

setting forth the procedures and criteria used by the Department of Energy in making its determination and findings is published in 10 CFR part 216.

[49 FR 30414, July 30, 1984. Redesignated at 54 FR 601, Jan. 9, 1989, as amended at 63 FR 31923, June 11, 1998; 73 FR 34, Jan. 2, 2008]

### Subpart F—National Emergency Preparedness and Critical Items

SOURCE: 63 FR 31923, June 11, 1998, unless otherwise noted.

#### § 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 equi-

table 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) [Reserved]

[63 FR 31923, June 11, 1998, as amended at 71 FR 39528, July 13, 2006]

#### § 700.31 Metalworking machines.

(a) “Metalworking machines” include power driven, manual or automatic, metal cutting and metal forming machines and complete machines not supported in the hands of an operator when in use. Basic machines with a list price of \$2,500 or less are not covered by this section.

(b) Metalworking machines covered by this section include:

Bending and forming machines

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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  
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  
Polishing, lapping, boring, and finishing machines  
Punching and shearing machines  
Riveting machines  
Saws and filing machines  
Turning machines, lathes, including automatic  
Wire and metal ribbon forming machines

(c) A metalworking machine producer is not required to accept DO rated orders calling for delivery in any month of a total quantity of any size of machine in excess of 60 percent of scheduled production of that size of machine for that month, or any DO rated orders received less than three months prior to the beginning of the month for which delivery is requested. However, DX rated orders must be accepted without regard to a set-aside or the lead time, if delivery can be made by the required date.

[49 FR 30414, July 30, 1984. Redesignated at 54 FR 601, Jan. 9, 1989. Further redesignated at 63 FR 31924, June 11, 1998]

### Subpart G [Reserved]

### Subpart H—Special Priorities Assistance

#### § 700.50 General provisions.

(a) The DPAS is designed to be largely self-executing. However, it is anticipated that from time-to-time problems will occur. In this event, a person should immediately contact the appropriate contract administration officer for guidance or assistance. If additional formal aid is needed, special priorities assistance should be sought from the Delegate Agency through the contract administration officer. If the Delegate

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Agency is unable to resolve the problem or to authorize the use of a priority rating and believes additional assistance is warranted, the Delegate Agency may forward the request to the Department of Commerce for action. Special priorities assistance is a service provided to alleviate problems that do arise.

(b) Special priorities assistance can be provided for any reason in support of this regulation, such as assisting in obtaining timely deliveries of items needed to satisfy rated orders or authorizing the use of priority ratings on orders to obtain items not automatically ratable under this regulation.

(c) A request for special priorities assistance or priority rating authority must be submitted on Form BIS-999 (OMB control number 0694-0057) to the local contract administration representative. Form BIS-999 may be obtained from the Delegate Agency representative or from the Department of Commerce. A sample Form BIS-999 is attached at Appendix I.

[49 FR 30414, July 30, 1984; 49 FR 50171, Dec. 27, 1984. Redesignated at 54 FR 601, Jan. 9, 1989, as amended at 63 FR 31924, June 11, 1998]

#### § 700.51 Requests for priority rating authority.

(a) If a rated order is likely to be delayed because a person is unable to obtain items not normally rated under this regulation, the person may request the authority to use a priority rating in ordering the needed items. Examples of items for which priority ratings can be authorized include:

- (1) Production or construction equipment;
- (2) Computers when not used as production items; and
- (3) Expansion, rebuilding or replacing plant facilities.

(b) *Rating authority for production or construction equipment.* (1) A request for priority rating authority for production or construction equipment must be submitted to the appropriate Delegate Agency. The Delegate Agency may establish particular forms to be used for these requests (*e.g.*, Department of Defense Form DD 691.)

(2) When the use of a priority rating is authorized for the procurement of production or construction equipment,