

### § 33.52

(c) A statement of the specific objective(s) of the allocation action;

(d) A list of the materials, services, or facilities to be allocated;

(e) A list of the sources of the materials, services, or facilities that will be subject to the allocation action;

(f) A detailed description of the provisions that will be included in the allocation orders, including the type(s) of allocation orders, the percentages or quantity of capacity or output to be allocated for each purpose, and the duration of the allocation action (*e.g.*, anticipated start and end dates);

(g) An evaluation of the impact of the proposed allocation action on the civilian market; and

(h) Proposed actions, if any, to mitigate disruptions to civilian market operations.

### § 33.52 Controlling the general distribution of a material in the civilian market.

No allocation action by the Department of Transportation may be used to control the general distribution of a material in the civilian market, unless the Secretary of the Department of Transportation has:

(a) Made a written finding that:

(1) Such material is a scarce and critical material essential to the national defense, and

(2) The requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship;

(b) Submitted the finding for the President's approval through the Assistant to the President and National Security Advisor and the Assistant to the President for Homeland Security and Counterterrorism; and

(c) The President has approved the finding.

### § 33.53 Types of allocation orders.

There are three types of allocation orders available for communicating allocation actions. These are:

(a) Set-aside: An official action that requires a person to reserve materials, services, or facilities capacity in an-

### 49 CFR Subtitle A (10-1-13 Edition)

ticipation of the receipt of rated orders;

(b) Directive: An official action that requires a person to take or refrain from taking certain actions in accordance with its provisions. For example, a directive can require a person to: stop or reduce production of an item; prohibit the use of selected materials, services, or facilities; or divert the use of materials, services, or facilities from one purpose to another; and

(c) Allotment: An official action that specifies the maximum quantity of a material, service, or facility authorized for a specific use.

### § 33.54 Elements of an allocation order.

Each allocation order must include:

(a) A detailed description of the required allocation action(s);

(b) Specific start and end calendar dates for each required allocation action;

(c) The written signature on a manually placed order, or the digital signature or name on an electronically placed order, of the Secretary. The signature or use of the name certifies that the order is authorized under this part and that the requirements of this part are being followed;

(d) A statement that reads in substance: "This is an allocation order certified for national defense use. [Insert the legal name of the person receiving the order] is required to comply with this order, in accordance with the provisions of the Transportation Priorities and Allocations System regulation (49 CFR Part 33)"; and

(e) A current copy of the Transportation Priorities and Allocations System regulation (49 CFR Part 33) as of the date of the allocation order.

### § 33.55 Mandatory acceptance of an allocation order.

(a) Except as otherwise specified in this section, a person shall accept and comply with every allocation order received.

(b) A person shall not discriminate against an allocation order in any manner such as by charging higher prices for materials, services, or facilities covered by the order or by imposing terms and conditions for contracts