

CHAPTER 22

AGREEMENTS FOR SPECIAL USES OF
DEPARTMENT OF THE NAVY REAL PROPERTY

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* (Forms will be updated in the future)

CHAPTER 22

AGREEMENTS FOR SPECIAL USES OF DEPARTMENT OF THE NAVY REAL PROPERTY

SECTION I - GENERAL

1. APPLICABILITY

a. Some special uses of Department of the Navy (DON) real property do not come within the scope of authority delegated to the Commander, Naval Facilities Engineering Command for licenses, leases, and easements. Certain of these uses warrant special treatment and are covered in this chapter as follows:

(1) Utility Pole Agreements (UPA);

(2) Agreements with the Department of Health and Human Services (HHS) for the construction and operation of school facilities; and

(3) Railroad Spur Track Agreements (RSTAs).

b. This chapter redelegates authority to the Facilities Engineering Commands (FECs) to enter into, administer and terminate agreements for these special uses of Navy real property. This chapter does not apply to the use of DON real property that is required incident to a Government contract for procurement of services, construction, utilities, or other commodities, and where such use is made a part of the contract.

As used in this Chapter, "property" refers to real property unless otherwise noted.

2. REFERENCES

(a) Navy Comptroller Manual

(b) Public Law 815 of 23 Sep 1950 (64 Stat. 967),
as amended

(c) Public Law 874 of 30 Sep 1950 (64 Stat. 1100),
as amended

SECTION II - UTILITY POLE AGREEMENTS

3. SCOPE

This Section prescribes procedures and policies for the execution, administration, and termination of utility pole agreements. The term "utility pole agreement" means a revocable agreement that authorizes the use of Government-owned utility poles or structures or Government-owned land for the erection or placement of utility poles or structures.

4. POLICY

a. The use of Government-owned real property under the control of the DON under a utility pole agreement is authorized only under the following conditions:

- (1) The use of the property will benefit the Government or will otherwise be in the public interest.
- (2) The proposed use will not interfere with use of the property by the DON.
- (3) The proposed use will not represent a hazard to the property included or to adjacent Government property.
- (4) The real property involved is the only property that can reasonably be used for the purpose.
- (5) The use can be terminated at any time.

5. TERMS AND CONDITIONS

Each utility pole agreement entered into under the authority of this Section must contain the terms and conditions included in the UPA Form stated in [Paragraph 24](#) below. Each utility pole agreement may, however, contain additional terms and conditions not inconsistent with this form that may be determined to be desirable in the interest of the Government.

6. DELEGATION OF AUTHORITY TO COMMANDERS/COMMANDING OFFICERS

The Facilities Engineering Command (FEC)
Commanders/Commanding Officers are

authorized subject to the limitations of this Section to enter into, administer, and terminate utility pole agreements. The authority delegated herein may be redelegated.

7. APPROVALS

Any action taken under this Section to enter into a utility pole agreement will be subject to the prior approval of the head of the activity concerned.

8. INSURANCE REQUIREMENTS

a. Except as provided in subparagraph (c) below, the user must procure and maintain at its expense insurance to cover all risks and liabilities imposed on the user by paragraph 7 of the [UPA Form](#). All insurance must be in the form and amounts, and for periods of time and with insurers that the FEC may from time to time require or approve. The following minimum amounts of insurance coverage will be required:

(1) Property Damage to Navy Property. Not less than the current replacement cost of the Navy property involved less normal depreciation;

(2) Third Party Property Damage and Personal Injury. Bodily injury or death: \$1 million per person, \$2 million per accident. Property damage: \$100,000 per accident.

b. Where insurance is required, the FEC will be responsible for the administration of the insurance requirements. This responsibility includes, but is not limited to, the review and approval of insurance policies or certificates of insurance furnished by users under to the terms of the [Utility Pole Agreement](#). The FEC will retain the insurance policies or certificates in its files.

c. The FEC may waive the insurance requirements of paragraph 8 of the [UPA Form](#) upon a determination that the user is sufficiently responsible, financially and otherwise, to assume the risks and liabilities imposed by paragraph 7 of the [UPA Form](#).

9. PROCEDURES

a. Before entering into any utility pole attachment agreement, the FEC should determine that:

(1) The policy criteria established in [Paragraph 4](#) above have been satisfied.

(2) The charges for the use authorized under the [UPA Form](#) represent fair market value for the usage.

(3) The agreement contains all the terms and conditions provided in the [UPA Form](#), except that the insurance requirements of paragraph 8 may be waived under the conditions specified in [Paragraph 8.c.](#) above

(4) Any additional terms and conditions that are not inconsistent with the [UPA Form](#) and are desirable in the interest of the Government.

b. The policy determinations required by [paragraph 4](#) above, and the determination required for waiver of insurance requirements provided for in [Paragraph 8.c.](#) above, must be made in writing and supported by facts that are considered necessary to justify the required determinations. Retain copies of the determinations in the FEC permanent files.

10. DISTRIBUTION

a. After approval and execution of the [UPA Form](#), distribute copies as follows:

- | | |
|-------------------------|---|
| (1) Original | User |
| (2) Signed Agreement | FEC |
| (3) Signed Agreement | Appropriate FEC
Finance Office, except
when outside CONUS
(See paragraph 043132
of reference (a)) |
| (4) Conformed Agreement | Activity Commanding
Officer |

**SECTION III - PERMITS TO U.S. COMMISSIONER OF EDUCATION,
DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)**

11. BACKGROUND

The United States Commissioner of Education is authorized under references (b) and (c) or subsequent similar legislation, to provide school facilities on Federal property for dependent children of military and civilian personnel who reside on that property.

12. SCOPE

The provisions of this Section are applicable to the issuance of permits, upon request, to the U.S. Commissioner of Education for the construction of additional or new school facilities on Navy and Marine Corps installations within the United States, Guam, Puerto Rico, U.S. Virgin Islands, and Wake Island.

13. DELEGATION OF AUTHORITY TO COMMANDERS/COMMANDING OFFICERS

FEC Commanders/Commanding Officers are authorized, subject to the limitations of this Section, to issue, amend, and terminate permits to the U.S. Commissioner of Education for the construction and operation of school facilities. This authority may be redelegated.

14. APPROVALS

Before issuing or amending a permit under the authority of [Paragraph 13](#) above, the FEC will obtain approval from the Commander/Commanding Officer of the activity and those of his/her superiors in the echelon of command up to and including the mission component command/region.

15. TERMS AND CONDITIONS

Each school permit entered into under the authority of this Section must contain the terms and conditions included in the School Permit Form stated in [Paragraph 25](#) below.

**16. PROCEDURE FOR ISSUANCE OF PERMITS TO THE
U.S. COMMISSIONER OF EDUCATION**

a. Each request from the Commissioner for the use of Navy or Marine Corps property forwarded to the FEC should include detailed information and a description of the land areas and improvements, if any, that will be included in the permit. Before entering into a school permit with the U.S. Commissioner of Education, the FEC will determine that:

(1) The permit has been approved by the approving authorities indicated in [paragraph 14](#) above. The FEC will submit each request for approval to the approving authorities with a map delineating the land areas and improvements, if any, to be included in the permit; and

(2) The agreement contains all the terms and conditions provided in the [School Permit Form](#).

17. DISTRIBUTION

a. After approval and execution of a school permit, copies will be distributed as follows:

- | | |
|--------------------|-------------------------------------|
| (1) Original | Department of Education |
| (2) Signed copy | Commanding Officer |
| (3) Signed copy | FEC |
| (4) Conformed copy | Mission component
command/region |

**SECTION IV - RAILROAD SPUR TRACK AGREEMENTS
(STANDARD SWITCHING OR TRACKAGE AGREEMENTS)**

18. SCOPE

This Section prescribes policies and procedures for the execution, administration, and termination of Railroad Spur Track Agreements (RSTAs).

19. DEFINITIONS

a. The following definitions are applicable to this section:

(1) Railroad is any railroad company authorized to operate as a common carrier under Federal or state law and regulations.

(2) Railroad Spur Track Agreement (RSTA) which is synonymous with "Standard Switching or Trackage Agreements" (SSTAs) is an agreement with a railroad. The SSTA obligates the railroad to provide specified rail services between a point on its line and certain points within a command or industrial facility of the DON over Government-owned trackage. It also grants the railroad rights of access to the facility and rights of use in the Government-owned trackage incidental to the performance of its obligations, and establishes the conditions of those obligations and rights.

(3) Government-owned Trackage including rails, ties, wires, switches, roadbed, trestles, ballast, culverts, pavements, drainage facilities, and related items located on real property under the control of the Government.

20. POLICY

RSTAs involve primarily the procurement of services for command and industrial facilities of the DON, including some that may be in temporary custody and control of contractors or lessees of the Navy. They all contain the common element of a grant to the railroad of rights of access to and use of Government real property incidental to those services and the development of the spur track agreement. The related delegations of authority are designed to centralize the authority for entrance into those agreements and for achieving a maximum degree of uniformity in their provisions.

21. DELEGATION OF AUTHORITY TO COMMANDERS/COMMANDING OFFICERS OF FACILITIES ENGINEERING COMMANDS (FECs)

FEC Commanders/Commanding Officers are authorized, subject to the limitations of this Section, to execute, administer, and terminate railroad spur track agreements. This authority may be redelegated.

25. School Permit..... *

26. Standard Switching or Trackage Agreement..... *

* See Forms System (Forms will be updated in the future)