him in such operation.

(i) "Defense Agency" means a defense or defense-supporting department or agency including the Department of Defense, the Atomic Energy Commission, BCABP or any other Government agency or subdivision thereof designated as such by GSA for the purposes of this regulation or any other regulation or order of BCABP. Schedule I of this regulation lists the Defense Agencies.

(j) "Authorized program" means a military, atomic energy or other program specifically approved by GSA and which is subject to any regulation or order of BCABP.

(k) "Set-aside" means the amount of any product or material, including controlled materials, which a person is required to reserve for filling mandatory acceptance orders during specified periods of time, as prescribed by BCABP.

(l) "Self-authorizing consumer" means any person who receives authority for procurement by self-authorization pursuant to the provisions of this regulation.

(m) "Delivery order" means any purchase order, contract, shipping or other instruction calling for delivery of any material or product, or performance of construction or service, on a particular date or dates or within specified periods of time.

(n) "Rated order" means any contract, purchase or delivery order for any product, service, or material other than controlled material bearing an authorized rating and the certification required by this regulation or any other applicable regulation or order of BCABP.

(o) "Authorized controlled material order" (ACM order) means any delivery order for any controlled material (as distinct from a product containing controlled material) bearing an authorized program identification and the certification required by DMS Reg. 1 or any other applicable regulation or order of BCABP. The term "ACM order" shall have the same meaning as "authorized controlled material order."

(p) "Mandatory acceptance order" means a rated order, an ACM order or any other purchase or delivery order which a person is required to accept pursuant to any regulation or order of BCABP, or pursuant to a specific authorization or directive of BCABP.

(q) "Directive" means an official action taken in writing by BCABP which requires a named person to take an action or refrain from taking an action in accordance with its provisions.

### Sec. 3. General provisions.

(a) Defense Agencies shall place rated orders for products and materials other than controlled materials needed for authorized programs, as provided in section 6 of this regulation.

(b) BCABP may establish set-asides for acceptance of rated orders by produc-

ers of certain products and materials, other than controlled materials, needed for authorized programs. Set-asides for controlled materials are established by BCABP pursuant to DMS Reg. 1 and other applicable regulations and orders of BCABP.

(c) A person who receives a rated order from a Defense Agency or any other customer, or who is authorized by BCABP or another Defense Agency to use ratings, is a self-authorizing consumer and must obtain his requirements to fill such order in accordance with paragraph (d) of this section.

(d) In filing rated orders, a self-authorizing consumer must obtain (1) his requirements for controlled materials in accordance with the provisions of DMS Reg. 1 and (2) his requirements for products and materials other than controlled materials in accordance with the provisions of this regulation.

(e) Ratings shall have no effect on delivery orders for controlled materials which shall be procured by the placement of authorized controlled material (ACM) orders pursuant to DMS Reg. 1 and other applicable regulations and orders of BCABP.

### Sec. 4. Types of ratings and preferential status.

(a) Two types of ratings are authorized, a DO rating and a DX rating. Ratings must contain the prefix DO or DX, as the case may be, followed by the appropriate program identification. Schedule I of this regulation contains a list of authorized program identifications.

(b) Rated orders must show the rating authorized, for example, DO-A-6, the date or dates on which delivery is required and must be certified as provided in section 8 of this regulation.

(c) All DO rated orders shall have equal preferential status and shall take precedence over unrated orders previously or subsequently received. All DX rated orders shall have equal preferential status and shall take precedence over DO rated orders and unrated orders previously or subsequently received.

### Sec. 5. Directives and preferential status.

(a) A person shall comply with each directive issued to him by BCABP. A recipient of a directive from BCABP shall not use such directives to obtain any products, materials or services from a supplier by placing a mandatory acceptance order, unless expressly authorized in the directive.

(b) Directives issued by BCABP shall take precedence over DX rated orders, DO rated orders and unrated orders previously or subsequently received, unless a contrary instruction appears in the directive.

### Sec. 6. Mandatory use of ratings.

(a) Each Defense Agency must use its rating authority in acquiring products, materials and services needed for completion of authorized programs. Authorizations by BCABP to Defense Agencies to use ratings, whether by delegation, regulation, order or otherwise, shall not

include authority to use DX ratings unless expressly so stated therein.

(b) Each person who has received a rated order must acquire products, materials and services to fill such order or to replace in inventory products and materials used to fill such order by self-authorization, pursuant to section 7 of this regulation.

(c) The mandatory provisions of this section need not be followed in the case of any individual purchase order of \$500 or less.

### Sec. 7. Self-authorization procedure for rated orders.

(a) A person who has accepted a rated order is a self-authorizing consumer.

(b) A self-authorizing consumer must use the program identification indicated on his rated order in placing ACM orders to obtain controlled materials needed to fill such order or to replace in inventory controlled materials used to fill such rated order in accordance with the provisions of DMS Reg. 1.

(c) A self-authorizing consumer must use the rating indicated on his rated order in obtaining services and products and materials other than controlled materials needed to fill such order or to replace in inventory products and materials used to fill such rated order. However, with respect to inventory replacement of products and materials other than controlled materials he shall place rated orders only in the calendar month in which such products and materials were taken from inventory or in the immediately succeeding two calendar months. If it is impracticable for him to determine the exact requirements for products and materials other than controlled materials needed to fill a rated order, he must place rated orders for an amount not exceeding his best estimates of such products and materials needed to fill such rated order.

(d) If the requirement that he use the ratings indicated on his customers' rated orders is impracticable because they are varied or numerous, a self-authorizing consumer may use the rating B-5 in lieu thereof.

(e) A self-authorizing consumer shall fill a rated order with products and materials from his inventory (to the extent that he has such products and materials in inventory), and replace such products and materials in accordance with this or any other applicable regulation or order of BCABP. However, if the requirement that he use products and materials from inventory would stop or interrupt his operations during the next 60 days in a way which would cause a substantial loss of total production or a substantial delay in his operations, he need not do so.

(f) A person who has accepted a rated order shall not discriminate against such order by imposing higher prices or by imposing different terms and conditions for such order than for generally comparable unrated orders, or in any other manner.

**Sec. 8. Statements and certifications to accompany rated orders.**

(a) Each Defense Agency and self-authorizing consumer placing a rated order must, in addition to indicating the appropriate rating and delivery date or dates on such order, furnish his supplier with a statement reading substantially as follows:

You are required to follow the provisions of DPS Reg. 1 and of all other applicable regulations and orders of BCABP in obtaining products, materials and services needed to fill this order.

This statement must appear on the order or on a separate piece of paper attached to the order.

(b) Unless another form of certification is specifically prescribed by an applicable regulation or order of BCABP, every rated order must contain the certification prescribed in DMS Reg. 1 or the following certification:

Certified for national defense use under DPS Reg. 1.

and shall be signed as provided in paragraph (e) of this section. This certification accompanying a rated order shall have the same effect as a certification under DMS Reg. 1.

(c) Unless another form of certification is specifically prescribed by an applicable regulation or order of BCABP, every authorized controlled material (ACM) order must contain the following certification:

Certified for national defense use under DPS Reg. 1.

and shall be signed as provided in paragraph (e) of this section.

(d) The certification provided for in paragraphs (b) and (c) of this section shall constitute a representation to the supplier and to BCABP that subject to the criminal penalties provided in applicable United States statutes, (1) the amount ordered by the purchaser is within the amount needed by him to fill the related mandatory acceptance order accepted by him and (2) the purchaser is expressly authorized by BCABP, or by any applicable regulation or order of BCABP, to place such mandatory acceptance order.

(e) A certification on a rated order or an ACM order must be signed by a responsible individual who is duly authorized in writing to sign for that purpose. The signature must be either by hand or in the form of a facsimile reproduction of a handwritten signature. If a facsimile signature is used, the individual who uses it must be duly authorized in writing to use it for this purpose by the person whose signature it is, and a written record of the authorization must be retained on file. A certification may be authenticated by a method other than a signature or a facsimile signature, such as by automatic data processing transmission, in which case a record must be maintained by the user describing the manner in which the authentication is transmitted and the manner in which the authentication is authorized.

(f) A rated order or an ACM order may be placed orally or by telegram. In such event the purchaser must immediately transmit to the supplier a confirming rated order or ACM order, as appropriate, complying with the requirements of this section.

**Sec. 9. Delivery, acceptance and performance dates for rated orders.**

(a) Any order which fails to specify a delivery date or dates shall not be treated as a rated order. The words "immediately" or "as soon as possible" shall not constitute a delivery date for purposes of this section. However, a person shall accept a so-called "requirements contract" bearing a rating which contains no specific delivery date or dates but which provides for the furnishing of materials, products or services from time to time or within a stated period against specific purchase orders or "calls." Such specific purchase orders or "calls" shall be deemed rated as of the date of their placement by the purchaser and not as of the date of the original "requirements contract."

(b) A person who receives a DO rated order must transmit notification to the person who tendered such order of its acceptance or rejection within ten consecutive calendar days after its receipt. In the case of a DX rated order such notification must be transmitted within five consecutive calendar days after its receipt.

(c) A person who has accepted a rated order must make shipment on such order as close to the requested delivery date as is practicable. If a person, after accepting a rated order, finds that due to contingencies which he could not reasonably have foreseen, he is obliged to postpone the shipment date, he must promptly notify his customer of the approximate date when shipment can be made, of any subsequent changes in that date, and of the reasons for the delay. Such notification must be transmitted in writing within five consecutive calendar days after occurrence of the event causing the delay.

**Sec. 10. Limitations on use of self-authorization.**

(a) Each person who has accepted a rated order must acquire products, materials and services to fill such order or to replace in inventory products and materials used to fill such order by self-authorization, pursuant to section 7 of this regulation.

(b) Ratings shall not be used and shall have no effect on orders for (1) controlled materials and (2) products, materials and services listed in Schedule II of this regulation. Controlled materials shall be procured in accordance with the provisions of DMS Reg. 1.

(c) Products and materials which may be obtained by a person pursuant to the self-authorization provisions of this regulation to fill a rated order shall include only:

(1) (i) Those which will be physically incorporated into the product or material covered by the rated order and the por-

tion of such products and materials normally consumed or converted into scrap or by-products in the course of processing.

(ii) Chemicals used directly in production to fill the rated orders.

(iii) Products and materials used for packaging or containers required to make delivery against the rated order. They shall not include:

(2) (i) Products and materials for plant improvement, expansion or construction unless they will be physically incorporated into a construction project covered by a rated order.

(ii) Production equipment or products and materials to be used for the manufacture of production equipment.

(iii) Maintenance, repair and operating supplies (MRO). Direction 1 to DMS Reg. 1 provides a separate self-authorization procedure to obtain MRO needed to fill mandatory acceptance orders.

(d) In the event a person is not permitted to place a mandatory acceptance order because of the restrictions prescribed in paragraph (c) of this section, and he needs special priorities authorization, he shall apply for such an authorization in accordance with section 11 of this regulation.

(e) In the event a person has placed a mandatory acceptance order and needs expediting assistance to obtain timely delivery, or if he cannot find a supplier who will accept a mandatory acceptance order he attempts to place, he shall apply for assistance in accordance with section 12 of this regulation.

(f) A person shall not place a mandatory acceptance order for products, materials or services in anticipation of receipt by him of a mandatory acceptance order.

**Sec. 11. Special priorities authorizations.**

(a) If inability to obtain production equipment or any other product, material or facility because of the restrictions prescribed in section 10(c) of this regulation would result in failure by a person to fill a mandatory acceptance order, he shall request special priorities authorization from the appropriate Defense Agency specified in Schedule I of this regulation. In such cases the person requesting special priorities authorization shall submit his request on the appropriate form prescribed by the applicable Defense Agency.

(b) In any case where use of a rating is specifically authorized for the procurement of production equipment pursuant to paragraph (a) of this section, the rating may be used either to purchase such equipment or to lease such equipment. However, in the latter case, the equipment may be leased only from a person engaged in the business of leasing such equipment, or from a person willing to lease rather than sell.

**Sec. 12. Expediting assistance and assistance in placing mandatory acceptance orders.**

(a) If a person has placed a mandatory acceptance order and needs expediting assistance to obtain timely delivery

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he shall request expediting assistance from the appropriate Defense Agency specified in Schedule I of this regulation. Such request shall be submitted on DPS Form 138 (DPSF-138) which may be obtained from U.S. Department of Commerce District Offices or from the Bureau of Competitive Assessment and Business Policy, U.S. Department of Commerce, Washington, D.C. 20230.

(b) If a person cannot find a supplier who will accept a mandatory acceptance order he attempts to place, he shall request assistance in placing such order from the appropriate Defense Agency specified in Schedule I of this regulation. Such request shall be submitted on DPS Form 138 (DPSF-138) which may be obtained from U.S. Department of Commerce District Offices or from the Bureau of Competitive Assessment and Business Policy, U.S. Department of Commerce, Washington, D.C. 20230.

### Sec. 13. Use of ratings to obtain services.

(a) Each person who requires services to fill a rated order shall use the rating that accompanied such order in placing a rated order to obtain the required services with a person customarily engaged in supplying such services. The person receiving a rated order for services shall use the rating he has received to obtain products, materials and services he needs to fill the rated order for services.

(b) The provisions of this section do not apply to the furnishing of personal or professional services nor to contracts of employment.

(c) Ratings shall have no effect in obtaining services listed in Schedule II of this regulation.

### Sec. 14. Grouping or combination of orders.

(a) No person shall combine a rated order with an unrated order. However, if the total of both types of orders is less than the minimum commercially procurable quantity of a product or material then a rated order shall be placed for such minimum commercial procurable quantity.

(b) Rated orders identified by different ratings may be combined if the portion covered by each is specifically identified by the appropriate rating, unless the rating B-5 is used as provided in section 7(d) of this regulation. In addition, if the quantity of a product or material needed to fill rated orders is less than the minimum commercially procurable quantity, a rated order shall be placed for such minimum commercially procurable quantity, using the rating B-5. However, no person shall place separate rated orders solely for the purpose of obtaining minimum commercially procurable quantities to fill such separate orders.

### Sec. 15. Restrictions on placing rated orders and on use of materials.

(a) No person shall place a rated order unless he is entitled to do so. No person shall place a rated order calling for delivery of any product or material

in a greater amount or on an earlier date than required to fill his rated orders.

(b) Each person who has obtained products or materials pursuant to a rated order in accordance with this or any other regulation or order of BCABP shall use such products or materials only (1) to fill rated orders, or (2) to replace in inventory products or materials used to fill any such rated orders. If he cannot use the products or materials for any such purpose, he may use them to fill unrated orders or dispose of them, unless otherwise ordered or directed in writing by BCABP.

### Sec. 16. Sequence of filling rated orders.

A person who has accepted rated orders must schedule his operations, if possible, to fill each rated order by the required delivery or performance date, regardless of the sequence in which the orders were received. If this is not possible, he must give precedence as follows:

(a) DX rated orders take precedence over DO rated orders and unrated orders, and DO rated orders take precedence over unrated orders.

(b) As between conflicting rated orders of equal priority status, precedence shall be given to the order which was received first.

(c) As between conflicting rated orders of equal priority status received on the same day, precedence shall be given to the order which has the earliest required delivery or performance date.

### Sec. 17. Rules for acceptance of rated orders.

(a) Every rated order must be accepted and filled regardless of existing contracts and orders except as provided in this section or in section 18. "Existing contracts and orders" include not only ordinary contracts but other arrangements achieving substantially the same results, and may concern the use of facilities rather than the material produced.

(b) A person shall not accept a DO rated order for delivery on a date which would interfere with delivery of any previously accepted DO or DX rated order.

(c) A DX rated order must be accepted without regard to the effect of such acceptance on the filling of DO rated or unrated orders: *Provided*, That a person shall not accept a DX rated order for delivery on a date which would interfere with delivery of any previously accepted DX rated order.

(d) A person shall not accept a rated order for delivery on a specific date unless he expects to be able to fill the order by that date. He shall either (1) reject such an order, or (2) inform the customer of the earliest possible delivery date and offer to accept the order on the basis of that date.

(e) An unrated order may be converted into a rated order by written notification to the supplier that such order shall be treated as a rated order, if the person originally placing the order is authorized to use a rating and if he complies with the provisions of this regula-

tion relating to placement of rated orders. In such event the order shall be deemed a rated order as of the date the rating and certification are received by the supplier.

### Sec. 18. Rules for rejection of rated orders.

(a) A supplier may reject a rated order in the following cases, but he shall not discriminate among customers in rejecting or accepting rated orders:

(1) If the person seeking to place the order is unwilling or unable to meet the supplier's regularly established terms of sale or payment.

(2) If the order is for a product or material not usually made or supplied or for a service not usually performed.

(3) If the order is tendered to a person for a product or material which he produces or acquires only for his own use, and he has not filled any orders for that product or material within the past two years.

(4) If the order is for a product or material produced by the person tendering the rated order or for a service performed by the person tendering the rated order.

(5) If acceptance or performance of the order would violate any other regulation or order of BCABP.

(b) Any person who refuses to accept a rated order shall, upon written request of the person tendering the order, promptly give his reasons in writing for the refusal.

### Sec. 19. How changes in orders affect ratings.

(a) Except as otherwise provided in this section, when a customer makes a change in a rated order which interferes with the supplier's production schedule, the rating is cancelled and the order shall be deemed newly rated on the date the supplier receives notification of the change.

(b) A change in shipping destination does not constitute cancellation of the rating.

(c) A reduction in the total amount of the order does not constitute a cancellation of the rating: *Provided*, That if the amount is reduced below the minimum quantity that the supplier normally accepts, and the customer is unwilling to agree to that minimum quantity, the supplier may consider that the rating is cancelled.

(d) An increase in the total amount of the order which can be filled with negligible interference with the supplier's production for previously accepted rated orders shall not constitute a cancellation of the rating: *Provided*, That if the acceptance of the larger order would result in substantial interference with the supplier's production, the amount of the increase shall be treated as a rated order as of the date of receipt of notification of such increase by the supplier.

(e) A change in the delivery date does not constitute cancellation of the rating: *Provided*, That if the change interferes with timely delivery on any other



rated order it shall constitute a cancellation of the original rating and the order shall be deemed rated as of the date of receipt by the supplier of notification of the changed delivery date.

(f) A minor variation in size, design or capacity which can be effected by the supplier without interference with other rated orders does not constitute a cancellation of the rating.

(g) A change which is agreed upon between the supplier and the customer and which does not interfere with other rated orders does not constitute a cancellation of the rating.

(h) The application of a DX rating to an order bearing a DO rating shall give the order, as of the date of application of the DX rating, the preferential status accorded to DX orders under the provisions of this regulation.

#### Sec. 20. Cancellation of ratings.

If a rating is revoked or invalidated by any regulation, order or directive of BCABP, such rating shall be cancelled in accordance with the provisions of such regulation, order or directive.

(b) A rating shall also be cancelled because of contract termination on the part of a Defense Agency, determination by a person that he did not properly use a rating, or determination by a person that he no longer needs the product, material or service for which he used the rating.

(c) When a rating is cancelled, the person who used the rating shall promptly inform his supplier in writing that the rating is cancelled and that his order is no longer to be treated as a rated order.

#### Sec. 21. Intracompany deliveries.

The provisions of this regulation apply not only to deliveries to other persons, including affiliates and subsidiaries, but also to deliveries from one branch, division or section of a single enterprise to another branch, division or section of the same or any other enterprise under common ownership or control.

#### Sec. 22. Delivery for unlawful purposes prohibited.

No person shall deliver any product or material which he knows or has reason to believe will be accepted, redelivered, held or used in violation of any regulation or order of BCABP.

#### Sec. 23. Applicability of regulations and orders.

(a) All regulations and orders of BCABP, unless specifically stated otherwise in such regulations and orders, shall apply to transactions in any state, territory or possession of the United States and the District of Columbia.

(b) All regulations and orders of BCABP shall apply to all subsequent transactions even though they are covered by contracts previously entered into.

(c) Nothing in this regulation shall be construed to relieve any person from

complying with all other applicable regulations and orders of BCABP. In case compliance by any person with the provisions of any such regulation or order would prevent fulfillment of a mandatory acceptance order, he shall immediately report the matter to BCABP which will thereupon take such action as is deemed appropriate, but unless and until otherwise expressly authorized or directed by BCABP, such person shall comply with the provisions of such regulation or order.

(d) This regulation complements DMS Reg. 1. Defense contractors and their suppliers should be thoroughly familiar with both this regulation and DMS Reg. 1.

#### Sec. 24. Defense against claims for damages.

No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with any BCABP regulation, order, direction, directive or other written instruction, notwithstanding that any such regulation, order, direction, directive or other written instruction shall thereafter be declared by judicial or other competent authority to be invalid.

#### Sec. 25. Records and reports.

(a) Each person participating in any transaction covered by this regulation shall make, and preserve for at least three years thereafter, accurate and complete records thereof. Such records shall include all rated orders, ACM orders and directives received by such person, copies of all rated orders and ACM orders placed by such person, records of purchases, receipts, inventories, production, use, sales, and deliveries of all materials acquired, sold or delivered pursuant to mandatory acceptance orders. Records shall be maintained in sufficient detail to permit the determination, upon examination or audit, whether or not each transaction complies with the provisions of this regulation or any other applicable regulation or order of BCABP. However, this regulation does not specify any particular accounting method or system to be used. Records may be retained in the form of microfilm or other record-keeping systems which provide the information contained in the original records.

(b) All records required by this regulation shall be made available for inspection and audit by duly authorized representatives of BCABP at the usual place of business of the person involved.

(c) Persons subject to this regulation shall develop and maintain such records and submit such reports to BCABP as it shall require, subject to the terms of the Federal Reports Act of 1942 (44 U.S.C. 3501-3511).

#### Sec. 26. Requests for adjustment or exception.

Any person subject to any provision of this regulation may submit a request for adjustment or exception upon the ground that such provision works an

undue or exceptional hardship upon him not suffered generally by others in the same trade or industry, or that its enforcement against him would not be in the interest of the national defense or in the public interest. The submission of a request for adjustment or exception shall not relieve any person of his obligation to comply with any such provision. In examining requests for adjustment or exception claiming that the public interest is prejudiced by the application of any provision of this regulation, consideration will be given to the requirements of public health and safety, civil defense, and dislocation of labor and resulting unemployment that would impair the defense program. Each request shall be in writing, by letter in triplicate, addressed as provided in section 27 of this regulation, and shall set forth all pertinent facts and the nature of the relief sought, and shall state the justification therefor.

#### Sec. 27. Communications.

All communications concerning this regulation or requests for adjustment or exception pursuant to section 26 of this regulation shall be addressed to the Bureau of Competitive Assessment and Business Policy, U.S. Department of Commerce, Washington, D.C. 20230, Ref: DPS Reg. 1.

#### Sec. 28. Violations.

(a) Any person who wilfully violates any provision of this regulation, or who wilfully furnishes false information or conceals any material fact in the course of operation under this regulation, is guilty of a crime and upon conviction may be punished by fine or imprisonment, or both.

(b) Violation of any provision of this regulation may subject any person committing or participating in such violation to administrative action to suspend his privilege of employing mandatory acceptance orders in making or receiving deliveries of products or materials, or using products, materials or facilities. In addition to such administrative action, an injunction and order may be obtained from a court of appropriate jurisdiction prohibiting any such violation and enforcing compliance with the provisions hereof.

(c) For the purposes of any administrative action or civil proceeding for the enforcement of this regulation or any criminal prosecution for violation of this regulation, the terms "rated order," "rating," "authorized controlled material," "ACM order" and "certification" shall be deemed to include every purported rated order, rating, authorized controlled material order. ACM order and certification whether or not such order, rating or certification shall have been authorized as provided in this regulation and irrespective of the form of such order, rating or certification.

NOTE.—All reporting and record-keeping requirements of this regulation have been approved by the Office of Management and

Budget in accordance with the Federal Reports Acts of 1942.

Dated September 21, 1973.

**BUREAU OF COMPETITIVE  
ASSESSMENT AND  
BUSINESS POLICY**  
**GARY M. COOK,**  
*Acting Deputy Assistant Secretary for Competitive Assessment and Business Policy.*

**SCHEDULE I TO DPS REG. 1—AUTHORIZED PROGRAM IDENTIFICATIONS AND DEFENSE AGENCIES**

(See sections 2(i), 4(a), 11(a), 12(a), and 12(b))

The program identification symbols listed in this schedule are the only ones authorized under the Defense Priorities System and the

Defense Materials System and must be used in accordance with this regulation, DMS Reg. 1 and other applicable regulations and orders of BCABP.

The symbols are not listed in alphabetical or numerical sequence but are grouped by Defense Agencies. Within each group, the Defense Agencies listed in Column 3 are authorized to employ the program identifications listed in Column 1 for purposes of placement by them and their suppliers of rated orders and ACM orders in support of the programs listed in Column 2.

The full names of the Defense Agencies shown by initials in Column 3 are:

AEC—Atomic Energy Commission.  
BCABP—Bureau of Competitive Assessment and Business Policy.  
CIA—Central Intelligence Agency.  
FAA—Federal Aviation Administration.  
NASA—National Aeronautics and Space Administration.

Steam heat, central.  
Waste paper.  
Wood pulp.

2. Certain items are not under the jurisdiction of BCABP and are not subject to any ratings issued by or under authority of BCABP and therefore such ratings shall not be effective to obtain any of them. These items, by virtue of Executive Order 10480, as amended, Defense Mobilization Order 8400.1, as amended, and other authorities, delegations and agreements, as the same may from time to time be amended, revoked or superseded, generally include:

(a) Petroleum, gas, solid fuels and electric power (under jurisdiction of Secretary of the Interior).

(b) Food and the domestic distribution of farm equipment and commercial fertilizer (under jurisdiction of Secretary of Agriculture).

(c) Domestic transportation, storage, and port facilities, or the use thereof, but excluding air transport, coastwise, intercoastal, and overseas shipping (under jurisdiction of a designated Commissioner of the Interstate Commerce Commission).

(d) Radioisotopes, stable isotopes, source and fissionable materials, produced by Government-owned plants or facilities operated by or for the Atomic Energy Commission (under jurisdiction of Atomic Energy Commission).

[FR Doc.73-20611 Filed 9-28-73; 8:45 am]

<sup>1</sup>The following delegations and agreements, as the same may from time to time be amended, revoked or superseded, further delineated jurisdictional responsibilities for the exercise of priorities and allocations powers:

(1) Petroleum Administration for Defense (PAD) Delegation 1 to the National Production Authority (NPA) with respect to the production and/or distribution of certain products of petroleum and gas origin, effective April 17, 1951 (16 FR 3389). The PAD was abolished in 1954 and its responsibility for production policies and programs was transferred to the Office of Oil and Gas (OOG) of the Department of the Interior. The authority delegated by PAD to NPA now rests with the Bureau of Competitive Assessment and Business Policy (BCABP), Department of Commerce.

(2) National Production Authority (NPA) Delegation 9 (retitled and renumbered Bureau of Competitive Assessment and Business Policy (BCABP) Delegation 4) to the Secretary of the Interior with respect to the production and distribution of certain industrial chemicals used principally in the petroleum industry, effective February 26, 1951 (15 FR 1908).

(3) Defense Solid Fuels Administration (DSFA) Delegation 1 to the Secretary of Commerce with respect to the distribution of coal chemicals produced as byproducts of coke made from coal, effective May 15, 1951 (16 FR 4590). The DSFA was abolished in 1954 and its responsibilities within the Department of the Interior have been transferred to the Office of the Assistant Secretary for Energy and Minerals, Department of the Interior.

(4) Delegation of Authority from the Secretary of Commerce to the Secretary of the Interior of priorities and allocations powers with respect to certain minerals facilities and materials, effective January 26, 1967 (32 FR 2462).

(5) Memorandum of Agreement between the National Production Authority (NPA) and the Production and Marketing Administration (PMA) with respect to priority and allocation responsibilities in connection with foods which have industrial uses, dated March 30, 1951 and April 13, 1951 (16 FR

Column 1 Program identification	Column 2 Program	Column 3 Defense agency
For Department of Defense and associated programs:		
A-1.....	Aircraft.....	Department of Defense: Army. Navy (including Coast Guard). Air Force. Associated Agencies of Department of Defense: CIA. FAA. NASA.
A-2.....	Missiles.....	
A-3.....	Ships.....	
A-4.....	Tank—Automotive.....	
A-5.....	Weapons.....	
A-6.....	Ammunition.....	
A-7.....	Electronic and communications equipment.....	
A-8.....	Military building supplies.....	
A-9.....	Production equipment (for defense contractor's account).....	
B-9.....	Production equipment (Government owned).....	
C-2.....	Department of Defense construction.....	
C-3.....	Maintenance, repair and operating supplies (MRO) for Department of Defense facilities.....	
C-8.....	Controlled materials for Defense Industrial Supply Center (DISC).....	
C-9.....	Miscellaneous.....	
For atomic Energy Commission programs:		
E-1.....	Construction.....	AEC.
E-2.....	Operations—including maintenance, repair, and operating supplies (MRO).....	
E-3.....	Privately owned facilities.....	
For other Defense, Atomic Energy and related programs:		
B-5.....	Certain self-authorizing consumers (see sec. 7(d) of DPS Reg. 1).....	BCABP.
C-4.....	Certain munitions items purchased by friendly foreign governments through domestic commercial channels for export.....	
C-5.....	Canadian military programs.....	
C-6.....	Certain direct defense needs of friendly foreign governments other than Canada.....	BCABP.
D-1.....	Controlled materials producers.....	
D-2.....	Approved State and local civil defense programs.....	
D-3.....	Further converters (steel).....	BCABP.
D-4.....	Private domestic production.....	
D-5.....	Private domestic construction.....	
D-6.....	Canadian production and construction.....	BCABP.
D-7.....	Friendly foreign nations (other than Canada) production and construction.....	
D-8.....	Distributors of controlled materials.....	
D-9.....	Maintenance, repair, and operating supplies (MRO) (see Dir. 1 to DMS Reg. 1).....	BCABP.
E-4.....	Canadian atomic energy program.....	
K-1.....	General Services Administration's supply distribution facility program.....	
AM.....	Aluminum controlled materials producers.....	BCABP.
AM-9000.....	Aluminum controlled materials distributors.....	
FC.....	Further converters (steel and nickel alloys).....	

<sup>1</sup> State and local governments will be authorized to use the program identification symbol D-2 only upon application to the Defense Civil Preparedness Agency of the Department of Defense, sponsorship by the Office of Assistant Secretary of Defense (Installations and Logistics) and specific approval by BCABP.

**SCHEDULE II TO DPS REG. 1—MATERIALS AND SERVICES NOT SUBJECT TO BCABP RATING AUTHORITY**

(See sections 10(b) and 13(c))

1. The following items under the jurisdiction of BCABP are presently not subject to any ratings issued by or under authority of BCABP and therefore such ratings shall not be effective to obtain any of them:

Communications services.

Copper raw materials as that term is defined in DMS Order 4 (formerly Order M-11A), except intermediate shapes (as defined in that order).

Crushed stone.  
Gravel.  
Sand.  
Scrap.  
Slag.

[ 32A CFR Chapter VI ]  
**METALWORKING MACHINES**  
**Notice of Proposed Rulemaking**

Notice is hereby given that the Deputy Assistant Secretary for Competitive Assessment and Business Policy, pursuant to section 704 of the Defense Production Act of 1950, as amended and extended, and Executive Order 10480, as amended, is proposing to amend DPS Order 1 (formerly Order M-41). Section 1 describes the contents of and tells what the proposed amended order does.

Interested persons who desire to submit written views or comments on the proposed order should file them, in triplicate, with the Deputy Assistant Secretary for Competitive Assessment and Business Policy, U.S. Department of Commerce, Washington, D.C. 20230, Ref: DPS Order 1, on or before November 30, 1973.

The proposed amended order is presented below:

**DPS ORDER 1—METAL WORKING MACHINES**

**Sec.**

1. What this order does.
2. Definitions.
3. Limitation for acceptance of rated orders.
4. Lead time for acceptance of rated orders.
5. Information to be furnished on rated orders.
6. Directives.
7. Effect of this order on DPS Reg. 1 and on outstanding orders.
8. Records and reports.
9. Requests for adjustment or exception.
10. Communications.
11. Violations.

**Schedule**

- I. Types of Metalworking Machines Covered by this Order.

**AUTHORITY:** Defense Production Act of 1950, as amended (64 Stat. 816; 50 U.S.C.

3410). The responsibilities of the NPA have been transferred to the Bureau of Competitive Assessment and Business Policy (BCABP), Department of Commerce, and those of the PMA to the Agricultural Stabilization and Conservation Service, Department of Agriculture.

(6) National Production Authority (NPA) Delegation 10 (retitled and renumbered Bureau of Competitive Assessment and Business Policy Delegation 5) to Production and Marketing Administration (PMA) with respect to the authority to exercise priority and allocation functions in connection with foods which have industrial uses, effective April 26, 1951 (16 FR 3669). The responsibilities of the PMA within the Department of Agriculture have been transferred to the Agricultural Stabilization and Conservation Service, Department of Agriculture.

(7) Memorandum of Understanding and Agreement between the Agricultural Stabilization and Conservation Service and the Business and Defense Services Administration (BDSA) regarding the scope of the term "farm equipment," dated July 31, 1968 and August 21, 1968 (33 FR 12355). The responsibilities of the BDSA have been transferred to the Bureau of Competitive Assessment and Business Policy (BCABP), Department of Commerce.

App. 2061 et seq.); Executive Order 10480, as amended, 18 FR 4939, 6201, 19 FR 3807, 7249, 21 FR 1873, 23 FR 5061, 6971, 24 FR 3779, 27 FR 9683, 11447, 3 CFR 1949-1953 Comp., p. 919; Executive Order 11725, 38 FR 17175; DMO 8400.1, 32A CFR 15; Department of Commerce Organization Order 10-3, as amended, 37 FR 25555, 38 FR 4278; and Department of Commerce, Domestic and International Business Administration Organization and Function Orders 45-1, 38 FR 9326, and 45-2, 38 FR 9327.

**Section 1. What this order does.**

(a) This order limits to 60 percent of a producer's scheduled monthly production of a metalworking machine the required acceptance by him of rated orders (other than DX rated orders and directives issued by BCABP) calling for delivery in such month. It also specifies information which must be shown on rated orders for metalworking machines and provides that rated orders (other than DX rated orders and directives issued by BCABP) need not be accepted unless received by a producer not less than three months prior to the beginning of the month in which delivery is called for in such order.

(b) This order is a revision of DPS Order 1 (formerly Order M-41), as amended May 24, 1963. The principal changes are in the definition of metalworking machine and in Schedule I (formerly Exhibit A) to the order.

**Sec. 2. Definitions.**

As used in this order:

(a) "Person" means any individual, corporation, partnership, association or any other organized group of persons, and includes any agency of the United States Government or of any other government.

(b) "BCABP" means the Bureau of Competitive Assessment and Business Policy, Domestic and International Business Administration, of the United States Department of Commerce.

(c) "Metalworking machine" means any

(1) Metal Cutting type machine which is a new, power driven, complete machine not supported in the hands of an operator when in use, that shapes metal by cutting or the use of electrical techniques.

(2) Metal Forming type machine which is a new, power driven, complete machine not supported in the hands of an operator when in use, that presses, forges, hammers, extrudes, shears, bends, die casts or otherwise forms metal into shape.

(3) It includes only a machine described in paragraphs (c) (1) and (2) of this section, which has a producer's list price of \$1,000 or more for the basic machine itself and which is shown in Schedule I of this order.

(4) The producer's list price for the basic machine itself means the sale price at which the producer's catalog or other price publication lists the basic machine, exclusive of the motor, motor drive, or any attachments therefor, unless the motor, motor drive or attachments are initially built into the basic machine it-

self, as an integral part thereof, in which case the producer's list price for the basic machine shall be the sale price at which the producer lists the machine as an assembled unit. The term "metalworking machine" includes all accessories, attachments, and numerical controls covered by the original purchase order which are required to be delivered with the basic machine to make it usable in production for the purposes intended. It does not include replacements, spare parts or equipment, or extra tooling.

(d) "Producer" means any person engaged in the manufacture and production of one or more metalworking machines.

(e) "Size" includes all of those dimensions or variations of a particular type of metalworking machine which can be used interchangeably for production purposes. Size classification shall be that used by each producer on the effective date of this amended order, unless he is hereafter authorized to use a different classification. Producers may apply for such authorization by letter addressed as provided in section 10 of this order.

**Sec. 3. Limitation for acceptance of rated orders.**

Unless specifically directed by BCABP, no producer shall be required to accept rated orders (other than DX rated orders) calling for delivery in any month of a total quantity of any size of metalworking machine in excess of 60 percent of his scheduled production of that size of that machine for that month: *Provided*, That within his scheduled production of any size of metalworking machine for any month a producer must accept any DX rated order calling for delivery of any such size of metalworking machine during any month even though the specified 60 percent has been, or will be exceeded by such acceptance.

**Sec. 4. Lead time for acceptance of rated orders.**

(a) Unless specifically directed by BCABP, a producer need not accept a rated order (other than a DX rated order) for a metalworking machine which he receives less than three months prior to the beginning of the month in which delivery is called for in such order.

(b) A DX rated order must be accepted without regard to the lead time provided in paragraph (a) of this section unless it is impracticable for the producer to make delivery within the required delivery month, in which event he must accept such DX rated order for the earliest practicable delivery date.

**Sec. 5. Information to be furnished on rated orders.**

A purchaser must, on each rated order, indicate specifications, including size or other descriptions, of the metalworking machine or machines being ordered in sufficient detail to enable the producer to place the same on his production schedule and must indicate the required delivery date thereof. These requirements are in addition to those provided



in DPS Reg. 1 for the placement of rated orders.

#### Sec. 6. Directives.

Where necessary to assure required deliveries of rated orders, BCABP may direct or change any schedule of production or delivery of metalworking machines, may allocate any rated order for metalworking machines from one producer to another producer, and may divert or otherwise direct the delivery of any metalworking machine to fill a rated order.

#### Sec. 7. Effect of this order on DPS Reg. 1 and on outstanding orders.

(a) To the extent that this order is in conflict with DPS Reg. 1, the provisions of this order shall control. In all other respects DPS Reg. 1 shall continue in full force and effect.

(b) Nothing in this amended order shall be construed to affect outstanding rated orders placed pursuant to any regulation or order of BCABP.

#### Sec. 8. Records and reports.

(a) Each person participating in any transaction covered by this order shall make, and preserve for at least three years thereafter, accurate and complete records thereof. Such records shall include all rated orders and directives received by such person and monthly records of production, production schedules and deliveries of metalworking machines. Records shall be maintained in sufficient detail to permit the determination, after audit, whether or not each transaction complies with the provisions of this order or any other applicable regulation or order of BCABP. However, this order does not specify any particular accounting method or system to be used. Records may be retained in the form of microfilm or other record-keeping systems which provide the information contained in the original records.

(b) All records required by this order shall be made available for inspection and audit by duly authorized representatives of BCABP at the usual place of business of the person involved.

(c) Persons subject to this order shall develop and maintain such records and submit such reports to BCABP as it shall require, subject to the terms of the Federal Reports Act of 1942 (44 U.S.C. 3501-3511).

#### Sec. 9. Requests for adjustment or exception.

Any person subject to any provision of this order may submit a request for adjustment or exception upon the ground that such provision works an undue or exceptional hardship upon him not suffered generally by others in the same trade or industry, or that its enforcement against him would not be in the interest of the national defense or in the public interest. The submission of a request for adjustment or exception shall not relieve any person of his obligation to comply with any such provision. In examining requests for adjustment or exception

claiming that the public interest is prejudiced by any provision of this order, consideration will be given to the requirements of public health and safety, civil defense, and dislocation of labor and resulting unemployment that would impair the defense program. Each request shall be in writing, by letter in triplicate, addressed as provided in section 10 of this order, and shall set forth all pertinent facts and the nature of the relief sought and shall state the justification therefor.

#### Sec. 10. Communications.

All communications concerning this order, applications pursuant to section 2(e) of this order, or requests for adjustment or exception pursuant to section 9 of this order shall be addressed to the Bureau of Competitive Assessment and Business Policy, U.S. Department of Commerce, Washington, D.C. 20230, Ref: DPS Order 1.

#### Sec. 11. Violations.

(a) Any person who wilfully violates any provision of this order, or who wilfully furnishes false information or conceals any material fact in the course of operation under this order, is guilty of a crime and upon conviction may be punished by fine or imprisonment, or both.

(b) Violation of any provision of this order may subject any person committing or participating in such violation to administrative action to suspend his privilege of making or receiving deliveries of products or materials, or using products, materials or facilities. In addition to such administrative action, an injunction and order may be obtained from a court of appropriate jurisdiction prohibiting any such violation and enforcing compliance with the provisions hereof.

NOTE.—All reporting and record-keeping requirements of this order have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated September 21, 1973.

BUREAU OF COMPETITIVE ASSESSMENT AND BUSINESS POLICY,  
GARY M. COOK,  
Acting Deputy Assistant Secretary for Competitive Assessment and Business Policy.

#### SCHEDULE I TO DPS ORDER 1—TYPES OF METALWORKING MACHINES COVERED BY THIS ORDER (SEE SECTION (2)(c))

Bending and Forming Machines.  
Boring Machines.  
Broaching Machines.  
Drilling and Tapping Machines.  
Electrical Discharge, Ultrasonic and Chemical Erosion Machines.  
Forging Machinery and Hammers.  
Gear Cutting and Finishing Machines.  
Grinding Machines.  
Hydraulic and Pneumatic Presses, Power Driven.  
Lathes.  
Machining Centers and Way-Type Machines.  
Manual Presses.  
Mechanical Presses, Power Driven.  
Milling Machines.  
Miscellaneous Machine Tools.

Miscellaneous Secondary Metal Forming and Cutting Machines.  
Planers and Shapers.  
Punching and Shearing Machines.  
Riveting Machines.  
Saws and Filing Machines.  
Wire and Metal Ribbon Forming Machinery.

[FR Doc.73-20612 Filed 9-28-73;8:45 am]

### [ 32A CFR Chapter VI ]

#### NICKEL

#### Notice of Proposed Rulemaking

Notice is hereby given that the Deputy Assistant Secretary for Competitive Assessment and Business Policy, pursuant to section 704 of the Defense Production Act of 1950, as amended and extended, and Executive Order 10480, as amended, is proposing the issuance of DPS Order 2. Section 1 describes the contents of and tells what the proposed order does.

Interested persons who desire to submit written views or comments on the proposed order should file them, in triplicate, with the Deputy Assistant Secretary for Competitive Assessment and Business Policy, U.S. Department of Commerce, Washington, D.C. 20230, Ref: DPS Order 2, on or before November 30, 1973.

The proposed order is presented below:

#### Sec.

1. What this order does.
2. Definitions.
3. Lead time requirements for acceptance of rated orders for nickel.
4. Directives.
5. Effect of this order on DPS Reg. 1.
6. Records and reports.
7. Requests for adjustment or exception.
8. Communications.
9. Violations.

AUTHORITY: Defense Production Act of 1950, as amended (64 Stat. 816; 50 U.S.C. App. 2061 et seq.); Executive Order 10480, as amended, 18 FR 4939, 6201, 19 FR 3807, 7249, 21 FR 1673, 23 FR 5061, 6971, 24 FR 3779, 27 FR 9683, 11447, 3 CFR 1949-1953 Comp., p. 919; Executive Order 11725, 38 FR 17175; DMO 8400.1, 32A CFR 15; Department of Commerce Organization Order 10-3, as amended, 37 FR 25555, 38 FR 4278; and Department of Commerce, Domestic and International Business Administration Organization and Function Orders 45-1, 38 FR 9326, and 45-2, 38 FR 9327.

#### Section 1. What this order does.

(a) This order permits producers and distributors of nickel to reject rated orders for nickel (other than DX rated orders and directives issued by BCABP) which are received by them less than 10 days before the month in which delivery is requested. It also provides that producers and distributors of nickel shall comply with directives, including those which require the set-aside of an individual producer's or distributor's supply of nickel for acceptance of rated orders during specified periods of time.

(b) This order is a revision of, and supersedes, former Direction 4 of August 15, 1967 (Establishment of a Lead Time for the Placement of Rated Orders for Nickel and Ferronickel) to DPS Reg. 1 of March 23, 1953, as amended.

## PROPOSED RULES

**Sec. 2. Definitions.**

As used in this order:

(a) "Person" means any individual, corporation, partnership, association or any other organized group of persons, and includes any agency of the United States Government or any other government.

(b) "BCABP" means the Bureau of Competitive Assessment and Business Policy, Domestic and International Business Administration, of the United States Department of Commerce.

(c) "Nickel" means primary nickel in the following forms and shapes:

Electrolytic cathodes.  
Pigs.  
Rondelles.  
Cubes.  
Pellets.  
Shot.  
Oxide (including sintered oxide).  
Salts.  
Chemicals.  
Ingots (used for remelting).  
Powder (derived directly from ore concentrates).  
Ferronickel.

(d) "Producer" means a person engaged in making and refining nickel and supplying such nickel to distributors or consumers.

(e) "Distributor" means a person, including a warehouseman, jobber, dealer, retailer, or importer who sells and furnishes nickel to consumers.

**Sec. 3. Lead time requirements for acceptance of rated orders for nickel.**

Notwithstanding the provisions of any regulation or order of BCABP, a producer or distributor need not accept a rated order for nickel which he receives less than ten consecutive calendar days before the beginning of the month in which delivery is called for in such order: *Provided*, That this limitation shall not apply to DX rated orders nor to directives issued by BCABP.

**Sec. 4. Directives.**

A producer or distributor shall comply with each directive which may be issued to him by BCABP. Such directives may relate, but are not limited, to the set-aside of a portion of an individual producer's or distributor's production or

supply of nickel for the acceptance of rated orders during specified periods of time.

**Sec. 5. Effect of this order on DPS Reg. 1.**

To the extent that this order is in conflict with DPS Reg. 1, the provisions of this order shall control. In all other respects DPS Reg. 1 shall continue in full force and effect.

**Sec. 6. Records and reports.**

(a) Each person participating in any transaction covered by this order shall make, and preserve for at least three years thereafter, accurate and complete records thereof. Such records shall be maintained in sufficient detail to permit the determination, upon examination or audit, whether or not each transaction complies with the provisions of this order or any other applicable regulation or order of BCABP. However, this order does not specify any particular accounting method or system to be used. Records may be retained in the form of microfilm or other recordkeeping systems which provide the information contained in the original records.

(b) All records required by this order shall be made available for inspection and audit by duly authorized representatives of BCABP at the usual place of business of the person involved.

(c) Persons subject to this order shall develop and maintain such records and submit such reports to BCABP as it shall require, subject to the terms of the Federal Reports Act of 1942 (44 U.S.C. 3501-3511).

**Sec. 7. Requests for adjustment or exception.**

Any person subject to any provision of this order may submit a request for adjustment or exception upon the ground that such provision works an undue or exceptional hardship upon him not suffered generally by others in the same trade or industry, or that its enforcement against him would not be in the interest of the national defense or in the public interest. The submission of a request for adjustment or exception shall not relieve any person of his obligation to comply with any such provision. In examining requests for adjustment or exception claiming that the public interest is pre-

judiced by any provision of this order, consideration will be given to the requirements of public health and safety, civil defense, and dislocation of labor and resulting unemployment that would impair the defense program. Each request shall be in writing, by letter in triplicate, addressed as provided in section 8 of this order, and shall set forth all pertinent facts and the nature of the relief sought, and shall state the justification therefor.

**Sec. 8. Communications.**

All communications concerning this order or requests for adjustment or exception pursuant to section 7 of this order shall be addressed to the Bureau of Competitive Assessment and Business Policy, U.S. Department of Commerce, Washington, D.C. 20230, Ref: DPS Order 2.

**Sec. 9. Violations.**

(a) Any person who wilfully violates any provision of this order, or who wilfully furnishes false information or conceals any material fact in the course of operation under this order, is guilty of a crime and upon conviction may be punished by fine or imprisonment, or both.

(b) Violation of any provision of this order may subject any person committing or participating in such violation to administrative action to suspend his privilege of making or receiving deliveries of products or materials, or using products, materials or facilities. In addition to such administrative action, an injunction and order may be obtained from a court of appropriate jurisdiction prohibiting any such violation and enforcing compliance with the provisions hereof.

NOTE.—All reporting and record-keeping requirements of this order have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated September 21, 1973.

BUREAU OF COMPETITIVE  
ASSESSMENT AND BUSI-  
NESS POLICY,  
GARY M. COOK,  
*Acting Deputy Assistant Sec-  
retary for Competitive Assess-  
ment and Business Policy.*

[FR Doc.73-20613 Filed 9-28-73; 8:45 am]

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