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audit. Records may be retained in the form of microfilm or other photographic copies instead of the originals.

§ 401.5 Defense against claims for damages.

No person shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from compliance with this order or any provision thereof, notwithstanding that this order or such provision shall thereafter be declared by judicial or other competent authority to be invalid.

§ 401.6 Violations.

Any person who wilfully violates any provisions of this order or wilfully conceals a material fact or furnishes false information 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. In addition, administrative action may be taken against any such person, denying him the privileges generally accorded under this order.

PART 402—SHIPMENTS ON AMERICAN FLAG SHIPS AND AIRCRAFT (T–1, INT. 1)

Sec.

402.1 Shipments from the United States.
402.2 Restricted commodities.
402.3 Addition of commodities to the Positive List.
402.4 Calls at restricted ports en route to an unrestricted port with restricted cargo.
402.5 Forwarding commodities previously shipped.
402.6 Relation to Transportation Order T–2.

AUTHORITY: Sec. 704, 64 Stat. 816, as amended; 50 U.S.C. app. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U.S.C. app. 2071, E.O. 10480, 3 CFR, 1949–1953 Comp., p. 962.

SOURCE: Transportation Order T–1, Interpretation 1, 15 FR 9145, Dec. 21, 1950; 32 FR 15831, Nov. 17, 1967. Redesignated at 45 FR 44574, July 1, 1980, unless otherwise noted.

§ 402.1 Shipments from the United States.

Transportation Order T–1 applies to shipments from the United States, as well as to shipments from foreign ports, on American flag ships and aircraft.

§ 402.2 Restricted commodities.

The restrictions of Transportation Order T–1 apply to the transportation or discharge of (a) commodities on the Positive List (15 CFR part 399) (as amended from time to time) of the Comprehensive Export Schedule of the Office of International Trade, Department of Commerce, (b) articles on the list of arms, ammunition and implements of war coming within the meaning of Proclamation No. 2776 of March 26, 1948, and (c) commodities, including fissionable materials, controlled for export under the Atomic Energy Act of 1946. The restrictions imposed by Transportation Order T–1 do not apply to other commodities, not within these restricted classes at the time of transportation or discharge, even though authorization for the export of the commodity from the United States to the particular destination is required under regulations of the Office of International Trade or under other Federal law or regulation. In this respect, Order T–1 is different from Order T–2 which applies to all commodities destined to Communist China. Order T–1 does not relax or modify any of the requirements of any other regulation or law.

§ 402.3 Addition of commodities to the Positive List.

Order T–1 applies to the transportation or discharge of commodities which are restricted at the time of transportation or discharge. Accordingly, if a commodity is added to the Positive List while the commodity is being transported on an American flag ship or aircraft, the restrictions of Order T–1 immediately apply and the commodity may not be transported to or discharged at any of the restricted ports or discharged in transit to one of the restricted ports, unless authorization under Order T–1 is obtained.

§ 402.4 Calls at restricted ports en route to an unrestricted port with restricted cargo.

Order T–1 does not prohibit an American flag ship or aircraft from going to or calling at one of the restricted

ports, even though it has on board a commodity which could not be discharged at that port. (Note, however, that Order T–2 prohibits American flag ships and aircraft from calling at any port or other place in Communist China.) For example, an American flag ship may call at one of the restricted ports (except one in Communist China), even though it has on board the following classes of commodities:

(a) A Positive List commodity manifested to a destination outside the restricted area, with an export license and an export declaration showing the unrestricted destination at the ultimate destination, (b) a Positive List commodity destined for the restricted port of call which cannot be discharged there because there is no export license or authorization from the Assistant Secretary for Domestic and International Business permitting discharge at the restricted port of call, (c) a commodity of any kind destined for Communist China (the transportation and discharge of which is covered by Order T–2). None of these commodities may be discharged at the restricted port of call. Discharge of any of these commodities at the port covered by the restrictions of Order T–1 is prohibited and subject to penalty, regardless of the circumstances under which the discharge of the cargo at the restricted port occurs, unless appropriate authorization is obtained.

§ 402.5 Forwarding commodities previously shipped.

Order T–1 applies to transportation on or discharge from ships documented under the laws of the United States and aircraft registered under the laws of the United States. These restrictions apply either in the case of a discharge at one of the restricted ports or to discharge at any other port in transit to a restricted destination. The restrictions of Order T–1 do not apply to transportation by foreign carriers, as long as there is no prohibited transportation or discharge by or from a United States flag ship or aircraft after the issuance of Order T–1. Accordingly, if an American flag ship or aircraft, before the issuance of Order T–1, had transported restricted commodities manifested to restricted destinations, and had completed the transportation to a foreign intermediate point and had completed the discharge from the American flag ship or aircraft before the issuance of Order T–1, no violation of that order would have occurred, but Order T–1 would prohibit further shipment on an American flag ship or aircraft unless authorization under Order T–1 is obtained.

§ 402.6 Relation to Transportation Order T–2.

Transportation Order T–1 applies to the transportation of commodities to, or in transit to, destinations in Sub-Group A, Hong Kong or Macao. It applies, however, only to commodities on the Positive List of the Office of International Trade, arms and ammunition, and commodities controlled under the Atomic Energy Act (see section 2 of this interpretation). Transportation Order T–2 applies to the transportation of commodities of any kind which are destined to Communist China (Order T–2 also prohibits American ships and aircraft from calling at any port or place in Communist China). Since Communist China is in Sub-Group A, the restrictions of both orders apply to the transportation of commodities to Communist China or to any other point in transit to Communist China.

PARTS 403–499 [RESERVED]