

FOREWORD

(Supplementation is permitted at all levels)

This Manual provides policy and instructions for the administration of nonconformances, waivers and deviations for subsistence supplies for the Office of Commander, Subsistence Field Activities and Director, Subsistence, (DPSC-H), the Defense Subsistence Region Pacific (HDSRP), and the Defense Subsistence Offices (DSOs).

This Manual will be maintained in a current status and reviewed annually.

Users of this Manual are encouraged to submit recommended changes and comments to improve this publication, through channels, to Directorate of Subsistence, ATTN: DPSC-HSTE.

BY ORDER OF THE COMMANDER

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This DPSCM supersedes DPSCM 4155.41, 1 Sep 82, and Changes 1 and 2.
*Denotes Changes.

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NONCONFORMING SUBSISTENCE SUPPLIES

I. REFERENCES.

- A. DoD FAR Supplement.
- B. Federal Acquisition Regulation (FAR)
- C. DLAM 4155.2, Quality Assurance Program Manual for Defense Supply Center and Defense Industrial Plant Equipment Center and Defense Property Disposal Service.
- D. DLAR 4105.1, Defense Logistics Acquisition Regulation.
- E. DLAR 4155.11, Processing Requests for Deviations and Waivers for Nonconforming Material.
- F. DPSCM 4105.5, Subsistence Procurement Operating Procedures Manual.
- G. DPSCM 4105.7, DPSC Contracting Policy Manual.
- H. DPSCM 4155.6, Subsistence Inspection Manual.
- I. DPSCM 4155.25, Subsistence Coding of Nonconformance Reports.

II. PURPOSE AND SCOPE.

- A. To prescribe procedures and assign responsibilities for contracting, supply and quality assurance actions pertinent to subsistence supplies which do not conform in all respects to contract requirements and to relate these actions to regulatory requirements for processing.
- B. This Manual is applicable to the Office of Commander, Subsistence Field Activities and Director, Subsistence (DPSC-H) including the Defense Subsistence Offices (DSOs), and Defense Subsistence Region Pacific (HDSRP).
- C. Implementing instructions for step by step procedures in Europe are published in DSRE Standing Operating Procedures, Handling and Processing Nonconformance Reports (see paragraph III.C of this Manual relative to HDSRE).

III. POLICY.

- A. Subsistence supplies, which are found nonconforming prior to acceptance, shall not be accepted unless exceptional circumstances exist. These exceptional circumstances and detailed guidance pertaining thereto (for contracting officers) are contained in FAR Supplement 46.407. When nonconforming supplies are positioned at origin, they shall not be considered for acceptance unless supported by the contractor's Request for Waiver (RFW), which must be in writing. Without exception, all Nonconformances considered for waiver approval, or for action under contractual Warranty Clauses, will be documented on DPSC Form 2662 (Report of Nonconforming Supplies) or DPSC Form 1932 (Report of Nonconforming Shell Eggs). Deviations will be processed on inter office correspondence forms and applicable overprints of Standard Form 30.

B. Quality assurance programs, which after acceptance sometimes generate inspection results indicating supplies are nonconforming, were designed primarily to provide essential supply system information on quality and condition of supplies in storage (e.g., surveillance inspection) to provide feedback data for improvement of pre acceptance quality assurance procedures and standards (e.g., quality audit) and to evaluate the credibility of contractor testing programs (e.g. verification testing). Such nonconforming inspection results shall be evaluated in light of the contractor quality history to include previous pre-acceptance inspection results, waivers already approved, the risks inherent in sampling inspection, and possible quality/condition degradation due to Government handling and storage. Only when this evaluation clearly indicates that the nonconformance(s) does in fact exist by reason of contractor fault, and that there will be a resultant economic or serviceability loss to the Government, or savings to the contractor, will the post acceptance nonconforming inspection results be forwarded to the contracting officer for action under contractual Warranty Clauses. For nonconformances having a major effect on serviceability, the level of review for approval is the Commander, DPSC-D. For nonconformances having a minor effect on serviceability, the level of review is the Director of Subsistence, DPSC-H. Decision to issue nonconforming supplies must be staffed with the Chiefs of the Contracting and Production Division (DPSC-HP), Supply Operations Division (DPSC-HO), and Technical Operations and Quality Assurance Division (DPSC-HS), and approved by the Commanders, HDSRP, HDSRE, or the Director, Subsistence (DPSC-H).

C. The above policy applies equally to HDSRE, insofar as not to conflict with reference I.G., but that activity will develop internal procedures, compatible with its particular offshore acquisition mission, to accomplish the policy objectives. HDSRE is, therefore, exempt from the procedural guidelines in this Manual.

D. This Manual does not apply to fresh fruits and vegetable nonconformances. Local procedures, consistent with best value selection or a specific acquisition procedure in effect, are acceptable.

IV. DEFINITIONS.

A. Deviation. Written authorization, granted prior to manufacture of an item, to depart from a particular performance or design requirement of a contract, specification, or referenced document, for a specific number of units or specific period of time.

B. Major Nonconformance. A nonconformance that is likely to result in failure or to reduce materially the useability of the item for its intended purpose.

C. Critical Nonconformance. A nonconformance that judgment and experience indicate is likely to result in hazardous or unsafe conditions for individuals using, maintaining or depending upon the product.

D. Minor Nonconformance. A nonconformance, which does not adversely affect any of the following: health or safety, performance, interchangeability, reliability, or maintainability, effective use or operation, weight or appearance.

E. Quality Nonconformances. Those nonconformances which relate specifically to quality assurance provisions or other factors in the contract which affect product serviceability, i.e., examination and test results, measurements, packaging, packing, and marking requirements.

F. Administrative Nonconformances. Those nonconformances not affecting serviceability of the item, such as over and under shipments, early and late deliveries, shipments arriving with missing documents, violations of either the Walsh Healy Act or the Humane Slaughter Act. Also included is the incidental damage or pilferage, which is not controllable by the contractor. This damage may or may not affect the serviceability of the product.

G. Nonconformance. A departure from the requirements specified in the contract, specification, drawing, or other approved product description.

H. Nonconforming Material. Any item, part, or product with one or more characteristics which depart from the requirements in the contract, specification, drawing, or other approved product description.

I. Request for Deviation. The formal document submitted by the contractor to the Government for the purpose of requesting departure from a specific performance or design requirement of a contract, specification, or referenced document.

J. Request for Waiver. The formal document submitted by the contractor to the Government for the purpose of requesting acceptance of designated nonconforming supplies or services, or for temporary relief from a technical requirement of the contract.

K. Waiver. A written authorization to accept a configuration item or other designated items which, during production or after having been submitted for inspection, are found to depart from specified requirements, but nevertheless are considered suitable for use "as is" or after repair by an approved method.

V. RESPONSIBILITIES.

A. Office of Commander, Subsistence Field Activities and Director, Subsistence (DPSC/H) shall:

1. Provide guidance and direction to HDSRP and the DSOs in customer product acceptability.
2. Resolve disagreements not resolvable by HDSRP and the DSOs.
3. Resolve disagreements between technical and contracting elements relative to classification of the nonconformance where technical evaluation is performed by DPSC or cognizant DSO personnel.
4. Provide guidance to contracting officers at DPSC when agreement cannot be reached on approval/disapproval of waivers, deviations or resolution of Post Acceptance Warranty Actions (PAWAs).

5. Approve decision for acceptance of major nonconformances subsequent to approval by the requiring Military Service and/or Engineering Support Activity (ESA) and minor nonconformances other than rations without such coordination. Approval of minor nonconformances involving rations requires coordination with U. S. Army Natick Research Development and Engineering Center (NRDEC) and the Military Services.

NOTE: A minor nonconformance based on noncompliance with U.S. Standards of Identity for a subsistence item or based on noncompliance outside of a contractually stated price adjustment range for a particular item characteristic shall be considered the same as a major nonconformance. It must be rejected or referred to the Military Services for their concurrence to accept.

B. Commander, HDSRP and Chiefs, DSOs shall ensure compliance with the procedures set forth in this Manual including the following:

1. Resolution of disagreements between technical and contracting elements relative to classification of the nonconformance where the technical evaluation was performed by cognizant HDSRPAC or DSO personnel shall be accomplished by coordination with DPSC-HS.

2. Reports of nonconformances being considered for approval shall be forwarded to the Contract Quality Assurance Element (CQAE) for minor nonconformances or to the Animal Products Branch (DPSC-HSA)/Non Animal Products Branch (DPSC-HSN), as applicable, for major nonconformances for subsequent coordination with the Military Services/ESA as required.

3. Reports of all nonconformances shall be provided to the Chief, Evaluation Section, Technical Programs Branch (DPSC-HSTE) for inclusion in the Subsistence Nonconformance Data Bank.

4. All requests for deviations shall be forwarded to DPSC-HSTE in order to provide the necessary information required to process the deviations thru DPSC-HS elements.

5. Nonconforming materials which are maintained on HDSR accounts shall be placed in a "Hold" status when resolution of the nonconformance requires this action.

C. Chief, Technical Operations and Quality Assurance Division (DPSC-HS) is responsible for:

1. Maintaining centralized control records that provide current status of waiver actions for all contracts awarded by DPSC and all requests for deviations received by DPSC, HDSRP and DSOs.

2. Technical evaluation and consultation with the Military Services and/or NRDEC, as appropriate, on major nonconformances. HDSRP and DSOs will forward major nonconformances to DPSC-HS for review and coordination with NRDEC/Military Services except where stock position is critical, the customer is a single Service point and the time differential between DPSC and the purchasing element precludes contact with DPSC-HS. In this situation, the purchasing element may contact the single receiving unit and annotate the nonconformance report accordingly.

3. Providing written comments for 13H contracts to the contracting officer on technical/quality factors regarding disposition of all nonconformances, Requests for Deviations (RFDs), PAWAs, and written recommendations as to price considerations if acceptance is considered appropriate from a technical standpoint or required by stock status levels.

4. Re-evaluating specification requirements when repeated requests for waiver on nonconformances for similar item characteristics are identified and initiate specification changes, when appropriate. Following evaluation, DPSC-HS will forward recommended changes to NRDEC for final determination.

5. Providing pricing assistance, problem analysis and resolutions and guidance for nonconformances, waivers, deviations and PAWAs for contracts awarded by other than Contracting and Production Division (DPSC-HP).

D. CQAEs of DPSC and HDSRP are responsible for the following as relates to their assignment:

1. For the receipt, registration/recording, filing and monitoring all actions on nonconformances and all review actions relating thereto.

2. Acting as the liaison between the purchasing office and inspection activity on pre-acceptance nonconformances.

3. Advising appropriate Regulatory Agency, U.S. Department of Agriculture (USDA), Food and Drug Administration (FDA) or U.S. Department of Commerce (USDC), if nonconforming product is reverted to the contractor for disposition of products showing critical defects, unwholesomeness or potential health hazard.

4. Coordinating any suspected violations of other Federal Agency Regulations with applicable contracting officer and servicing legal office.

5. Forwarding to Technical Programs Branch, Technical Operations and Quality Assurance Division (DPSC-HST) copies of requests for samples to support Regulatory Agency investigations and reports to Federal Agencies of discrepancy on Government owed property.

6. Consolidating necessary information related to request for waivers and forward their data to DPSC-HSTE.

7. Acting as focal point for requests for "Hold" actions on material carried on the accounts of its activity (applicable to HDSRP and DPSC-HSTE).

8. Forwarding requests for price adjustment recommendations to DPSC-HSTE when received by DPSC-HST or when direction is needed to generate an equitable adjustment at HDSRP or DSOs.

E. Chief, Evaluation Section, Technical Programs Branch, Technical Operations and Quality Assurance Division (DPSC-HSTE) is responsible for:

1. Receiving requests for all deviations, all price adjustments and waivers relating to PAWAs and record in registers.

2. Evaluating and forwarding requests for waivers and deviations to applicable element within DPSC-HS for resolution.

3. Monitoring all requests for price adjustments issued by DPSC-SP and those requests forwarded from HDSRP or DSOs.

4. Preparing all price adjustment recommendations relating to laboratory test results.

5. Maintaining a register of all Post Acceptance Warranty Actions (PAWAs) issued by any element of DPSC-HS.

6. Establishing and maintaining a computerized Subsistence Nonconformance Data Bank of all quality nonconformances.

F. Contracting Officer is responsible for:

1. Determining acceptance or rejection of nonconforming products within established policies.

2. Apprising Quality Assurance personnel on status of nonconformances every 30 days until resolved.

3. Ascertaining and initiating appropriate liaison with supply and/or technical elements in matters relating to nonconformances, deviations and warranty actions.

4. Making final decision on nonconformances subject to established approval levels of review.

5. Notifying contractor and the Quality Assurance Representative (QAR) through the Quality Assurance activity that initiated DPSC Form 2662 of final decision and the basis thereof; if denied, a telegram or letter will be issued; if granted, a contract modification will be executed.

6. Assuring that an audit trail is sufficiently maintained to permit ready tracking of all evaluations, reviews, determinations, approvals, stock status impact statements and price negotiations pertinent to the granting of waivers, deviations and the processing of PAWAs. All such documentation shall be routed to the appropriate file. Nonconformance data, reflecting quality assurance actions, will be annotated on the Contractor's Cumulative Performance Record (DPSC Form 2414) and Contractor History Record (DPSC Form 639).

7. Coordinating requests of reinspection/appeal inspection/formal review with Quality Assurance Office that initiated DPSC Form 2662 prior to approval/disapproval.

G. Chief, Supply Operations Division (DPSC-HO) and Chief, Supply Operations Division (HDSRP-O) are responsible for:

1. Ascertaining stock status levels and reports these levels to the contracting officers upon request. If "supply urgency" is indicated, the impact statement shall be in writing and shall include customer recommendations and any other pertinent supporting data.

2. Assuring that stocks are maintained in hold status or release status as required.

VI. PROCEDURES.

A. Subsistence Contract Quality Assurance Element (CQAE), DPSC/HDSRP shall:

1. Receive reports of nonconformances from inspection activities pertaining to origin or receipt inspection, evaluate the data, and forward reports to the contracting officer.
2. Receive requests for reinspection/appeal inspection/formal review from the contracting officers and advise appropriate inspection activity of the request for reports of nonconformances initiated by their offices.
3. Receive reports of reinspection/appeal inspection/formal review from inspection activities, evaluate, and forward to the contracting officer.
4. Maintain a control register that shall include, as a minimum, the elements listed below:
 - a. Contract number.
 - b. Contractor name.
 - c. Item ID (National Stock Number and nomenclature).
 - d. Specification.
 - e. Date of Waiver Request received.
 - f. Action Element Purchasing Office.
 - g. Date resolved.
 - h. Action taken.
 - i. Classification of nonconformance.

In addition, the CQAEs may add any pertinent element considered advantageous to its operation.

5. Include in the evaluation a classification of the nonconformances as being critical, major, or minor and comments justifying the classification. (NOTE: A nonconformance based on major defects on an end item specification must always be classified as a major nonconformance.)

6. Utilize DPSC Form 2662 or DPSC Form 1932, as applicable, to record all the indicative information, e.g., date of inspection, classification of nonconformance, a professional effect of nonconformance on serviceability and report the quality/technical nonconformances to the contracting officer. Shipment overages/underages, early or late deliveries, erroneous or missing documentation are not considered of a technical or quality nature and shall not be recorded on DPSC Forms 2662/1932. These reports shall be processed in a timely manner using Report of Administrative Nonconformance (DPSC Form 4158).

7. Seek assistance of DPSC-HSA/DPSC-HSN in properly classifying a nonconformance if the requirement is inadequate, or if a precedence must be established.

8. Notify the inspection activity reporting the nonconformance by telephone of the contracting officer's decision.

9. Code one copy of the completed report and forward to DPSC-HSTE within one week of receipt from the contracting officer.

10. Distribute copies of completed DPSC Forms 2662 and 1932 to reporting inspector, supervisor of reporting inspector, for action related to U.S. Army Health Services Command inspectors, Regulatory Agencies and coded copy to DPSC-HSTE.

11. Initiate written recommendations regarding contractors of questionable responsibility to the Chief, DPSC-HP or, as applicable, to the Chief, Purchasing Division, HDSRP-P.

12. Forward a copy of requests for Post Acceptance Warranty Actions to DPSC-HSTE when initiated and again when finalized.

13. Prepare input for the monthly RCS 1407 report and DPSC Subsistence Report of PAWAs (except DSOs).

B. Quality Assurance Specialists, DPSC-HSA/DPSC-HSN/Audit Function, Evaluation Section (DPSC-HSTE) shall:

1. Review nonconformances discovered by audit and/or surveillance inspection, when appropriate, and forward report to the contracting officer. The DPSC Form 2662 will be used to report nonconformances requiring Post Acceptance Warranty Action (PAWA). In addition to the information specified for each entry on the DPSC Form 2662, when the form is used for warranty action, the type of origin inspection (e.g., USDA origin, USDC origin, contractor's CoC at origin, etc.) will be entered in the "Administrative Actions" area of the form. A copy of this form, when initiated, will be forwarded to DPSC-HSTE for use in the warranty register.

2. Process requests for reinspection of PAWAs and report findings to the contracting officer.

3. Have PAWA material released IAW final resolution when a copy of the finalized report is received from the contracting officer.

4. Place material found to be nonconforming as a result of verification testing on "Hold" and release material when requested by DPSC-HSTE (applicable to DPSC-HSA/DPSC-HSN only).

5. Forward a copy of the finalized DPSC Form 2662 to DPSC-HSTE for register closeout.

C. Quality Assurance Specialists (DPSC-HSTE) shall:

1. Report nonconformances discovered in verification testing, when appropriate, and forward to the contracting officer, using DPSC Form 2662 and marking it plainly as a Post Acceptance Warranty Action.

2. Obtain the contracting officer's direction to put PAWA nonconformances relating to test failures on "Hold", and annotate DPSC Form 2662 with this direction.

3. Request DPSC-HSA/DPSC-HSN to notify storage personnel of Hold or Release action and annotate DPSC Form 2662 of this action.

4. Place a copy of the PAWA forms, when initiated, in the PAWA register/file and close out register when PAWA is resolved. A finalized copy will be added to the file.

5. Complete data for RCS 1407 report each month for PAWA actions taken by DPSC-HP.

6. Receive, record and monitor all requests for price adjustment recommendations and deviations, when the contracting officers require assistance. Review requests and route those relating to examination characteristics to DPSC-HSA/DPSC-HSN and evaluate and prepare a reply for those relating to laboratory test characteristics. Expedite all correspondence relating to price adjustments and log out action when signed by DPSC-HS.

7. At the end of each month, prepare a list of each price adjustment case completed within that month to include contract serial number, office assigned and days required to complete, separated as major or minor reports.

D. Contracting Officer (Applicable Procuring Element) shall:

1. Advise contractor to provide written RFW (not necessary on destination nonconformances) when verbal RFW is received from the contractor.

2. Forward request for waiver determination to DPSC-HST or CQAE of HDSRP/DSO and for price adjustment data to DPSC-HSTE or CQAE of HDSRP/DSO for action as required.

3. Analyze nonconformances, paying particular attention to the DPSC-HSA/DPSC-HSN or CQAE appraisal of the effect of the nonconformance on product quality and the estimated cost savings realized by the contractor/loss or added cost to the Government in accepting nonconforming product.

4. Contact appropriate staff elements of DPSC as well as other technical sources in amplification of nonconformance impact on serviceability; however, DPSC-HSA/DPSC-HSN is the focal point for contacting NRDEC and the Military Services, USDA/USDC/FDA. All technical data received from other sources should be furnished DPSC-HSA/DPSC-HSN in order that complete technical files may be retained.

5. Utilize and initiate DPSC Form 3946 (Request for Approval to Accept Nonconforming Supplies and Nonconformance Tracking Record) when acceptance of a nonconforming product is contemplated. Complete DPSC Form 3946 and obtain approval signatures as required actions are accomplished. If approval is recommended on the basis of Special Circumstances pursuant to DPSCM 4105.7, in addition to this form, submission to Contract Review Division, (DPSC-PT) must include a formal request to the Head of the Contracting Activity (HCA) and a proposed formal reply for signature by the HCA. The DPSC Form 3946 will be permanently retained in the contract file.

6. Determine if material should be placed on "Hold" and advise the reporting Quality Assurance Specialist of this decision as soon as possible when informed of nonconformances requiring post acceptance warranty actions.

7. Furnish DPSC-HO the following when nonconformance relates to major effect on serviceability:

a. For items entering the supply officer's account and for Direct Vendor Delivery (DVD) overseas, the Report of Nonconforming Supplies, and the following:

(1) Purchase Request (PR) number, line item number, and quantity involved, by line item number.

(2) Delivery Status and quantity of conforming supplies under same line item number, when applicable.

(3) If acceptance of nonconforming product in question is denied, definite date of replacement delivery will be made.

(4) If acceptance of nonconforming product in question is approved, delivery will be made.

(5) Timeframe within which a decision on supply urgency or service acceptability must be made.

b. For items not entering the supply officer's account, and acceptance is being considered:

(1) Request to determine the urgency of the requirements at the CONUS installations.

(2) Whether resupply or supply from other sources can be made to meet the requisitioner's required date.

8. Effect correction or resupply IAW warranty provisions of the contract.

9. Evaluate and make determination as to acceptance of nonconformance subject to the levels of review set forth in DPSCM 4105.7 based upon information received.

10. Advise QAR through the CQAE and the contractor of the decision and the basis therefore. When waiver is granted, adequate consideration will be obtained in accordance with DPSCM 4105.7.

a. If waiver request is approved, execute contract modification and assure normal distribution including the QAR.

b. If waiver request is denied, provide written notification to the contractor with copy to CQAE and QAR.

11. Note decision on DPSC Form 2414 for perishable subsistence or DPSC Form 639 for semiperishable subsistence. This information will be used for future reference in determinations of contractor responsibility.

12. Coordinate with CQAE and/or DPSC-HS on repeated nonconformances for similar item characteristics for evaluation/initiation of recommended change. Note on DPSC Form 2662/1932 that this action is being referred to DPSC-HSA/DPSC-HSN.

13. Document the contract file with information necessary to support the decision made including DPSC-HS recommendation and rationale for the amount of consideration, if acceptance is considered appropriate.

14. Complete applicable portions of DPSC Form 2662/1932. Final distribution of the 7-part form is as follows:

a. Original to contract file.

b. Copy for contractor performance file.

c. Remaining copies to the Quality Assurance element that initiated the request for nonconformance.

NOTE: Distribution of completed copies required for the reporting inspector, the supervisor of the reporting inspector, U.S. Army Health Services Command, Regulatory Agencies and coded copy for Subsistence Quality Data Bank will be made by CQAE or DPSC-HSTE as applicable.

E. Chief, Supply Operations Division (Applicable Procuring Element) shall:

1. Review information received from contracting officer, including CQAE analysis of inspection results.

2. Based upon this review, the Stock Replacement Records will be reviewed to determine the following:

a. Supply Point Deliveries.

- (1) Total quantity required to fill customer's monthly demand.
- (2) Inventory on hand at servicing supply point.
- (3) Period of month when stocks will be exhausted if waiver is denied.
- (4) If waiver is denied, is recommended replacement data acceptable;

or, if other assets are due in to the same location or other locations, can their delivery be accelerated or diverted?

- (5) Urgency or need and when item will be shipped if waiver is granted.
- (6) Available substitute items.

b. DVD to Overseas Customer.

- (1) Can required due date be extended?
- (2) Is item available or due in to the servicing supply point in

required quantities?

(3) Is substitute item available for shipment from servicing supply point?

(4) Is item available or due in to another supply point in required quantities?

c. Only after the above actions have been completed and it is determined that a supply failure which cannot be tolerated for compelling reasons is imminent, will consideration be given to granting a waiver for nonconforming item. Reasons which make supply failure untenable will be documented.

d. Once it is determined that resupply cannot be made and supplies are available from another purchasing element, the action should be turned back to the original contracting officer to deal directly with the other contracting officer.

F. Office of the Commander, Subsistence Field Activities and Director, Subsistence (DPSC-H). When agreement on approval/disapproval of waiver cannot be reached, DPSC-H or his/her designee, in the case of DPSC/DSO procured items, or the HDSR Commander or his/her designee, in the case of HDSR procured items, will provide final guidance to the contracting officer based upon recommendations and analyses in subparagraphs VI.A through VI.E.

