

been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 10 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent in-flight vibrations caused by the affected airplanes operating at excessive speeds, which could result in airplane damage and possible loss of control of the airplane, accomplish the following:

(a) Fabricate a placard that restricts the never exceed speed (Vne) to no more than 144 miles per hour (MPH) or 125 knots (KTS) indicated airspeed (IAS), and install this placard on the instrument panel within the pilot's clear view. The placard should utilize letters of at least 0.10-inch in height and contain the following words:

"Never exceed speed, Vne, 144 MPH (125 KTS) IAS"

(b) Mark a red line on the airspeed indicator glass at 144 MPH (125 KTS) and mark a white slippage mark on the outside surface of the airspeed indicator between the glass and case.

(c) Insert a copy of this AD into the Limitations Section of the airplane flight manual (AFM).

(d) Fabricating and installing the placard as required by paragraph (a) of this AD and inserting this AD into the Limitations Section of the AFM as required by paragraph (c) of this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(g) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

(h) This amendment becomes effective on July 7, 1998.

Issued in Kansas City, Missouri, on June 2, 1998.

Ronald K. Rathgeber,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-15202 Filed 6-10-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 700

[Docket No. 970827205-8126-02]

RIN 0694-AA02

Defense Priorities and Allocations System

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce is issuing this rule to amend the Defense Priorities and Allocations System (DPAS) regulation by updating, modifying and clarifying a number of its provisions.

In reviewing the current DPAS and in issuing this rule, the objective has been to improve DPAS administration and implementation and make it more effective and efficient in the post-Cold War era.

EFFECTIVE DATE: This rule is effective July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Richard V. Meyers, DPAS Program Manager, Office of Strategic Industries and Economic Security, Room 3876, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-3634, FAX: (202) 482-5650, and E-Mail: rmeyers@bxa.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 1997, the Department of Commerce published in the **Federal Register** (62 FR 51389) a request for comments on a proposed rule that would amend the Defense Priorities and Allocations System (DPAS) regulation by updating, modifying, and clarifying a number of its provisions.

Interested parties were requested to submit comments on the proposed rule by October 31, 1997. Interested parties were also requested to provide comments on any other provision of the DPAS that may be hindering effective and efficient administration or implementation. Of the seven comments received, only two were from private sector firms. Based on these comments and an editorial review of the proposed rule, several provisions of the proposed rule are further revised and clarified, and various editorial changes are made.

Analysis of Comments

No commenters objected to the proposed rule. Accordingly, the Department is proceeding with

publication of this final rule with the changes discussed below.

Public comments were particularly sought concerning the proposed revision of three provisions that directly affect industry operations under the DPAS. These provisions pertain to: (1) the time period within which a supplier must accept or reject a rated order [§ 700.13(d)(1)]; (2) the order of precedence to be given by contractors and suppliers to conflicting rated orders of equal priority status (§ 700.14); and (3) the combining by a contractor of defense rated requirements with commercial (unrated) requirements on one purchase order to a supplier [§ 700.17(d)].

Comments were also sought concerning (1) a proposal to remove the controlled materials provisions from §§ 700.30-700.31 and all other provisions, references, and supporting schedules to the program from throughout the regulation; and (2) proposals to make various other jurisdictional, technical, administrative, and miscellaneous revisions to a number of DPAS provisions. These revisions are needed to address changes to delegated authority, to update and clarify the text, and to improve generally the administration, effectiveness, and efficiency of the DPAS in support of our nation's post-Cold War defense requirements and its ability to respond fully to a national security emergency or domestic emergency preparedness situation.

1. Customer Notification of Acceptance or Rejection of Rated Orders

Industry has complained about the difficulty of complying with the customer notification requirements of § 700.13(d)(1). These rules required a supplier to accept or reject a rated order in writing within ten (10) working days after receipt of a DO rated order and within five (5) working days after receipt of a DX rated order. Accordingly, § 700.13(d)(1) is revised to extend the time within which a person must accept or reject a rated order by five (5) working days to fifteen (15) working days after receipt of a DO rated order, and ten (10) working days after receipt of a DX rated order. No commenter on the proposed rule objected to this change.

Also, because of the increasing use by industry of electronic data interchange to place contracts and purchase orders, § 700.13(d) is revised to reference specifically the electronic placement, acceptance, and rejection of rated orders. However, if the rated order is

rejected, the rule requires that the reasons for rejection be provided in writing (not electronically).

One commenter objected to the requirement that a person must acknowledge acceptance of a rated order. The primary goal of the DPAS is to ensure timely delivery of defense items. Thus, it is most important that customers receive written or electronic proof from their suppliers that their rated orders were accepted for delivery as required by the order. It should be noted that this requirement to acknowledge acceptance of the receipt of a rated order is an obligation placed on the recipient of the order, not on the person placing the order.

2. Precedence of Rated Orders of Equal Priority Status

Many companies have requested clarification of the DPAS rules on the preference to be given to rated orders which have equal priority status (DX or DO) when production, delivery or performance scheduling conflicts or other problems arise following acceptance of the rated orders. Accordingly, § 700.14(c) (Preferential scheduling) is revised to provide that if a person finds that delivery or performance against any accepted rated orders conflicts with the delivery or performance against any other accepted rated orders of equal priority status, preference shall be given to the conflicting rated orders in the sequence in which they are to be delivered or performed (not to the receipt dates). However, if the conflicting rated orders are scheduled to be delivered or performed on the same day, the person shall give preference to those orders which have the earliest receipt dates. If under these rules, the delivery or performance conflicts cannot be resolved, or if the customer objects to the rescheduling of the rated order, special priorities assistance should be requested promptly under §§ 700.50–700.54.

It should be noted that the proposed rule specified the receipt dates of the conflicting rated orders as the criteria for precedence. Because Department of Defense (DOD) and an industry commenter objections, and to emphasize the importance of timely delivery against rated orders, the final rule establishes the delivery or performance schedule as the criteria for precedence.

3. Combining Defense Rated Requirements With Commercial (Unrated) Requirements

The final rule revises § 700.17(d) (Use of rated orders) to eliminate the

requirement for a contractor who combines rated and unrated order quantities on a purchase order to a supplier, to attach to the combined order a separate rated order with the rated quantities. Many companies have objected to this separate rated order requirement and the industry commenters on the proposed rule expressed support for its elimination.

The final rule also provides that the rated quantities in the combined purchase order must be clearly and separately identified and that a special statement must be included on the combined purchase order to notify the supplier that the order contains rated quantities certified for national defense use and that the provisions of the DPAS apply only to the rated quantities.

4. National Security Emergency Preparedness and Removal of the Controlled Materials Provisions

No commenter objected to removal from the DPAS of all provisions and references pertaining to the controlled materials program. Therefore, the final rule removes all such provisions and references, including Schedules II, III, and IV to part 700.

The final rule also further revises the text of § 700.30 to clearly state how the DPAS may be expanded in a national security emergency to ensure rapid industrial response and the timely availability of critical industrial items and facilities to meet the urgent national defense or domestic emergency preparedness requirements of approved programs.

5. New Approved Programs

Except as discussed below, no commenter objected to the proposed addition of two new approved programs, “Designated Programs” and “Food Resources (combat rations)”, and changing the “N1” Federal Emergency Management Agency program name to “Emergency Preparedness Activities”. Accordingly, the final rule revises Schedule 1 to part 700 to title the Schedule “Approved Programs and Delegate Agencies”; assign the “Designated Programs” program to the Department of Commerce as Delegate Agency and identify the program with the “H8” Program Identification Symbol; and assign the “Food Resources (combat rations)” program to the Department of Defense (DOD) as Delegate Agency and identify the program with the “C1” Program Identification Symbol. At the request of DOD, the program name “Designated Programs” is used in this final rule instead of the name “Special Projects”

to avoid confusion over use of this term for other purposes.

6. Minimum Rated Order Amount

Under the proposed rule, the minimum rated order amount in § 700.17(f) would have increased from \$5000 to \$100,000 to conform to the current simplified Federal Acquisition Regulation (FAR) small order threshold of \$100,000 (see FAR § 2.101). Although the private sector commenters supported this change, DOD objected on the grounds that too many lower cost critical defense orders, especially at the lower-tier levels of the industrial base, would no longer be priority rated, this impacting DPAS effectiveness.

However, recognizing the need to increase the minimum rated order amount, DOD recommended that this amount be established at \$50,000, or one half of the FAR Simplified Acquisition Threshold, which ever amount is larger, provided that delivery can be obtained in a timely fashion without the use of a priority rating. We have decided to adopt the DOD recommendation and increase the minimum rated order amount accordingly. During the next several years, we will review the impact of this revision on the timeliness of defense procurement and public comment is invited. If warranted, a further adjustment of the minimum rated order amount will be proposed.

7. Other Revisions and Non-Substantive and Editorial Changes

Several commenters provided comment on various technical issues such as the correctness of citations and definitions; the use of terms such as “national security emergency”, “domestic emergency preparedness”, and “requirements contract” and “calls”; and the need for a definition of the term “industrial resources”. To further improve the clarity and effectiveness of the DPAS, this rule incorporates these revisions. An editorial review of the proposed rule also suggested the need for further editorial and technical corrections and these revisions are made in this rule.

8. DPAS Schedule I and the Other DPAS Schedules

This rule revises DPAS Schedule 1 to part 700, which lists all Approved Programs for DPAS support. All other DPAS Schedules (II through V), which pertained to the controlled materials program, are removed.

DPAS Schedule 1 is revised by changing the term “Authorized Program” to “Approved Program” wherever it appears in the Schedule and

by making appropriate changes to the first paragraph of the two paragraph explanation of the Schedule. This rule also removes from the Schedule (1) all program identification symbols and associated authorized program names from the Schedule that pertained to the controlled materials program ["C8—Controlled materials for Defense Industrial Supply Center (DISC)", "H2—Controlled materials producers", "H3—Further converters (controlled materials)", and "H4—Distributors of controlled materials"]; and (2) the term "Federal Aviation Administration" from the list of Associated Agencies of the Department of Defense contained in footnote 1.

Added to Schedule 1 by this rule are two new program identification symbols and associated approved program names, as follows: "C1—Food resources (combat rations)" under the "Defense Programs" heading; and "H8—Designated Programs", under the "Other Defense, Energy and Related Programs" heading.

Finally, this rule revises (1) the "Other Energy Programs" heading in Schedule 1 to read: "Domestic Energy Programs"; (2) the "F3" program name "Construction and Maintenance" to read: "Construction, repair, and maintenance"; and (3) the "N1" program name "Approved civil defense programs" to read "Emergency Preparedness Activities".

9. Appendices

There are a number of documents required to support the effective and efficient implementation and administration of the DPAS regulation. These documents include (1) Delegations of Authority from the Department of Commerce to the Departments of Defense and Energy, General Services Administration, and the Federal Emergency Management Agency (Delegate Agencies) who use the DPAS to support their national defense related procurement; (2) Interagency Memoranda of Understanding between the Department of Commerce and Departments of Agriculture, Energy, and the Interior pertaining to resource jurisdiction issues and delegated authority; (3) Form BXA-999 (formerly Form ITA-999), used to request Special Priorities Assistance; (4) Memorandum of Understanding on Priorities and Allocations Support Between the Department of Commerce and the Canadian Public Works and Government Services Canada (formerly the Canadian Department of Supply and Services); and (5) DPAS Emergency Delegation 1. These documents, except for DPAS Emergency Delegation 1, were

previously included in the Code of Federal Regulations (CFR) as Appendices I through IV. DPAS Emergency Delegation 1 would be implemented if in a catastrophic national security emergency, communications with Department of Commerce headquarters in Washington, D.C. are severed. All of these documents have been updated and revised.

Because it is used by the public and therefore of significant public interest, Form BXA-999 is redesignated as Appendix I to part 700 and published with this rule. Because they are of limited public interest, the Delegations of Authority, Interagency Memoranda of Understanding, Memorandum of Understanding on Priorities and Allocations Support Between the Department of Commerce and the Canadian Public Works and Government Services Canada, and DPAS Emergency Delegation 1, will not be published with this rule. However, copies of Appendix I and these other DPAS documents, designated as Appendices II through V, respectively, may be obtained by contacting the DPAS Program Manager at the Department of Commerce (see **FOR FURTHER INFORMATION CONTACT** section above). Copies of Appendix I may also be obtained from any Department of Defense, Defense Contract Management Command field office.

Public Rulemaking Docket

The public rulemaking docket concerning this regulation is maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230. Records in this facility may be inspected and copied in accordance with regulations published in 15 CFR part 4. Information pertaining to the inspection and copying of records may be obtained from Ms. Margaret Cornejo, Freedom of Information Officer, at the Records Inspection Facility, or by calling (202) 482-5653.

Rulemaking Requirements

The Department made certain determinations with respect to the following rulemaking requirements:

1. *Classification under E.O. 12866*: This amendment of the DPAS regulation has been determined to be "not significant" for the purpose of Executive Order 12866.

2. *Regulatory Flexibility Act*: The Assistant General Counsel for Legislation and Regulation certified to the Chief Counsel for Advocacy, Small Business Administration, that this

amendment of the DPAS regulation will not have a significant economic impact on a substantial number of small entities. This amendment of the DPAS merely updates, modifies, or clarifies a number of provisions to make the DPAS more effective and efficient in the post Cold War era. Many of the changes are made in response to comments and recommendations received from the business community, thus ensuring that the updated DPAS conforms to current business practices and enabling all business entities subject to its requirements to increase the efficiency of their operations and realize certain cost savings. In addition, some DPAS provisions are revised to conform the regulation to recent statutory and organizational changes while other provisions are deleted because they are obsolete.

Because of the self-administered nature of the DPAS, there is no way to accurately estimate the number of business entities throughout the U.S. industrial base to whom the DPAS is applicable. However, it has been roughly estimated that there are at least 18,000 business entities during any one year that on at least one or more occasions must respond to its requirements. It is also estimated that given the nature of defense production, relatively few of these entities are small entities.

The DPAS regulation has been in effect since 1984 and is the successor to priorities and allocations regulations that were first promulgated in the mid-1950s. Thus, most business entities engaged in defense production under the DPAS, including small entities, can and do respond to applicable DPAS requirements in the ordinary course of their business with very little, if any, economic impact. These DPAS revisions, in and of themselves, impose no economic impact on any business entity, including small entities, and will further reduce whatever minimal economic impact is associated with DPAS compliance.

3. *Paperwork Reduction Act*: The information collection requirements imposed by the DPAS regulation were approved by the Office of Management and Budget (OMB) under the provisions of Section 3507 of the Paperwork Reduction Act of 1980, amended (44 U.S.C. 3501 *et seq.*) (OMB Control Number 0694-0053).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with any DPAS information collection requirements unless the information

collection displays a currently valid OMB Control Number.

The collection of information requirements in the DPAS apply to all persons who receive priority rated orders under the DPAS. These requirements are necessary to support proper administration of the DPAS and ensure its effectiveness and efficiency. The total annual public burden per respondent for this collection of information is estimated at 14,477 hours. This estimate includes (a) 11,667 total extra record keeping hours to create a record of the receipt of a priority rated order (700,000 priority rated orders annually \times 1 minute per order); (b) 972 total hours to provide notice of acceptance of a priority rated order (699,650 priority rated orders accepted annually \times 5 seconds per order); (c) 88 total hours to provide notice of rejection of a priority rated order (350 priority rated orders rejected annually \times 15 minutes per order); and (d) 1,750 total hours to provide notice of delayed delivery against a priority rated order (7000 total priority rated orders annually against which delivery will be delayed \times 15 minutes per order).

Send comments regarding this burden estimate or any other aspect of the data requirements, including suggestions for reducing this burden, to Richard V. Meyers at the address given in the **FOR FURTHER INFORMATION CONTACT** section above, or to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, N.W., Room 10235, Washington, D.C. 20503; Attn.: Desk Officer for the Bureau of Export Administration

4. *E.O. 12612*: This amendment of the DPAS regulation does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under *E.O. 12612*.

List of Subjects in 15 CFR Part 700

Administrative practice and procedure, Business and industry, Government contracts, National defense, Reporting and recordkeeping requirements, Strategic and critical materials.

For the reasons stated in the preamble, part 700 of Subchapter A, National Security Industrial Base Regulations (15 CFR part 700), is amended as follows:

PART 700—[AMENDED]

1. The authority citation for 15 CFR part 700 is revised to read as follows:

Authority: Titles I and VII of the Defense Production Act of 1950, as amended (50

U.S.C. app. 2061 *et seq.*), Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 *et seq.*), and Executive Order 12919, 59 FR 29525, 3 CFR, 1994 Comp., p. 901; Section 18 of the Selective Service Act of 1948 (50 U.S.C. App. 468), 10 U.S.C. 2538, 50 U.S.C. 82, and Executive Order 12742, 56 FR 1079, 3 CFR, 1991 Comp., p. 309; and Executive Order 12656, 53 FR 226, 3 CFR, 1988 Comp., p. 585.

2. Section 700.1 is amended:

- a. By revising the phrase "materials and facilities" to read "materials, services, and facilities", and revising the phrase "materials and equipment" to read "materials, equipment, and services", in paragraph (a);
- b. By revising paragraph (b);
- c. By redesignating paragraph (c) as paragraph (e); and
- d. By adding new paragraphs (c) and (d); as follows:

§ 700.1 Purpose of this regulation.

(b) Section 18 of the Selective Service Act of 1948 (50 U.S.C. app. 468) (Selective Service Act) authorizes the President to place an order with a supplier for any articles or materials required for the exclusive use of the U.S. armed forces whenever the President determines that in the interest of national security, prompt delivery of the articles and materials is required. The supplier must give precedence to the order so as to deliver the articles or materials in a required time period. 10 U.S.C. 2538, and 50 U.S.C. 82, provide similar authority specifically for Department of Defense procurement, but only in time of war or when war is imminent.

(c) Section 602(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a(b)) provides that the terms "national defense" and "defense" as used in the Defense Production Act includes "emergency preparedness activities" conducted pursuant to Title VI of the Stafford Act. The definition of "national defense" in Section 702(13) of the Defense Production Act provides that this term includes "emergency preparedness activities" conducted pursuant to Title VI of the Stafford Act.

(d) The Defense Priorities and Allocations System (DPAS) regulation implements the priorities and allocations authority of the Defense Production Act and as this authority pertains to Title VI of the Stafford Act, and the priorities authority of the Selective Service Act and related statutes, all with respect to industrial resources. The DPAS ensures the timely availability of industrial resources for approved programs and provides an

operating system to support rapid industrial response to a national emergency.

3. Section 700.2 is amended by revising paragraphs (a) and (b), and by revising the phrase "Appendix I" to read "Appendix II" in paragraph (c); as follows:

§ 700.2 Introduction.

(a) Certain national defense and energy programs (including emergency preparedness activities) are approved for priorities and allocations support. For example, military aircraft production, ammunition, and certain programs which maximize domestic energy supplies are "approved programs." A complete list of currently approved programs is provided at Schedule 1 to this part.

(b) The Department of Commerce administers the DPAS to ensure the timely delivery of industrial items to meet approved program requirements.

§ 700.3 [Amended]

4. Section 700.3(a) is amended by revising the term "authorized program" to read "approved program".

5. Section 700.4 is revised to read as follows:

§ 700.4 Priorities and allocations in a national emergency.

(a) In the event of a national emergency, special rules may be established as needed to supplement this part, thus ensuring rapid industrial response and the timely availability of critical industrial items and facilities to meet the urgent national defense requirements, including domestic emergency preparedness requirements, of approved programs.

(b) The special rules established in response to the emergency may include provisions for the taking of certain emergency official actions and the allocation of critical and scarce materials and facilities.

§ 700.7 [Amended]

6. Section 700.7(a) is amended by adding the phrase "and the Selective Service Act and related statutes" following the phrase "the Defense Production Act".

7. Section 700.8 is amended:

- a. By removing the following definitions: "Authorized program", "Controlled materials", "Controlled materials suppliers", "Distributors of controlled materials", "Further conversion", "Lead time", and "Minimum mill quantity";
- b. By amending the definition of "Delegate Agency", by revising the term

"authorized programs" to read "approved programs";

c. By amending the definition of "Official action", by adding the phrase "the Selective Service Act and related statutes," following the phrase "the Defense Production Act";

d. By amending the definition of "Rated order", by revising the term "authorized program" to read "approved program"; and

e. By revising the introductory sentence after the section heading, revising the definition of "person", and adding new definitions of "approved program", "industrial resources", and "Selective Service Act and related statutes" to read as follows:

§ 700.8 Definitions.

In addition to the definitions provided in Section 702 of the Defense Production Act (excepting the definition of "industrial resources") and Section 602(a) of the Stafford Act, the following definitions pertain to all sections of this part:

Approved program—a program determined as necessary or appropriate for priorities and allocations support to promote the national defense by the Secretary of Defense, the Secretary of Energy, or the Director, Federal Emergency Management Agency, under the authority of the Defense Production Act, the Stafford Act, and Executive Order 12919, or the Selective Service Act and related statutes and Executive Order 12742.

* * * * *

Industrial resources—all materials, services, and facilities, including construction materials, the authority for which has not been delegated to other agencies under Executive Order 12919. This term also includes the term "item" as defined and used in this part.

* * * * *

Person—any individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof; or any authorized State or local government or agency thereof; and for purposes of administration of this part, includes the United States Government and any authorized foreign government or agency thereof, delegated authority as provided in this part.

* * * * *

Selective Service Act and related statutes—Section 18 of the Selective Service Act of 1948 (50 U.S.C. app. 468), 10 U.S.C. 2538, and 50 U.S.C. 82.

* * * * *

Stafford Act—Title VI (Emergency Preparedness) of the Robert T. Stafford Disaster Relief and Emergency

Assistance Act, as amended (42 U.S.C. 5195 *et seq.*).

8. Section 700.10 is amended:

a. By revising paragraph (a); and

b. By revising the phrase "Office of Industrial Resource Administration" to read "Office of Strategic Industries and Economic Security", by revising the phrase "authorized programs" to read "approved programs", and by revising the phrase "Appendix I" to read "Appendix II", in paragraph (b); as follows:

§ 700.10 Delegation of authority.

(a) The priorities and allocations authorities of the President under Title I of the Defense Production Act with respect to industrial resources have been delegated to the Secretary of Commerce under Executive Order 12919 of June 3, 1994 (59 FR 29525). The priorities authorities of the President under the Selective Service Act and related statutes with respect to industrial resources have also been delegated to the Secretary of Commerce under Executive Order 12742 of January 8, 1991 (56 FR 1079).

* * * * *

§ 700.11 [Amended]

9. Section 700.11(b) is amended by revising the term "authorized program" to read "approved program", and revising the term "authorized programs" to read "approved programs".

10. Section 700.12 is amended by revising paragraphs (b) and (c) to read as follows:

§ 700.12 Elements of a rated order.

* * * * *

(b) A required delivery date or dates. The words "immediately" or "as soon as possible" do not constitute a delivery date. A "requirements contract", "basic ordering agreement", "prime vendor contract", or similar procurement document bearing a priority rating may contain no specific delivery date or dates and may provide for the furnishing of items from time-to-time or within a stated period against specific purchase orders, such as "calls", "requisitions", and "delivery orders". These purchase orders must specify a required delivery date or dates and are to be considered as rated as of the date of their receipt by the supplier and not as of the date of the original procurement document;

(c) The written signature on a manually placed order, or the digital signature or name on an electronically placed order, of an individual authorized to sign rated orders for the person placing the order. The signature or use of the name certifies that the

rated order is authorized under this part and that the requirements of this part are being followed; and

* * * * *

11. Section 700.13 is amended:

a. By adding a new paragraph (b)(4);

b. By removing paragraphs (c)(5), (c)(6), and (c)(7);

c. By redesignating paragraph (c)(8) as paragraph (c)(5) and amending redesignated paragraph (c)(5) by adding the phrase "or the Selective Service Act and related statutes" following the phrase "the Defense Production Act";

d. By revising paragraph (d); and

e. By adding an OMB control number; as follows:

§ 700.13 Acceptance and rejection of rated orders.

* * * * *

(b) *Mandatory rejection.* * * *

(4) If a person is unable to fill all the rated orders of equal priority status received on the same day, the person must accept, based upon the earliest delivery dates, only those orders which can be filled, and reject the other orders. For example, a person must accept order A requiring delivery on December 15 before accepting order B requiring delivery on December 31. However, the person must offer to accept the rejected orders based on the earliest delivery dates otherwise possible.

* * * * *

(d) *Customer notification*

requirements. (1) A person must accept or reject a rated order in writing or electronically within fifteen (15) working days after receipt of a DO rated order and within ten (10) working days after receipt of a DX rated order. If the order is rejected, the person must give reasons in writing (not electronically) for the rejection.

(2) If a person has accepted a rated order and subsequently finds that shipment or performance will be delayed, the person must notify the customer immediately, give the reasons for the delay, and advise of a new shipment or performance date. If notification is given verbally, written or electronic confirmation must be provided within five (5) working days.

(The information collection requirements in paragraphs (d)(1) and (d)(2) are approved by the Office of Management and Budget under OMB control number 0694-0053.)

12. Section 700.14 is amended by revising paragraph (c) to read as follows:

§ 700.14 Preferential scheduling.

* * * * *

(c) *Conflicting rated orders.* (1) If a person finds that delivery or performance against any accepted rated

orders conflicts with the delivery or performance against other accepted rated orders of equal priority status, the person shall give preference to the conflicting orders in the sequence in which they are to be delivered or performed (not to the receipt dates). If the conflicting rated orders are scheduled to be delivered or performed on the same day, the person shall give preference to those orders which have the earliest receipt dates.

(2) If a person is unable to resolve rated order delivery or performance conflicts under this section, the person should promptly seek special priorities assistance as provided in §§ 700.50 through 700.54. If the person's customer objects to the rescheduling of delivery or performance of a rated order, the customer should promptly seek special priorities assistance as provided in §§ 700.50 through 700.54. For any rated order against which delivery or performance will be delayed, the person must notify the customer as provided in § 700.13(d)(2).

* * * * *

13. Section 700.17 is amended:

a. By removing the parenthetical phrase "(except as provided in § 700.31(d)—Controlled materials program identification symbols)" in paragraph (b)(2);

b. By removing the parenthetical phrase "(not applicable to controlled materials producers)" in paragraph (b)(3);

c. By removing the phrase found at the end of the paragraph, "except as provided in § 700.31(d) (Controlled materials program identification symbols)", in paragraph (c).

d. By revising paragraph (d)(1);

e. By redesignating paragraph (d)(2) as (d)(3);

f. By adding a new paragraph (d)(2); and

g. By revising paragraph (f); as follows:

§ 700.17 Use of rated orders.

* * * * *

(d) *Combining rated and unrated orders.* (1) A person may combine rated and unrated order quantities on one purchase order provided that:

(i) The rated quantities are separately and clearly identified; and

(ii) The four elements of a rated order, as required by § 700.12, are included on the order with the statement required in § 700.12(d) modified to read in substance:

This purchase order contains rated order quantities certified for national defense use, and you are required to follow all the provisions of the Defense Priorities and Allocations System regulation (15 CFR part

700) only as it pertains to the rated quantities.

(2) A supplier must accept or reject the rated portion of the purchase order as provided in § 700.13 and give preferential treatment only to the rated quantities as required by this part. This part may not be used to give preferential treatment to the unrated portion of the order.

* * * * *

(f) A person is not required to place a priority rating on an order for less than \$50,000, or one half of the Federal Acquisition Regulation (FAR) Simplified Acquisition Threshold (see FAR 2.101), whichever amount is larger, provided that delivery can be obtained in a timely fashion without the use of the priority rating.

14. Section 700.18 is amended:

a. By adding a new paragraph

(a)(2)(v);

b. By revising paragraph (b)(1);

c. By revising the phrase "Appendix II" to read "Appendix III" in paragraph (b)(2); and

d. By removing the first item listed, "communication services", and the parenthetical phrase, "(as defined in Schedule III)" which follows the item, "Copper raw materials", in paragraph (b)(3); as follows:

§ 700.18 Limitations on placing rated orders.

(a) * * *

(2) * * *

(v) Any items related to the development of chemical or biological warfare capabilities or the production of chemical or biological weapons, unless such development or production has been authorized by the President or the Secretary of Defense.

(b) *Jurisdictional limitations.* (1) The priorities and allocations authority for certain items has been delegated under Executive Orders 12919 and 12742, other executive order, or Interagency Memoranda of Understanding to other agencies. Unless otherwise agreed to by the concerned agencies, the provisions of this part are not applicable to these items which include:

(i) Food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer (Department of Agriculture—see Attachment A to DPAS Delegation 1 in Appendix II to part 700 concerning combat rations);

(ii) All forms of energy, including radioisotopes, stable isotopes, source material, and special nuclear material produced in Government-owned plants or facilities operated by or for the Department of Energy (Department of Energy);

(iii) Health resources (Department of Health and Human Services);

(iv) All forms of civil transportation (Department of Transportation);

(v) Water resources (Department of Defense/U.S. Army Corps of Engineers);

(vi) Communications services (National Communications System under Executive Order 12472 of April 3, 1984); and

(vii) Mineral resources and mineral processing facilities (Department of the Interior/U.S. Geological Survey—see Memorandum of Understanding Between Interior and Commerce in DPAS Appendix III to part 700).

* * * * *

15. Section 700.21 is amended:

a. By revising paragraph (a);

b. By revising the phrases "materials or equipment" and "material or equipment" to read "materials, equipment, or services" in paragraphs (b)(2), (c) introductory text, (c)(1) introductory text, and (d); and

c. By revising the term "authorized programs" to read "approved programs" in paragraph (f); as follows:

§ 700.21 Application for priority rating authority.

(a) For projects believed to maximize domestic energy supplies, a person may request priority rating authority for scarce, critical, and essential supplies of materials, equipment, and services (related to the production of materials or equipment, or the installation, repair, or maintenance of equipment) by submitting DOE Form PR 437 to the Department of Energy. Blank applications and further information may be obtained from the U.S. Department of Energy, Office of Clearance and Support, Field/Headquarters Support Division, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585; Attn.: PR-132.

* * * * *

16. Subpart F is revised to read as follows:

Subpart F—National Emergency Preparedness and Critical Items

§ 700.30 Priorities and allocations in a national emergency.

(a) In the event of a national emergency, special rules may be established as needed to supplement this part, thus ensuring rapid industrial response and the timely availability of critical industrial items and facilities to meet the urgent national defense requirements, including domestic emergency preparedness requirements, of approved programs.

(1) *Emergency official actions.* (i) As needed, this part may be supplemented

to include additional definitions to cover civilian emergency preparedness industrial items, support for essential civilian programs, and provisions for the taking of certain emergency official actions under sections §§ 700.60 through 700.63.

(ii) Emergency official actions may include:

(A) Controlling inventories of critical and scarce defense and/or emergency preparedness items;

(B) Restricting the purchase, use, or distribution of critical and scarce defense and/or emergency preparedness items, or the use of production or distribution facilities, for non-essential purposes; and

(C) Converting the production or distribution of non-essential items to the production or distribution of critical and scarce defense and/or emergency preparedness items.

(2) *Allocation of critical and scarce items and facilities.* (i) As needed, this part may be supplemented to establish special rules for the allocation of scarce and critical items and facilities to ensure the timely availability of these items and facilities for approved programs, and to provide for an equitable and orderly distribution of requirements for such items among all suppliers of the items. These rules may provide for the allocation of individual items or they may be broad enough to direct general industrial activity as required in support of emergency requirements.

(ii) Allocation rules (i.e., controlled materials programs) were established in response to previous periods of national security emergency such as World War II and the Korean Conflict. The basic elements of the controlled materials programs were the set-aside (the amount of an item for which a producer or supplier must reserve order book space in anticipation of the receipt of rated orders), the production directive (requires a producer to supply a specific quantity, size, shape, and type of an item within a specific time period), and the allotment (the maximum quantity of an item authorized for use in a specific program or application). These elements can be used to assure the availability of any scarce and critical item for approved programs. Currently, a set-aside applies only to metalworking machines (see § 700.31).

(3) In the event that certain critical items become scarce, and approved program requirements for these items cannot be met without creating a significant dislocation in the civilian market place so as to create appreciable hardship, Commerce may establish special rules under section 101(b) of the

Defense Production Act to control the general distribution of such items in the civilian market.

(b) *Regional Emergency Coordinators.*

(1) If due to a catastrophic national security emergency event, communications with Commerce headquarters in Washington, D.C. are severed, DPAS Emergency Delegation 1 will provide authority to the Regional Emergency Coordinators (REC) located in the Standard Federal Region Council cities (Boston, New York, Philadelphia, Atlanta, Dallas, Kansas City, Chicago, Denver, San Francisco, and Seattle) to represent the Secretary of Commerce, and as necessary, act for the Secretary to carry out the emergency industrial production and distribution control functions of Commerce as set forth in this part, in any supplement thereto, or other applicable authority. See DPAS Emergency Delegation 1 for further information about the authority and duties of the RECs, and the effective date of the Delegation.

(2) If DPAS Emergency Delegation 1 is implemented due to a catastrophic national security emergency event, requests for special priorities assistance under §§ 700.50 through 700.55 should be filed with the nearest Regional Emergency Coordinator located in one of the Standard Federal Region Council cities as provided in DPAS Delegation 1.

§ 700.41 [Redesignated as § 700.31]

Subpart G—[Removed and Reserved]

17. Section 700.41 is redesignated as § 700.31 in Subpart F; and Subpart G is removed and reserved.

§ 700.50 [Amended]

18. Section 700.50(c) is amended by revising the term “ITA-999” to read “BXA-999” each of the three times it appears in the paragraph; by revising the term “(OMB control number 0625-0015)” to read “(OMB control number 0694-0057)”; by removing the phrase “, any Commerce District Office”; and by revising the phrase “Appendix III” to read “Appendix I”.

19. Section 700.54 is amended by revising the section heading and the second sentence of the introductory text, as follows:

§ 700.54 Instances where assistance may not be provided.

* * * * *

Examples where assistance may not be provided include situations when a person is attempting to:

* * * * *

§ 700.55 [Amended]

20. Section 700.55 is amended:

a. By revising the term “authorized programs” to read “approved programs” in paragraph (a);

b. By revising the term “Canadian Department of Supply and Services” to read “Canadian Public Works and Government Services Canada” in paragraphs (b)(2), (b)(3), (b)(4), (b)(5), and (b)(6); and by revising the phrase “The Department of Supply and Services” to “Public Works and Government Services Canada” in paragraph (b)(5).

c. By revising the term “ITA-999” to read “BXA-999” in paragraph (b)(6).

21. The phrase “the Selective Service Act and related statutes,” is added following the phrase “the Defense Production Act,” wherever it appears in the following places:

Sec.

700.70(a)

700.71(a)

700.71(c)(1)

700.71(c)(2)

700.71(c)(3)

700.72(a)

700.73(a)

700.73(b)

700.75

700.80(a)(2)

700.91(d)

§ 700.72 [Amended]

22. Section 700.72(b) is amended by revising the term “Assistant General Counsel for International Trade” to read “Chief Counsel for Export Administration”.

23. Section 700.74 is amended:

a. By revising paragraph (a);

b. By removing paragraph (b);

c. By redesignating paragraph (c) as paragraph (b), and paragraph (d) as paragraph (c); as follows:

§ 700.74 Violations, penalties, and remedies.

(a) Willful violation of the provisions of Title I or Sections 705 or 707 of the Defense Production Act, the priorities provisions of the Selective Service Act and related statutes, this part, or an official action, is a crime and upon conviction, a person may be punished by fine or imprisonment, or both. The maximum penalty provided by the Defense Production Act is a \$10,000 fine, or one year in prison, or both. The maximum penalty provided by the Selective Service Act and related statutes is a \$50,000 fine, or three years in prison, or both.

* * * * *

24. The term “Office of Industrial Resource Administration” is revised to read “Office of Strategic Industries and Economic Security” in the following places:

Sec.
700.80(a)
700.80(c)
700.80(d)
700.81(a)
700.81(b)
700.93

25. The phrase "Assistant Secretary for Trade Administration" is revised to read "Assistant Secretary for Export Administration" in the following places:

Sec.
700.80(d)
700.81(a)
700.81(b)
700.81(d)
700.81(e)

700.81(f)
700.81(g)
700.81(h)

§ 700.81 [Amended]

26. Section 700.81(b) is amended by revising the term "International Trade Administration" to read "Bureau of Export Administration".

§ 700.91 [Amended]

27. Section 700.91(a) is amended by revising the term "(OMB control number 0625-0107)" to read "(OMB control number 0694-0053)".

§ 700.93 [Amended]

28. Section 700.93 is amended by revising the phrase "telephone: (202)

377-4506" to read "telephone: (202) 482-3634, or FAX: (202) 482-5650".

29. Schedule 1 to part 700 is revised, as follows:

Defense Priorities and Allocations System
SCHEDULE 1 TO PART 700

Approved Programs and Delegate Agencies

The programs listed in this schedule have been approved for priorities and allocations support under this part. They have equal preferential status. The Department of Commerce has authorized the Delegate Agencies to use this part in support of those programs assigned to them, as indicated below.

Program identification symbol	Approved program	Delegate agency
Defense programs:		
A1	Aircraft	Department of Defense. ¹
A2	Missiles	Do.
A3	Ships	Do.
A4	Tank—Automotive	Do.
A5	Weapons	Do.
A6	Ammunition	Do.
A7	Electronic and communications equipment	Do.
B1	Military building supplies	Do.
B8	Production equipment (for defense contractor's account)	Do.
B9	Production equipment (Government owned)	Do.
C1	Food resources (combat rations)	Do.
C2	Department of Defense construction	Do.
C3	Maintenance, repair, and operating supplies (MRO) for Department of Defense facilities.	Do.
C9	Miscellaneous	Do.
International defense programs:		
Canada:		
D1	Canadian military programs	Department of Commerce.
D2	Canadian production and construction	Do.
D3	Canadian atomic energy program	Do.
Other Foreign Nations:		
G1	Certain munitions items purchased by foreign governments through domestic commercial channels for export.	Department of Commerce.
G2	Certain direct defense needs of foreign governments other than Canada	Do.
G3	Foreign nations (other than Canada) production and construction	Do.
Co-Production:		
J1	F-16 Co-Production Program	Departments of Commerce and Defense.
Atomic energy programs:		
E1	Construction	Department of Energy.
E2	Operations—including maintenance, repair, and operating supplies (MRO)	Do.
E3	Privately owned facilities	Do.
Domestic energy programs:		
F1	Exploration, production, refining, and transportation	Department of Energy.
F2	Conservation	Do.
F3	Construction, repair, and maintenance	Do.
Other defense, energy, and related programs:		
H1	Certain combined orders (see section 700.17(c))	Department of Commerce.
H5	Private domestic production	Do.
H6	Private domestic construction	Do.
H7	Maintenance, repair, and operating supplies (MRO)	Do.
H8	Designated Programs	Do.
K1	Federal supply items	General Services Administration.
N1	Emergency preparedness activities	Federal Emergency Management Agency.

¹ Department of Defense includes: Armed Services—Army, Navy (including Marines and Coast Guard), and Air Force; Component Agencies, including Defense Logistics Agency, National Security Agency, Defense Advanced Research Projects Agency, Defense Information Systems Agency, Defense Nuclear Agency, Defense Mapping Agency, and On-Site Inspection Agency; and Associated Agencies, including Central Intelligence Agency and National Aeronautics and Space Administration.

30. Schedule II to part 700 (Controlled Materials), Schedule III to part 700 (Technical Definitions of Controlled Materials Products), Schedule IV to part 700 (Copper Controlled Materials Producers' Set-aside Base and

Percentages), and Schedule V to part 700 (Nickel Alloys Controlled Materials Producers' Set-aside Base and Percentages) are removed.

31. Appendix I to part 700 is revised, as follows:

Defense Priorities and Allocations System

Appendix 1 to Part 700

Form BXA-999—Request for Special Priorities Assistance

BILLING CODE 3510-JT-P

FORM BXA-999

REV. 4-98

U.S. DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION

FOR DOC USE

OMB NO. 0694-0057

REQUEST FOR SPECIAL PRIORITIES ASSISTANCEREAD INSTRUCTIONS ON BACK PAGE
TYPE OR PRINT IN INK

CASE NO. _____

RECEIVED _____

ASSIGNED TO _____

Submission of a completed application is required to request Special Priorities Assistance (SPA). See sections 700.50-55 of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR 700). It is a criminal offense under 18 U.S.C. 1001 to make a wilfully false statement or representation to any U.S. Government agency as to any matter within its jurisdiction. All company information furnished related to this application will be deemed BUSINESS CONFIDENTIAL under Sec. 705(d) of the Defense Production Act of 1950 [50 U.S.C. app. 2155(d)] which prohibits publication or disclosure of this information unless the President determines that withholding it is contrary to the interest of the national defense. The Department of Commerce will assert the appropriate Freedom of Information Act (FOIA) exemptions if such information is the subject of FOIA requests. The unauthorized publication or disclosure of such information by Government personnel is prohibited by law. Violators are subject to fine and/or imprisonment.

1. APPLICANT INFORMATION

a. Name and complete address of Applicant (Applicant can be any person needing assistance - government agency, contractor, or supplier. See definition of "Applicant" in Footnotes section on back page of this form).

Contact's name _____

Title _____

Telephone _____

FAX _____

b. If Applicant is not end-user Government agency, give name and complete address of Applicant's customer.

Contact's name _____

Title _____

Telephone _____ FAX _____

Contract/purchase order no. _____

Dated _____ Priority rating _____

2. **APPLICANT ITEM(S).** If Applicant is not end-user Government agency, describe item(s) to be delivered by Applicant under its customer's contract or purchase order through the use of item(s) listed in Block 3. If known, identify Government program and end-item for which these items are required. If Applicant is end-user Government agency and Block 3 item(s) are not end-items, identify the end-item for which the Block 3 item(s) are required. See definition of "item" in Footnotes section on page 4 of this form.

3. ITEM(S) (including service) FOR WHICH APPLICANT REQUESTS ASSISTANCE

Quantity <i>Pieces, units</i>	Description <i>Include identifying information such as model or part number</i>	Dollar Value <i>Each quantity listed</i>

4. SUPPLIER INFORMATION

a. Name and complete address of Applicant's Supplier.

Contact's name _____

Title _____

Telephone _____ FAX _____

b. Applicant's contract or purchase order to Supplier.

Number _____

Dated _____

Priority rating _____
(If none, so state)*If Supplier is an agent or distributor, give complete producer or lower tier supplier information in Continuation Block on page 3, including purchase order number, date, and priority rating (if none, so state).***5. SHIPMENT SCHEDULE OF ITEM(S) SHOWN IN BLOCK 3**a. Applicant's original shipment/performance requirementMonth
YearNumber of
unitsTotal
unitsb. Supplier's original shipment/performance promiseMonth
YearNumber of
unitsTotal
unitsc. Applicant's current shipment/performance requirementMonth
YearNumber of
unitsTotal
unitsd. Supplier's current shipment/performance promiseMonth
YearNumber of
unitsTotal
units**6. REASONS GIVEN BY SUPPLIER** for inability to meet Applicant's required shipment or performance date(s).**7. BRIEF STATEMENT OF NEED FOR ASSISTANCE.** As applicable, explain effect of delay in receipt of Block 3 item(s) on achieving timely shipment of Block 2 item(s) (e.g., production line shutdown), or the impact on program or project schedule. Describe attempts to resolve problems and give specific reasons why assistance is required. If priority rating authority is requested, please so state.**8. CERTIFICATION:** I certify that the information contained in Blocks 1 - 7 of this form, and all other information attached, is correct and complete to the best of my knowledge and belief (omit signature if this form is electronically generated and transmitted - use of name is deemed certification).

Signature of Applicant's authorized official _____

Title _____

Print or type name of authorized official _____

Date _____

9. U.S. GOVERNMENT AGENCY INFORMATION

a. Name/complete address of cognizant sponsoring service/agency/activity headquarters office. Provide lower level activity, program, project, contract administration, or field office information in Continuation Block below, on duplicate of this page, or on separate sheet of paper.

b. Case reference no. _____

c. Government agency program or project to be supported by Block 2 item(s). Identify end-user agency if not sponsoring agency.

Contact's name _____

Signature _____ Date ____/____/____

Title _____

Telephone _____ FAX _____

d. Statement of urgency of particular program or project and Applicant's part in it. Specify the extent to which failure to obtain requested assistance will adversely affect the program or project.

e. Government agency/activity actions taken to attempt resolution of problem.

f. Recommendation.

10. ENDORSEMENT by authorized Department or Agency headquarters official (omit signature if this form is electronically generated and transmitted - use of name is deemed authorization). This endorsement is required for all Department of Defense and foreign government requests for assistance.

Signature of authorized official _____

Title _____

Print or type name of authorized official _____

Date _____

CONTINUATION BLOCK

Identify each statement with appropriate block number

INSTRUCTIONS FOR FILING FORM BXA-999

REQUESTS FOR SPECIAL PRIORITIES ASSISTANCE (SPA) MAY BE FILED for any reason in support of the Defense Priorities and Allocations System (DPAS); e.g.: when its regular provisions are not sufficient to obtain delivery of item(s)¹ in time to meet urgent customer or program/project requirements; for help in locating a supplier or placing a rated order; to ensure that rated orders are receiving necessary preferential treatment by suppliers; to resolve production or delivery conflicts between or among rated orders; to verify the urgency or determine the validity of rated orders; or to request authority to use a priority rating. **Requests for SPA must be sponsored by the cognizant U.S. Government agency responsible for the program or project supported by the Applicant's² contract or purchase order.**

REQUESTS FOR SPA SHOULD BE TIMELY AND MUST ESTABLISH:

- The urgent defense (including civil emergency preparedness) or energy program or project related need for the item(s); and that
- The Applicant has made a reasonable effort to resolve the problem.

APPLICANT MUST COMPLETE BLOCKS 1-8. SPONSORING U.S. GOVERNMENT AGENCY/ACTIVITY MUST COMPLETE BLOCKS 9-10. Sponsoring agency, if not the Department of Defense (DOD), must obtain DOD concurrence if the agency is supporting a DOD program or project. This form may be mechanically or electronically prepared and may be mailed, FAXed, or electronically transmitted.

WHERE TO FILE THIS FORM:

- Private sector Applicants should file with their respective customers as follows: **lower-tier suppliers** file with customer/subcontractor for forwarding to subcontractor/prime contractor; **subcontractors/suppliers** file with prime contractor for forwarding to one of the below listed cognizant U.S. Government (DPAS Delegate) agencies; **prime contractors** file directly with one of the below listed cognizant U.S. Government (DPAS Delegate) agencies:
 - **Department of Defense (DOD)** -- File with the local Defense Contract Management Area Office, plant representative or contracting officer, or the appropriate DOD military service, associated agency, program, or project office.
 - **Department of Energy (DOE)** -- File with the appropriate Field Operations Office. Requests for SPA for domestic energy projects should be filed with DOE headquarters in Washington, D.C.
 - **General Services Administration (GSA) and Federal Emergency Management Agency (FEMA)** -- File with the contracting officer in the agency's regional office or with its headquarters office in Washington, D.C.
- Applicants who are lower level **contract administration, program, project, or field offices**, or when these activities can not resolve the private sector request for assistance, should forward this form to cognizant sponsoring service/agency/activity headquarters for review, Block 10 endorsement, and forwarding to the U.S. Department of Commerce. **Foreign government or private sector entities** should file directly with the DOD Office of the Secretary of Defense. **Timely review and forwarding is essential to providing timely assistance.**
- If for any reason the Applicant is unable to file this form as specified above, see **CONTACTS FOR FURTHER INFORMATION** below.

CONTACTS FOR FURTHER INFORMATION:

- For any information related to the production or delivery of items against particular rated contracts or purchase orders, contact the cognizant U.S. Government agency, activity, contract administration, program, project, or field office (see **WHERE TO FILE** above).
- If for any reason the Applicant is unable to file this form as specified in **WHERE TO FILE** above, if the cognizant U.S. Government agency for filing this form cannot be determined, or for any other information or problems related to the completion and filing of this form, the operation or administration of the DPAS, or to obtain a copy of the DPAS or any DPAS training materials, contact the **Office of Strategic Industries and Economic Security, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230 (Attn.: DPAS); telephone (202) 482-3634, or FAX (202) 482-5650.**

APPLICANTS REQUIRING PRIORITY RATING AUTHORIZATION TO OBTAIN PRODUCTION OR CONSTRUCTION EQUIPMENT for the performance of rated contracts or orders in support of DOD programs or projects must file **DOD Form DD-691, "Application for Priority Rating for Production or Construction Equipment"** in accordance with the instructions on that form. For DOE, GSA, or FEMA programs or projects, Applicants may use this form unless the agency requires its own form.

SPECIAL INSTRUCTIONS:

- If the space in any block is insufficient to provide a clear and complete statement of the information requested, use the **Continuation Block** provided on this form or a separate sheet to be attached to this form.
- Entries in Block 3 should be limited to information from a single contract or purchase order. If SPA is requested for additional contracts or purchase orders placed with a supplier for the same or similar items, information from these contracts or purchase orders may be included in one application. However, each contract or purchase order number must be identified and the quantities, priority rating, delivery requirements, etc., must be shown separately.
- If disclosure of certain information on this form is prohibited by security regulations or other security considerations, enter "classified" in the appropriate block in lieu of the restricted information.

FOOTNOTES:

1. "Item" is defined in the DPAS as any raw, in process or manufactured material, article, commodity, supply, equipment, component, accessory, part, assembly, or product of any kind, technical information, process or service.
2. "Applicant," as used in this form, refers to any person requiring Special Priorities Assistance, and eligible for such assistance under the DPAS. "Person" is defined in the DPAS to include any individual, corporation, partnership, association, any other organized group of persons, a U.S. Government agency, or any other government.

BURDEN ESTIMATE AND REQUEST FOR COMMENT

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, gathering the data needed, and completing the form. Please send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Robert Kugelman, Director of Administration, Bureau of Export Administration, Room 3889, U.S. Department of Commerce, Washington, D.C. 20230. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

Special Priorities Assistance; and Appendix IV to part 700: Memorandum of Understanding on Priorities and Allocations Support Between the Department of Commerce and the Canadian Department of Supply and Services, are removed.

Issued: June 5, 1998.

Iain S. Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 98-15410 Filed 6-10-98; 8:45 am]

BILLING CODE 3510-JT-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Gentamicin Sulfate, Betamethasone Valerate, and Clotrimazole Ointment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Med-Pharmex, Inc. The ANADA provides for the use of gentamicin sulfate, betamethasone valerate, and clotrimazole (Tri-Otic ointment) for the treatment of canine acute and chronic otitis externa associated with yeast and/or bacteria susceptible to gentamicin.

EFFECTIVE DATE: June 11, 1998.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1623.

SUPPLEMENTARY INFORMATION: Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767, filed ANADA 200-229 that provides for the use of gentamicin sulfate, betamethasone valerate, and clotrimazole (Tri-Otic ointment) for the treatment of canine acute and chronic otitis externa associated with yeast and/or bacteria susceptible to gentamicin.

The ANADA is approved as a generic copy of Schering Plough Animal Health Corp.'s NADA 140-896 for OTOMAX® (gentamicin sulfate, betamethasone valerate, and clotrimazole). ANADA 200-229 is approved as of April 8, 1998, and the regulations are amended in 21 CFR 524.1044g to reflect the approval. The basis for approval is discussed in the freedom of information summary. In addition, the agency is amending 21 CFR 510.600(c)(1) and (c)(2) to reflect a change of sponsor's name and address.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on

the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) in the entry for "Med-Pharmex, Inc., Biomed Laboratories" and in the table in paragraph (c)(2) in the entry for "051259" by revising the sponsor name and address to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * *	* * *
Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767-1861	051259
* * *	* * *

(2) * * *

Drug labeler code	Firm name and address
* * *	* * *
051259	Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767-1861
* * *	* * *