

STATUTORY FOUNDATION FOR FEDERAL REGISTER PUBLICATION

Prior to 1935, much of the internal documentation of federal agencies, as well as regulations promulgated by federal agencies to administer and enforce a variety of federal statutes, was not published and generally made available to the American public, notwithstanding the fact that such documentation and regulations purported to impose mandatory obligations. The first act which commanded the publication of agency requirements which affected the public was the Act of July 26, 1935, 49 Stat. 500, ch. 417; this act created the Federal Register and compelled federal agencies to publish therein agency orders and regulations (see §§ 4 and 5 of the act). To insure agency compliance with the act's requirements, § 7 provided as follows:

"No document required under section 5(a) to be published in the Federal Register shall be valid as against any person who has not had actual knowledge thereof."

An expansion of items required to be published in the Federal Register occurred as a result of the enactment of the Administrative Procedure Act; see Act of June 11, 1946, 60 Stat. 237, ch 324. An important definition within this act was the following contained in § 2:

"(c) Rule and rule making. -- 'Rule' means the whole or any part of any agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of any agency...."

Section 3 of the act commanded that the following types of agency "rules" be published within the Federal Register:

"(a) Rules. Every agency shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information or make submittals or requests; (2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and (3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public, but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published."

Further, the act established a certain method whereby agencies were to publish in the Federal Register proposed and final agency rules and were to accord public hearings in reference thereto. The well known requirements that federal agencies provide adjudication of certain contested matters, subject to judicial review, was established for the first time in this act. Section 9 of the act provided as follows:

"No sanction shall be imposed or substantive rule or order be issued except within jurisdiction delegated to the agency and as authorized by law."

The benefits to the American public derived from the adoption of this act are many. For example, without the requirement to publish statements of the agency's organization, a party would not know, as a matter of law, what part of an agency was the proper unit or division responsible for the resolution of a particular problem, what part of an agency had enforcement authority, or what part of an agency was designated to receive "submittals" required of the public. While it is obvious that social security benefits applications are not submitted to the Securities and Exchange Commission, it might be entirely improper to submit such an application to the office secretary for Social Security's data processing unit. Without the requirement to publish agency "delegation orders," the American public and its members are deprived, and possibly detrimentally so, of the knowledge of which officers and agents within a vast federal agency are authorized to act on behalf of the agency. The submission of a tort claim to either the proper officer designated to receive the same or to the office janitor is of critical importance if the claim is one year and 364 days old. Finally, without notice to the American public via publication of the substantive requirements of a federal agency having delegated authority to administer and enforce federal laws, nobody, excluding possibly agency personnel, judges and lawyers, would have any knowledge of what was required to avoid the imposition of civil or criminal sanctions.

As amended, the above noted statutes continue their existence today, codified within 5 U.S.C, §§ 551 through 558. These sections within Title 5 require that federal agencies must publish in the Federal Register a variety of information which affects the rights, duties and obligations of members of the public. In 5 U.S.C., § 551, a "rule" is defined:

"(4) 'rule' means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency"

Section 552 describes in particular detail various items which must be published by federal agencies in the Federal Register:

"(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public--

- (A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;
- (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;
- (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and content of all papers, reports, or examinations;
- (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and
- (E) each amendment, revision or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register."

Further, § 552a directs that all federal agencies which maintain "systems of records" containing data and other information regarding individual citizens or residents must publish descriptions of those systems in the Federal Register; see § 552a(e)(4). When any federal agency engages in the collection of information from an individual, § 552a(e)(3) commands that the individual concerned be informed of the authority for the collection of the information, the purpose for which the information is intended to be used, the routine uses made of the information, and the effect of not providing such information.

Finally, § 558(b) prohibits an agency from issuing any substantive rule or order, or imposing any sanctions, outside the jurisdiction delegated to the agency.

As seen from above, § 552 permits "incorporation by reference", a process governed by 1 C.F.R., part 51. However, matters which should be published in the Federal Register but which are deemed included therein "by reference" must be approved by the Director of the Federal Register and "proper language" so noting the "incorporation by reference" must appear within agency rules which are published in the Federal Register. Items which cannot be published either in the Federal Register or by incorporation by reference are

described at 1 C.F.R., § 5.4. This latter prohibition first appeared in the August 27, 1941, edition of the Federal Register, at page 4398, et seq.

Thus, current statutes impose stringent requirements upon federal agencies to publish in the Federal Register descriptions of the agency's organizational structure as well as those substantive rules of general applicability duly promulgated by the agency. Any matter required by law to be published, but which is not, cannot be the basis for the imposition of any sanction or penalty against anyone.

REQUIREMENT FOR PUBLICATION OF AGENCY ORGANIZATION

Section 552 expressly requires an agency to publish statements or descriptions of the central and field organization of the agency and the established places where the public is required to make submittals. The reasons for such a requirement are obvious and readily apparent. Almost without exception, Congressional enactments designate a particular executive branch officer as the official statutorily authorized to administer and enforce the act in question. Such an officer further will have similar statutory duties arising not from one but invariably many acts. Since one such executive officer is physically incapable of performing the acts required of him by the law, such officials must create large agencies and delegate statutory responsibilities to subordinates. Additionally, agencies are subdivided into a variety of branches, divisions, units, districts and other minor offices, all of which have different duties and responsibilities. Federal agencies which employ tens of thousands of people have administrative, regulatory, data processing and other branches, and the functions of one branch simply cannot be performed by any other branch. The purpose of this requirement in § 552 is to insure that the members of the American public have the requisite information as to the authorities and responsibilities of any branch, division or unit of an agency, and are informed of the proper agency unit with which such parties must deal.

A quick perusal of the Code of Federal Regulations reveals that many federal agencies meet the requirements of § 552. For example, Congress has enacted numerous acts which vest statutory duties in the hands of the Secretary of Agriculture. Title 7, C.F.R., part 2, contains approximately 92 pages which describe both the organizational structure of the Department of Agriculture and the delegation orders issued by that Secretary to his subordinates. The Commissioner of the Immigration and Naturalization Service complies with § 552; see 8 C.F.R., § 2.1, and parts 100 and 103. The following list identifies other executive officials and departments which similarly comply and cites the corresponding and applicable portions of the Code of Federal Regulations wherein statements of organizational structure and delegation orders may be found:

1. Nuclear Regulatory Commission: 10 C.F.R., part 1.
2. Comptroller of the Currency: 12 C.F.R., part 4.

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3. Small Business Administration: 13 C.F.R., part 101.
4. Civil Aeronautics Board: 14 C.F.R., part 384.
5. Federal Trade Commission: 16 C.F.R., part 0
6. Consumer Product Safety Commission: 16 C.F.R., part 1000.
7. Commodity Futures Trading Commission: 17 C.F.R., part 140.
8. Securities and Exchange Commission: 17 C.F.R., part 200.
9. Federal Energy Regulatory Commission: 18 C.F.R., part 375.
10. Water Resources Council: 18 C.F.R., part 701.
11. Office of Workers' Compensation: 20 C.F.R., part 1.
12. Railroad Retirement Board: 20 C.F.R., part 200.
13. Benefits Review Board: 20 C.F.R., part 801.
14. Commissioner of Food and Drugs: 21 C.F.R., part 5.
15. Peace Corps: 22 C.F.R., part 302.
16. U.S. Information Agency: 22 C.F.R., part 504.
17. U.S. Arms Control and Disarmament Agency: 22 C.F.R., part 601.
18. Secretary of H.U.D.: 24 C.F.R., part 3.
19. Inspector General, H.U.D.: 24 C.F.R., part 2000.
20. Department of Justice: 28 C.F.R., part 0.
21. Environmental Protection Agency: 40 C.F.R., part 1.

The above list is by no means exclusive. Nonetheless, it is clear that many federal agencies do comply with the statutory requirement to publish in the Federal Register statements of organization and staffing, in addition to departmental delegation orders.

The consequence of an agency's failure to comply with this specific publication requirement is the prohibition that nobody may be adversely affected by the lack of publication, and further that nobody can be forced to resort to an agency's organizational structure which is not published. In essence, an agency's published organizational structure is "legally visible" while an unpublished structure is, for all intents and purposes, "legally invisible." For example, the American public has duly published notice of the organizational structure of the Department of Agriculture and it is through that

published structure that this agency will engage in activities involving domestic enforcement of the acts within its jurisdiction. In contrast, the Secretary and Department of State have not published in the Federal Register the organizational structure of that agency, and the obvious reason relates to the fact that the State Department has "international responsibilities" as opposed to domestic; it is chiefly concerned with treaty responsibilities and thus is precluded from so publishing its organizational structure and delegation orders in the Federal Register; see 1 C.F.R., § 5.4.

In contrast to the vast number of cases where litigation has occurred concerning the lack of publication of such things as agency regulations, there appear to be few cases wherein an issue has been created regarding the lack of publication of an agency's organizational structure. The first case involving this point was *Pinkus v. Reilly*, 157 F.Supp. 548 (D.N.J. 1957). Here, Pinkus was engaged in advertising and selling his weight gain program through the U.S. Mails. The U.S. Post Office contended that his advertisements were fraudulent and issued an administrative "fraud order" which in essence precluded Pinkus' use of the mails. Suffering poorly before the agency, Pinkus sought judicial review of the fraud order and asserted that the agency had through unpublished statements of organization in essence commingled the agency's prosecutorial and adjudicating authority in the hands of one official, this latter commingling also being unlawful. The Court held the agency's action of issuing the fraud order void:

"The last above point raised by Pinkus seems to be directly and clearly covered by the terms of the Administrative Procedure Act itself, which provides that 'no person shall in any manner be required to resort to organization or procedure not so published'," *Id.*, at 549.

"The question thus is whether at the time Pinkus was proceeded against by the Department, as above, the Department had complied with this publication requirement. The prosecution of Pinkus by the Department, as above, was initiated February 7, 1955, so the specific question is whether at that time there existed in the Federal Register the published 'central and field organization' of the Post Office Department, its 'delegation of final authority', and its 'procedures' to which Pinkus was 'required to resort'," *Id.*, at 550.

"It is thus clear that Pinkus was 'required to resort to organization ... not so published' - in the Federal Register. This obviously violates the above provision of the statute that 'no person shall in any manner be required to resort to organization or procedure not so published'. Thus the Department's present proceedings against Pinkus are invalid," *Id.*, at 551.

While Pinkus was chiefly complaining that there was an unlawful commingling of the agency's prosecutorial and adjudicatory functions and this relationship was unpublished, it must be remembered that a deciding factor in this case concerned the fact that the entire

organizational structure of the Post Office was unpublished. While the Post Office had several years earlier complied with the publication requirement, some six months prior to the agency proceedings against Pinkus, the agency had published a notice in the Register which in essence declared that the last published statement of organization was no longer in effect. Thus, at the time of the agency proceedings against Pinkus, the then existing organizational structure of the Post Office was not described in anything published in the Federal Register, hence the decision.

Shortly after the decision in Pinkus, the same question was presented to the Second Circuit in *Columbia Research Corp. v. Schaffer*, 256 F.2d 677 (2nd Cir. 1958), and *Vibra Brush Corp. v. Schaffer*, 256 F.2d 681 (2nd Cir. 1958). In both of these cases, the facts concerned "fraud orders" issued by the Post Office, just like Pinkus; further, these two cases also concerned the unlawful commingling of prosecutorial and judicial functions as in Pinkus. In the Court's initial decisions in both of these cases, it was held, based on the authority of Pinkus, that the administrative actions of the Post Office were void for failure of the agency to publish its organizational structure in the Register. It must be noted, however, that these decisions were reversed upon petition for rehearing, the problem being that involving substitution of parties because the Postmaster involved, Schaffer, had resigned prior to the appeals. But, both cases still demonstrate the legal necessity for an agency to publish its organizational structure.

Prior to rehearing in Columbia, a decision in *G. J. Howard Company v. Cassidy*, 162 F.Supp. 568 (E.D.N.Y. 1958), was rendered. This case also involved a fraud order issued by the Post Office regarding a weight loss device named the "Magic Button," marketed by the Howard Company. Upon the authority of Columbia, the agency's fraud order was held void. A similar decision was made in *Low v. Thomas*, 163 F.Supp. 945 (E.D.Pa. 1958).

The statute in question unequivocally requires that federal agencies must publish in the Register descriptions of the current organizational structures of the same, and the few cases regarding this issue more than adequately demonstrate the consequences of a failure to do so. Potential problems regarding the deficiency of agencies to so publish are created when an agency changes or modifies its organizational structure in some partial way, but fails to place the American public on notice by publication. However, a far more serious problem ensues when an agency fails to publish statements of its entire organizational structure and has been remiss in its duty to do so for many years.

NECESSITY TO PUBLISH SUBSTANTIVE RULES

As previously mentioned, a "rule" for publication purposes is certainly an agency requirement imposed on the public which implements or prescribes law. Pursuant to § 552(a)(1)(D), "substantive rules of general applicability" must be published in the Federal Register; an omission in this respect means that the unpublished rule is unenforceable against one without notice.

Perhaps one of the best examples of the consequence of an agency's failure to publish a substantive rule is *Hotch v. United States*, 212 F.2d 280, 283 (9th Cir. 1954). Here, a federal agency implemented an unpublished regulation which banned commercial fishing in Taku Inlet on the Alaskan coast. Hotch was prosecuted and convicted for violating this regulation and his conviction was at first affirmed on appeal. He filed a petition for rehearing and asserted for the first time on appeal the issue of the non-publication of this substantive rule, and this directly caused a reversal of his conviction. Referring to the Administrative Procedure Act, the court held:

"The Acts set up the procedure which must be followed in order for agency rulings to be given the force of law. Unless the prescribed procedures are complied with, the agency (or administrative) rule has not been legally issued, and consequently is ineffective."

The situation was somewhat different in *Gonzalez v. Freeman*, 334 F.2d 570 (D.C.Cir. 1964), where there were no regulations, published or unpublished, which disposed of the controversy. Here the Gonzalez Corporation, whose officers were several Gonzalez brothers, was debarred from conducting business with the Commodity Credit Corporation, the operative circumstances involving misuse of official inspection certificates by Thomas Gonzalez, who was indicted and plead guilty to a misdemeanor. The corporation and the other Gonzalez brothers filed an action challenging the validity of the agency's order imposing a 5 year debarment. The Court held the agency's action void:

"The command of the Administrative Procedure Act is not a mere formality. Those who are called upon by the government for a countless variety of goods and services are entitled to have notice of the standards and procedures which regulate these relationships. Neither appellants nor others similarly situated can turn to any official source for guidance as to what acts will precipitate a complaint of misconduct, how charges will be made, met or refuted, and what consequences will flow from misconduct if found," *Id.*, at 578.

"Considerations of basic fairness require administrative regulations establishing standards for debarment and procedures which will include notice of specific charges, opportunity to present evidence and to cross-examine adverse witnesses, all culminating in administrative findings and conclusions based upon the record so made," *Id.*, at 578.

"[W]e cannot agree that Congress intended to authorize such consequences without regulations establishing standards and procedures and without notice of charges, hearings, and findings pursuant thereto. Absent such

procedural regulations and absent notice, hearing and findings in this case, the debarment is invalid," *Id.*, at 579.

An unpublished regulation was at issue in *Berends v. Butz*, 357 F.Supp. 144 (D.Minn. 1973). As a result of severe and excessive rainfall in 15 counties in Minnesota in early 1972, the Secretary of Agriculture declared that such counties were "natural disaster areas" and declared that emergency farm loans would be available until June 30, 1973; this notice was published in the Federal Register. But, Secretary Butz terminated the emergency loan program by an unpublished order issued December 27, 1972. In a suit instituted by several farmers complaining about the failure of the Department of Agriculture to accept loan applications, the court held that the loan program could not be terminated by an unpublished order of the Secretary:

"In adopting the directive of December 27, 1972, defendants did not comply with even one of these mandatory requirements, despite the fact that the directive would have a substantial impact on those regulated, and hence is a 'rule' as contemplated in the statute," *Id.*, at 154.

"Inherent in these provisions is the concept that the public is entitled to be informed as to the procedures and practices of a government agency, so as to be able to govern their actions accordingly. The termination of the emergency loan program was without any notice, and was in violation of the provisions of the statute," *Id.*, at 155.

The curtailment of a welfare program's benefits via an unpublished agency manual was the subject of *Morton v. Ruiz*, 415 U.S. 199, 94 S.Ct. 1055 (1974). In this case, an Indian named Ruiz, being otherwise eligible for Indian welfare benefits available through a Congressional appropriation, was denied such benefits on the basis of an unpublished agency manual which denied benefits to all Indians but those living "on" Indian reservations. The Court here construed the appropriations act as extending benefits to Indians who lived "on or near" a reservation, and held that the agency manual which limited benefits to only those Indians "on" reservations was void and unenforceable:

"The Administrative Procedure Act was adopted to provide, inter alia, that administrative policies affecting individual rights and obligations be promulgated pursuant to certain stated procedures so as to avoid the inherently arbitrary nature of unpublished ad hoc determinations," *Id.*, at 232.

"The conscious choice of the Secretary not to treat this extremely significant eligibility requirement, affecting rights of needy Indians, as a legislative-type rule, renders it ineffective so far as extinguishing rights of those otherwise within the class of beneficiaries," *Id.*, at 236.

In *Northern California Power Agency v. Morton*, 396 F.Supp. 1187 (D.D.C. 1975), at issue was whether an agency could make informal, ad hoc and unpublished rules of procedure to govern proceedings in which the public had an interest. Here, the Department of Interior operated a hydroelectric power generation project and sold such power to 54 electrical power companies. Interior proposed a substantial rate increase to which its customers objected; an informal and constantly changing procedural plan was devised by which the complaints so made would be decided by the agency. The Court held, however, that the failure to conduct agency hearings pursuant to published rules of procedure violated § 552.

A variety of issues based upon the provisions of the Clean Air Act were at issue in *Maryland v. Environmental Protection Agency*, 530 F.2d 215 (4th Cir. 1975). In this case, Maryland complained that certain regulations of the EPA which allegedly applied to it had not been subjected pre-promulgation publication in the Federal Register. Finding that the challenged regulations were published in final form in the Federal Register but had not been published therein in the notice and comment phase of the process of regulation promulgation, the same were found void and unenforceable. See also *Rowell v. Andrus*, 631 F.2d 699 (10th Cir. 1980).

At issue in *Appalachian Power Company v. Train*, 566 F.2d 451, 455 (4th Cir. 1977), was the failure of the EPA to publish a very lengthy document named "Development Document" in the Federal Register. This document (described in *Virginia Electric and Power Company v. Costle*, 566 F.2d 446, 448 (4th Cir. 1977)) was 263 pages long and purported to establish standards for effluent emissions. Because the document itself constituted a substantive agency regulation which was not published, it was held invalid:

"[T]he Development Document is not a validly issued part of the regulations, because it has not been published in the Federal Register, nor have the procedural requisites for incorporation by reference been complied with. With this position we agree, and hold that 40 C.F.R., section 402.12 is not enforceable for want of proper publication.

"Any agency regulation that so directly affects pre-existing legal rights or obligations ..., indeed that is 'of such a nature that knowledge of it is needed to keep the outside interests informed of the agency's requirements in respect to any subject within its competence,' is within the publication requirement.... As the substance of a regulation imposing specific obligations upon outside interests in mandatory terms ..., the information in the Development Document is required to be published in the Federal Register in its entirety, or, in the alternative, to be both reasonably available and incorporated by reference with the approval of the Director of the Federal Register."

See also *PPG Industries, Inc. v. Costle*, 659 F.2d 1239 (D.C.Cir. 1981).

An unpublished policy statement was at issue in *Dean v. Butz*, 428 F.Supp. 477, 480 (D.Hawaii 1977). This case involved an agency determination that security deposits for rental housing paid by a government agency should be considered as "income" for food stamp purposes, this determination being made by an unpublished letter. In holding this agency policy void for lack of publication, the Court held:

"The Mellinger letter does not involve housekeeping operations nor adjudicatory opinions. It is a clarification of existing regulations. It, however, does have a significant impact upon a segment of the public, the members of the class here. If the monies for security deposits are counted as income to the members of the class, the class members must pay more for food stamps.... The effect of an increased cost for food stamps has a substantial impact upon their limited budgets. Therefore, under the Ninth Circuit's test, the regulation is of general applicability. Since the Mellinger letter was not published in the Federal Register, as required by 5 U.S.C. section 552(a)(1)(D), it is invalid."

The question before the court in *Vigil v. Andrus*, 667 F.2d 931, 938 (10th Cir. 1982), was the validity of the curtailment of a school lunch program for Indian children. Here, the Bureau of Indian Affairs administered a program whereby such lunches were provided to all Indian children regardless of need. This program was transferred to the Department of Agriculture, which provided free lunches only to the needy. The challenge made regarding the non-publication of the transfer of the program to the Department of Agriculture and consequent elimination of certain children from the program was upheld and the unpublished transfer was declared void:

"If a substantive rule or general policy is not published, parties without actual notice cannot be adversely affected by it.

"Therefore, we find the BIA's policy changes invalid for want of publication. If the BIA wishes to eliminate nonneedy Indian school children from the free lunch program, it must comply with its current rulemaking procedures."

An unpublished Social Security claims manual which directly affected entitlement to Social Security benefits was found void in *Herron v. Heckler*, 576 F.Supp. 218 (N.D.Cal. 1983). The manual in question in this case provided for the reduction or elimination of Social Security benefits in the event the beneficiary owned property valued in excess of a certain amount. The claimant's argument that the manual's provision thus limiting benefits was void for want of publication in the Federal Register met with the approval of the District Court in this case:

"The claims manual provisions clearly fall within the definition of 'rule' quoted above: they are an agency statement; they are applicable prospectively to a class of SSI beneficiaries generally and to the named plaintiff particularly; and by defendants' own admission in their memoranda, they are designed to implement, interpret and/or prescribe law. Moreover, the claims manual provisions are 'rules' as the term generally has been construed by the courts: they declare policies generally binding on the affected public; they provide specific standards to regulate future actions of the affected public; and they make a substantive impact on the rights and duties of persons subject to their limitations," *Id.*, at 230.

"In sum, the Secretary was required, by the express terms of the APA and the 'substantial impact' principle, to notify the public and to solicit comments before she promulgated the claims manual limitations at issue here. Her failure to comply with the notice and comment provisions of the APA renders the challenged limitations void and unenforceable," *Id.*, at 232.

It is thus clear from the above cited and quoted cases, representative samples of the multitude of similar cases, that an agency's failure to publish any document (regardless of how named by the agency) which is designed to implement or prescribe law is a "rule" which is void and unenforceable.

NECESSITY TO PUBLISH INSTRUCTIONS

Within an agency, "instructions" may be promulgated and distributed to agency officers and employees informing them as to the manner and method of implementing and enforcing any particular law. If by chance these "instructions" likewise meet the definition of a "rule" as defined by § 551, and if the same be "substantive" as prescribed by § 552, they must be published in the Federal Register. Several cases have found such "instructions" to agency employees void for non-publication.

It appears that one of the first cases to deal with this issue was *United States v. Morelock*, 124 F.Supp. 932 (D.Md. 1954). This case concerned an act to regulate the production of wheat, which of necessity required agriculture officials to measure the amount of acreage devoted to wheat production. To accomplish this purpose, agency "instructions" given to agency employees outlined measurement procedures and the same required some affirmative acts on the part of farmers. When suit was instituted to force some dissenting farmers to permit measurement of their wheat crops, the farmers replied that their supposed duties under the act as set forth within the unpublished "instructions" were void. The District Court agreed:

"But there is no provision in the Act or the Regulations imposing any duty on farm operators in connection with the visits of the reporters or other

representatives of the county committee. The only obligation on farm operators in that connection is set out in Paragraph II D of Instruction No. 1006.... This instruction was not published in the Federal Register or otherwise brought to the attention of defendants before suit. It was, therefore, not binding on them," *Id.*, at 944.

"As we have seen, those Instructions were not published in the Federal Register, and therefore cannot impose any affirmative duty on defendants," *Id.*, at 945.

During the height of the Viet Nam war, certain draft law regulations outlined a procedure whereby conscientious objectors would be inducted for civilian service. But, the operation of this procedure concerning conscientious objectors was substantially varied by the issuance of a "Letter to All State Directors" and a temporary "instruction", both of which were not published in the Federal Register notwithstanding the fact that the same had an adverse impact upon such objectors. In *Gardiner v. Tarr*, 341 F.Supp. 422, 434 (D.D.C. 1972), upon challenge, these documents were found void as unpublished substantive rules:

"While the pre-publication and publication sections of the Act and the implementing Executive Order do not further define what are considered to be 'Rules' and 'Regulations', it is inconceivable that policies intended to have the force and effect of the policies purporting to effect the Plaintiffs in this proceeding, may be considered anything other than 'Rules and Regulations', notwithstanding the label attached by Defendant, and may be applied to Plaintiffs or any affected registrant without having been published in a manner in accordance with the Act. Whatever Defendant has entitled these unpublished but written policies, they 'purport[s] to be an authoritative declaration of policy issued for the guidance of the [Selective Service] System's line officers....' Therefore, the letters and Temporary Instruction in question are as much 'regulations' as any administrative agency's standardized, enforced, and broad policy directives."

The same issue was raised in *Piercy v. Tarr*, 343 F.Supp. 1120 (N.D.Cal. 1972), which resulted in a similar holding.

The validity of an unpublished instruction affecting the food stamp program was at issue in *Aiken v. Obledo*, 442 F.Supp. 628 (E.D.Cal. 1977). While the food stamp program is federally funded and state administered, federal regulations establish the standards for eligibility. But, in this case, an indigent and eligible family was denied such assistance because of an unpublished "FNS (FS) Instruction 732-1, section 2313," which limited eligibility by a "collateral contact requirement and a 6 month rule." These limitations upon food stamp entitlement contained in "instruction" to employees administering the program were held void for want of publication:

"Interpretative rules '... consist of administrative construction of a statutory provision on a question of law reviewable in the courts'.... They do not have the force of law....

"The 'collateral contact' and 'six month' rules set forth in the instruction in question have the force of law....

"Procedural rules are those that relate to the method of operation of the agency, while substantive rules are those which establish standards of conduct or entitlement..." Id., at 649.

"Since it is undisputed that the 'collateral contact' rule was not so published, it was adopted in violation of notice and comment provisions of the APA and must be declared void and set aside," Id., at 650.

A similar problem regarding the food stamp program was raised in *Anderson v. Butz*, 550 F.2d 459 (9th Cir. 1977), which considered a different aspect of the unpublished "Food and Nutrition Service (FNS), Food Stamp (FS) Instruction 732-1," before the court in Aiken, supra. Here the unpublished instructions commanded that HUD rent subsidies should be considered as "income" for food stamp purposes. Finding a substantial impact upon recipients of food stamps as a consequence of the "rule" contained in the unpublished instructions, the Court declared such rule void and unenforceable. See also *United States v. Shearson Lehman Bros., Inc.*, 650 F. Supp. 490, 496 (E.D. Pa. 1986); and *United States v. Riky*, 669 F. Supp. 196, 201 (N.D. Ill. 1987).

Thus, the above case authority clearly shows that "instructions" given to agency personnel which command the performance of an act by a member of the public or which limit entitlement to statutory benefits are subject to the publication requirement. If such "rules" found in agency instructions to agency personnel must be published, then likewise similar "instructions" given directly by the agency to the public must also be published on the grounds that the same similarly are "rules."

Delegated Authority Brief

1. Necessity for delegated authority.

It is essential for a federal employee to possess delegated authority to perform any particular act; the absence of delegated authority means that the act in question was beyond the scope of the employee's duties, and therefore unlawful.

The necessity for a public employee to possess delegated authority is shown by a wealth of cases. For example, in *United States v. Spain*, 825 F.2d 1426 (10th Cir. 1987), at issue was the authority of the Drug Enforcement Administration to place certain substances upon the federal controlled substances list and thus make possession thereof a crime. Under former provisions of this law, the Attorney General possessed this power to schedule controlled substances, and he had previously delegated that authority to the DEA. But, in 1984, Congress amended the law and provided a new statutory procedure by which such substances could be placed upon the list through a "bypass" procedure. Without delegated authority to schedule drugs under the amendment, the DEA did so and commenced prosecution of parties possessing the newly scheduled drugs. However, Spain's conviction was reversed when the Court held that the DEA's acts were void due to the lack of delegated authority to schedule the drugs pursuant to the new statutory procedure. Other courts have reached the identical conclusion; see *United States v. Pees*, 645 F. Supp. 697 (D. Col. 1986); *United States v. Hovey*, 674 F. Supp. 161 (D. Del. 1987); *United States v. Emerson*, 846 F. 2d 541 (9th Cir. 1988); *United States v. McLaughlin*, 851 F. 2d 283 (9th Cir. 1988); and *United States v. Widdowson*, 916 F.2d 587, 589 (10th Cir. 1990).

In *United States v. Giordano*, 416 U.S. 505, 94 S.Ct. 1820 (1974), at issue was the validity of a wire-tap application, which under existing law could be approved only by the Attorney General and a specially designated assistant. In this case, a wire-tap was needed and application was submitted to the Attorney General, who was absent from his office as was the designated assistant. Instead, an executive assistant lacking authority to approve the application authorized it on the supposition that the Attorney General would approve. The Court held the executive assistant's act void, declared the wire-tap illegal, and as a consequence evidence was suppressed. See also *Department of Ins. of Indiana v. Church Members Relief Ass'n.*, 217 Ind. 58, 26 N.E.2d 51, 52 (1940)("When the right to do a thing depends upon legislative authority, and the Legislature has failed to authorize it, or has forbidden it, no amount of acquiescence, or consent, or approval of the doing of it by a ministerial officer, can create a right to do the thing which is unauthorized or forbidden").

In *United States v. Mott*, 37 F.2d 860, 862 (10th Cir. 1930), an incompetent Indian leased some land and received large amounts as royalties, which were held in trust by the Secretary of the Interior. An agreement made to disburse those funds was held to be without authority:

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"Where an executive officer, under his misconstruction of the law, has acted without or beyond the powers given him, the courts have jurisdiction to restore the status quo ante insofar as that may be done (cites omitted)."

See also *Continental Casualty Co. v. United States*, 113 F.2d 284, 286 (5th Cir. 1940)("Public officers are merely the agents of the public, whose powers and authority are defined and limited by law. Any act without the scope of the authority so defined does not bind the principal, and all persons dealing with such agents are charged with knowledge of the extent of their authority").

In *United States v. Gemmill*, 535 F.2d 1145, 1152 (9th Cir. 1976), some Indians were engaged in a demonstration within a federal park. As a result of the presence and protest of the Indians, park officials closed the park and thereafter arrested the Indians, who were convicted of trespass. The decision vacating these convictions was premised upon the lack of delegated authority for the officials who closed the park:

"Absent an explicit delegation from the Secretary, the boundaries of the Forest Supervisors' authority should not be extended into areas the regulations have clearly reserved for higher officials. "By immediately closing the entire area, the Supervisor went beyond the limits of his authority and exercised a power that had not been granted to him. The closure orders were invalid and the trespass convictions cannot stand."

In reaching this conclusion, the Court referenced the applicable delegation orders published in the CFR. See also *Sittler v. Board of Control of Michigan College of Mining and Technology*, 333 Mich. 681, 53 N.W.2d 681, 684 (1952)("The extent of the authority of the people's public agents is measured by the statute from which they derive their authority, not by their own acts and assumption of authority"); *Phillips v. Fidalgo Island Packing Co.*, 238 F.2d 234 (9th Cir. 1956); *Flavell v. Dept. of Welfare, City and County of Denver*, 355 P.2d 941, 943 (Colo. 1960); *Tulsa Exposition and Fair Corp. v. Board of County Commissioners*, 468 P.2d 501, 507 (Ok. 1970)("Public officers possess only such authority as is conferred upon them by law and such authority must be exercised in the manner provided by law"); *In re Benny*, 29 B.R. 754, 762 (N.D. Cal. 1983) ("an unlawful or unauthorized exercise of power does not become legitimated or authorized by reason of habitude"); *Ramirez de Arellano v. Weinberger*, 745 F.2d 1500, 1523 (D.C. Cir. 1984) ("when an officer acts wholly outside the scope of the powers granted to him by statute or constitutional provision, the official's actions have been considered to be unauthorized"); *Outboard Marine Corp. v. Thomas*, 610 F.Supp. 1234, 1242 (N.D. Ill. 1985)("Acting without statutory power at all, or misapplying one's statutory power, will result in a finding that such action was ultra vires").

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In *Lopez-Telles v. I.N.S.*, 564 F.2d 1302, 1303 (9th Cir. 1977), a deportee alleged that an administrative law judge could refuse to deport him for humanitarian reasons, a reason not permitted by statute. In rejecting this argument, it was stated:

"Immigration judges, or special inquiry officers, are creatures of statute, receiving some of their powers and duties directly from Congress... and some of them by subdelegation from the Attorney General... These statutes and the regulations implementing them... contain a detailed and elaborate description of the authority of immigration judges. Nowhere is there any mention of the power of an immigration judge to award the type of discretionary relief that was sought here."

These rules regarding the necessity for a government employee to have delegated authority to act apply with equal force in the field of tax law. For example, in *Botany Worsted Mills v. United States*, 278 U.S. 282, 288, 289, 49 S.Ct. 129, 131, 132 (1929), the mills and a subordinate revenue agent entered into an informal compromise agreement regarding the tax liability of the mills. That agreement was held invalid on the ground that the agent lacked delegated authority to make the agreement:

"We think that Congress intended by the statute to prescribe the exclusive method by which tax cases could be compromised, requiring therefor the concurrence of the Commissioner and the Secretary, and prescribing the formality with which, as a matter of public concern, it should be attested in the files of the Commissioner's office; and did not intend to intrust the final settlement of such matters to the informal action of subordinate officials of the Bureau. When a statute limits a thing to be done in a particular mode, it includes the negative of any other mode.

"It is plain that no compromise is authorized by this statute which is not assented to by the Secretary of the Treasury... For this reason, if for no other, the informal agreement made in this case did not constitute a settlement which in itself was binding upon the Government or the Mills."

See also *Brubaker v. United States*, 342 F.2d 655 (7th Cir. 1965); and *Royal Indemnity Co. v. United States*, 313 U.S. 289, 61 S.Ct. 995 (1941).

In *Country Gas Service, Inc. v. United States*, 405 F.2d 147, 149, 150 (1st Cir. 1969), the taxpayer entered into a compromise with a revenue agent to settle a tax liability in a beneficial manner, but the agent had no delegated authority to do so. To decide this case, the Court noted the absence of any delegated authority for the agent and concluded the agreement was void:

"The narrow issue presented by this case is whether the revenue agent had authority to make a binding agreement ... The exclusive procedure for

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compromising tax liabilities is set forth in Int. Rev. Code of 1954 § 7122. This section explicitly reposes such authority in 'the Secretary or his delegate', and such delegation stops at the district level. Since the exclusive means of compromise established by §7122 was not utilized in this case, any arrangement taxpayer made with agent McInnis had no legal standing."

And in *Brooks v. United States*, 833 F.2d 1136, 1146 (4th Cir. 1987), there was a dispute concerning competing claims to and liens upon some property and one party claimed that such a compromise agreement concerning taxes should be accepted as valid in the case. The court rejected the validity of the agreement because it would have been consummated by agents lacking delegated authority:

"[T]he authority to settle disputes involving unpaid liability over \$100,000 is granted only to IRS Regional Commissioners and Regional Counsel. Delegation Order 11 (Rev. 13), 1982-1 Cum. Bull. 333. Thus, even if the District Director had signed the letter and intended to accept Frank's offer of compromise, the acceptance would have been ineffective."

See also *Boulez v. C.I.R.*, 810 F.2d 209, 217, 218 (D.C. Cir. 1987) ("Acting in contravention of a regulation governing execution of compromise agreements, the Director was as much without authority to join in the oral agreement with Boulez's counsel as he would have been had power to compromise never been delegated to him"); and *Thornton v. United States*, 73-1 U.S.T.C. ¶ 9232 (E.D.Pa. 1973), holding that a jeopardy assessment approved by a group chief rather than the district director was void.

The necessity for a federal employee to have delegated authority to act not only is shown in the above cases, it also manifests itself in cases under the Federal Torts Claims Act (herein "FTCA"), 28 U.S.C., §1346(b). Under this law, the United States is liable for torts committed by its employees if so committed within the scope of their employment. If the act in question was not committed in the scope of employment, the employee is liable and the United States is not.

A variety of cases deciding FTCA claims show instances where the United States is held not liable for its employees torts. In *Paly v. United States*, 125 F.Supp. 798 (D.Md. 1954), a soldier detailed as a military funeral escort was driving his own car to a funeral and was involved in an accident. Since the soldier lacked express orders to do so, his tort was held to be outside the scope of his employment and the United States was not liable. In *Jones v. F.B.I.*, 139 F.Supp. 38, 42 (D.Md. 1956), it was alleged that certain FBI agents had stolen or converted property belonging to the plaintiff. The court held that if such were true, the agents "were not 'acting within the scope of [their] office or employment,'" and the United States could not be liable in tort. In *James v. United States*, 467 F.2d 832 (4th Cir. 1972), a reservist was involved in a car accident on his return from an annual field training exercise; since this travel was not within the scope of his employment, the government was held not liable for damages. In another accident case

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involving an Army truck, *White v. Hardy*, 678 F.2d 485, 487 (4th Cir. 1982), the driver was found to have no authority to drive the truck when the accident happened, thus his acts were beyond the scope of his employment and the United States was not liable ("There was substantial evidence that Sergeant Hardy was not given the requisite express authority to use the government vehicle involved in the collision"). In *Hughes v. United States*, 662 F.2d 219 (4th Cir. 1981), the United States was held not liable for child molestation committed by one of its employees, a postal worker. In *Trerice v. Summons*, 755 F.2d 1081 (4th Cir. 1985), the United States was held not liable for the wrongful death of one serviceman committed by another. And in *Thigpen v. United States*, 800 F.2d 393 (4th Cir. 1986), the court held the government not liable under the FTCA for the sexual assault of some girls by one of its employees.

Cases from other jurisdictions also demonstrate that for an act to be within the government employee's scope of employment, it must have been authorized by a regulation or some other written document. For example, in *Mider v. United States*, 322 F.2d 193 (6th Cir. 1963), a FTCA claim was being asserted against the United States for damages arising from an accident involving a drunken Air Force serviceman. To define the serviceman's authority, written regulations were consulted to determine whether the act of driving the government's car was authorized. Finding that the regulations did not permit use of the vehicle on this occasion, the serviceman was found not to be acting within the scope of his employment. In *Bettis v. United States*, 635 F.2d 1144 (5th Cir. 1981), a soldier drove a truck off a military base without authority and was involved in an accident; his act was held to be beyond his authority and thus the United States was not liable in tort. In *Turner v. United States*, 595 F.Supp. 708 (W.D.La. 1984), a recruiter conducted an unclothed physical examination of some potential females enlistees, which caused them to sue under the FTCA. In finding that there were no regulations either permitting or requiring such examinations, the United States was found not liable. See also *Doggett v. United States*, 858 F.2d 555 (9th Cir. 1988), and *Lutz v. United States*, 685 F.2d 1178 (9th Cir. 1982).

Thus the above cases adequately demonstrate that a government employee must have some specific delegated authority, based upon statutes, regulations or delegation orders, in order to be authorized to act in the premises. The absence of such authority, when challenged, therefore requires a holding that the employee's acts were unauthorized and thus beyond the scope of his employment.

2. Immunity depends upon delegated authority.

When a citizen challenges the acts of a federal or state official as being illegal, that official cannot just simply avoid liability based upon the fact that he is a public official. In *United States v. Lee*, 106 U.S. 196, 220, 221, 1 S.Ct. 240, 261 (1882), the United States claimed title to Arlington, Lee's estate, via a tax sale some years earlier, held to be void by the Court. In so voiding the title of the United States, the Court declared:

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"No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives.

"Shall it be said... that the courts cannot give remedy when the citizen has been deprived of his property by force, his estate seized and converted to the use of the government without any lawful authority, without any process of law, and without any compensation, because the president has ordered it and his officers are in possession? If such be the law of this country, it sanctions a tyranny which has no existence in the monarchies of Europe, nor in any other government which has a just claim to well-regulated liberty and the protection of personal rights."

See also *Pierce v. United States* ("The Floyd Acceptances"), 7 Wall. (74 U.S.) 666, 677 (1869)("We have no officers in this government from the President down to the most subordinate agent, who does not hold office under the law, with prescribed duties and limited authority"); *Cunningham v. Macon*, 109 U.S. 446, 452, 456, 3 S.Ct. 292, 297 (1883)("In these cases he is not sued as, or because he is, the officer of the government, but as an individual, and the court is not ousted of jurisdiction because he asserts authority as such officer. To make out his defense he must show that his authority was sufficient in law to protect him... It is no answer for the defendant to say I am an officer of the government and acted under its authority unless he shows the sufficiency of that authority"); and *Poindexter v. Greenhow*, 114 U.S. 270, 287, 5 S.Ct. 903, 912 (1885).

In *Reagan v. Farmers Loan & Trust Co.*, 154 U.S. 362, 390, 14 S.Ct. 1047, 1051, 1052 (1894), the Court declared:

"A tax law, as it leaves the legislative hands, may not be obnoxious to any challenge; and yet the officers charged with the administration of that valid tax law may so act under it, in the matter of assessment or collection, as to work an illegal trespass upon the property rights of the individual. They may go beyond the powers thereby conferred, and when they do so the fact that they are assuming to act under a valid law will not oust the courts of jurisdiction to restrain their excessive and illegal acts."

In *Cooper v. O'Connor*, 99 F.2d 135, 137, 138 (D.C. Cir. 1938), a banker was indicted, acquitted and then brought suit for malicious prosecution against the agents who caused

his indictment. Regarding the rule that agents acting outside the scope of their authority are personally liable for their torts, the court stated:

"There is also a general rule that if any officer- ministerial of otherwise-acts outside the scope of his jurisdiction and without authorization of law, he is liable in an action for damages for injuries suffered by a citizen as a result thereof."

See also *Estrada v. Hills*, 401 F.Supp. 429, 434 (N.D.Ill. 1975).

This rule that agents are personally liable for their acts outside the scope of their authority has not been modified or changed in any way over the years. In *Barr v. Matteo*, 360 U.S. 564, 572, 79 S.Ct. 1335, 1340 (1959), the Court stated that the immunity rules have always been subject to the "limitation upon that immunity that the official's act must have been within the scope of his powers." In *Doe v. McMillan*, 412 U.S. 306, 320, 93 S.Ct. 2018, 2028 (1973), it was held that the "scope of immunity has always been tied to the scope of... authority."

Simply put, for a government agent to have some type of absolute or qualified immunity from suit for conduct arising from the performance of his duties, he must first have the valid authority to perform the acts in question; if he lacks such delegated authority, his immunity vanishes. In *Butz v. Economou*, 438 U.S. 478, 98 S.Ct. 2894 (1978), this rule was clearly acknowledged by the Court:

"As these cases demonstrate, a federal official was protected for action tortious under state law only if his acts were authorized by controlling federal law," 438 U.S., at 490.

"Beyond that, however, neither case purported to abolish the liability of federal officers for actions manifestly beyond their line of duty; and if they are accountable when they stray beyond the plain limits of their statutory authority, it would be incongruous to hold that they may nevertheless willfully or knowingly violate constitutional rights without fear of liability," 438 U.S., at 495.

See also *Westfall v. Erwin*, 484 U.S. 292, 297, 298, 108 S.Ct. 580, 584 (1988)(" As Doe's analysis makes clear, absolute immunity from state-law tort actions should be available only when the conduct of federal officials is within the scope of their official duties and the conduct is discretionary in nature"); *Benford v. American Broadcasting Co., Inc.*, 554 F.Supp. 145, 148 (D.Md. 1982); and *Pleasant v. Lovell*, 876 F.2d 787 (10th Cir. 1989). See also *Rutherford v. United States*, 702 F.2d 580 (5th Cir. 1983).

It was established long ago that whenever any officer exceeds his authority and wrongfully seizes or levies upon property, he is personally liable in tort for that act. For example, in *Buck v. Colbath*, 70 U.S. 334, 344 (1866), a marshall levied upon property of

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one party to satisfy a judgment entered against another. In holding that the Marshall was liable for this wrongful levy, the Court declared:

"In all these particulars he is bound to exercise his own judgment, and is legally responsible to any person for the consequences of an error or mistake in its exercise to his prejudice. He is so liable to plaintiff, to defendant, or to any third person whom his erroneous action in the premises may injure."

The lack of statutory authority for a government employee or agent to levy or seize the property of another party was the subject of *Bates v. Clark*, 95 U.S. 204, 209 (1877). Here, an Army captain had statutory authority to seize whiskey within "Indian country," and pursuant to this authority, he seized such from a merchant not within Indian country. The Court held this to be an illegal seizure which subjected the officer to personal liability:

"But the objection fatal to all this class of defenses is that in that locality they were utterly without any authority in the premises; and their honest belief that they had is no defense in their case more than in any other, where a party mistaking his rights commits a trespass by forcibly seizing and taking away another man's property."

This is an extremely old rule. In *Gaillard v. Cantini*, 76 F. 699 (4th Cir. 1896), a state constable executed a search warrant of a business premises and home looking for illegal alcoholic beverages. But, state law required such warrants to be executed by the county sheriff, and the constable had no authority under the statute to execute the warrant. He was sued and suffered judgment. This court affirmed that judgment by noting that the constable lacked authority to search under state law and he was liable as a consequence. At the opposite end of the country, this rule is also followed as shown by *McKnight v. United States*, 130 F. 659 (9th Cir. 1904). Here, a state sheriff was executing a warrant to levy upon property of a husband, but instead levied upon cattle belonging to his Indian wife, a ward of the government. Noting that the sheriff possessed only authority to levy upon the cattle of the husband and not the wife, the court held the sheriff personally liable for conversion.

This rule obtains in Maryland. An illegal levy was the subject of *State, to use of German v. Timmons*, 90 Md. 10, 44 A. 1003 (1899), which involved a constable making a levy via a null and void warrant. In holding that the proper remedy here was a suit personally against the constable, the Court held:

"There can be no doubt that a constable acting under a void warrant is a trespasser, and is not protected by reason of such a warrant being issued to him, if he enforces it; for, although the law does not hold an officer responsible, as a trespasser, for acting under a warrant that is merely

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defective or irregular, yet, when it is void on its face, it is as if no warrant had been issued to him."

At the other end of this country in California, if a public official such as a sheriff wrongfully levies upon property he is personally liable in tort for conversion. For example, in *Irwin v. McDowell*, 91 Cal. 119, 27 P. 601, 602 (1891), an officer seized some mortgaged grain contrary to state law which required him to pay any prior claims. Since the levy was wrongful, he was held personally liable; see also *Black v. Clasby*, 97 Cal. 482, 32 P. 564 (1893); and *Curtner v. Lyndon*, 128 Cal. 35, 60 P. 462 (1900). In *Brinkley-Douglas Fruit Co. v. Silman*, 33 Cal.App. 643, 166 P. 371 (1917), the sheriff seized some potatoes owned by a third party, who sued him for illegal levy; it was determined that the sheriff was personally liable for this wrongful act. See also *Phillips v. Byers*, 189 Cal. 665, 209 P. 557, 560 (1922).

This rule applies in other states between Maryland and California. An illegal levy was the subject of *Duff & Repp Furn. Co. v. Read*, 74 Kan. 730, 88 P. 263, 264 (1907), where it was declared that, "where levy is made by an officer under a process which is irregular, unauthorized, or void, the party suing out the process is a trespasser, and in such case the former becomes the agent of the latter." See also *Adamson v. Noble*, 137 Ala. 668, 35 So. 139 (1903); *Stowers Furn. Co. v. Brake*, 158 Ala. 639, 48 So. 89, 93 (1908); and *Tregre & Shexnayder v. Carter*, 132 La. 293, 61 So. 379 (1913). In *Texas Liquor Control Board v. Whitefield*, 127 S.W.2d 339, 340 (Tex.Civ.App. 1939), this rule was stated as follows:

"Nowhere is it alleged or proved that the seizure was made by virtue of a lawfully issued search warrant or under circumstances rendering such a warrant unnecessary. It is alleged by appellee that the seizure was unlawfully made. If the seizure were made without lawful authority, the act was not that of the Board or the Administrator, as such, the officers making the seizure were trespassers and the suit was against them as individuals."

See also *Bishop v. Vandercook*, 228 Mich 299, 200 N.W. 278 (1924); *Kelly v. Baird*, 64 N.D. 346, 252 N.W. 70, 76 (1934); *Bowler v. Vannoy*, 215 P.2d 248, 258 (Nev. 1950); *Reese v. Bice*, 87 Ga.App. 519, 74 S.E.2d 476 (1953); *Mica Industries, Inc. v. Penland*, 249 N.C. 602, 107 S.E.2d 120 (1959); *Bowman v. Waldt*, 9 Wash.App. 562, 513 P.2d 559, 564 (1973); and *Kemp's Wrecker Service v. Grassland Sod Co., Inc.*, 404 So.2d 348 (Ala.App. 1981).

STATUTES DEPENDENT UPON REGULATIONS

Many perceive that the requirement to "file" an individual federal income tax return is based upon 26 U.S.C., § 6012; however, this section relates solely to the "making" of a return and not its "filing," which is the issue in a willful failure to file tax returns prosecution. The requirement to "file" an individual federal income tax return is governed entirely by 26 U.S.C., §6091, which reads in pertinent part as follows:

"Section 6091. Place for filing returns or other documents.

"(a) General rule.--- When not otherwise provided by this title, the Secretary shall by regulations prescribe the place for the filing of any return, declaration, statement, or other document, or copies thereof, required by this title or by regulations.

"(b) Tax returns.--- In the case of returns of tax required under authority of part II of this subchapter -

"(i) Persons other than corporations.-

(A) General rule.- Except as provided in subparagraph (B), a return (other than a corporation return) shall be made to the Secretary-

(i) in the internal revenue district in which is located the legal residence or principal place of business of the person making the return, or

(ii) at the service center serving the internal revenue district referred to in clause (i),

"as the Secretary may by regulations designate."

The plain language of this governing section of the Code clearly discloses that its enforcement depends entirely upon the promulgation of regulations. Section 6091 depends for its validity and enforcement upon the promulgation of tax regulations and thus those regulations control entirely the duties to file returns, not the statute.

It is common for various Congressional acts to be entirely enforceable only through regulations. Any given act may simply authorize a defined federal official to perform certain acts in accordance with regulations he promulgates; until the regulations are implemented, the act in question might compel nothing. An example of such an act is the Bank Secrecy Act ("BSA") P.L.91-508, 84 Stat. 1114, the amended version of which is codified at 31 U.S.C., §§ 5311, et seq. Throughout this particular act, language such as "the Secretary may require," "the Secretary may by regulations require," "as the Secretary may require," repeatedly appears in the Act's sections up through §242. In California

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Bankers Assn. v. Shultz, 416 U.S. 21, 26, 94 S.Ct. 1494 (1974), the Court noted that the BSA entirely depended upon regulations:

"[W]e think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone."

See also *United States v. Reinis*, 794 F.2d 506, 508 (9th Cir. 1986) (a person cannot be prosecuted for violating the currency reporting law unless he violates an implementing regulation); and *United States v. Murphy*, 809 F.2d 1427, 1430 (9th Cir. 1987) (the reporting act is not self-executing and can impose no reporting duties until implementing regulations have been promulgated).

In *California Bankers*, supra, the Supreme Court not only noted that the BSA depended entirely upon regulations, but that also the federal income tax laws were similarly drafted:

"The Internal Revenue Code, for example, contains a general authorization to the Secretary of the Treasury to prescribe by regulation records to be kept by both business and individual taxpayers, 26 U.S.C. § 6001, which has been implemented by the Secretary in various regulations," 416 U.S., at 45.

Here, §6091 likewise depends for its enforcement entirely upon the promulgation of regulations for this section. The section itself merely notes that "the Secretary shall by regulations prescribe the place for the filing of any return." An income tax return for an individual is to be filed in either an internal revenue district or a service center, "as the Secretary may by regulations designate." It cannot be denied that §6091 by its plain language depends entirely upon regulations for its implementation. Further, the case law so holds.

One of the earliest cases dealing with a statute dependent upon regulations was *United States v. Eaton*, 144 U.S. 677, 12 S.Ct. 764 (1892). Here, §5 of the act in question provided that oleomargarine manufacturers "shall keep such books, render such returns ... as the commissioner of internal revenue, with the approval of the secretary of the treasury, may, by regulation, require;" 144 U.S., at 683. In *Eaton*, the Court held, in essence, that the regulation in question was broader than its statutory authority and was thus invalid; nonetheless, it was obvious to the Court that regulations were essential to enforcement of the act.

Some of the most notorious Congressional acts delegating broad rule making authority were enacted during the Great Depression via the National Industrial Recovery Act, and the resulting litigation brought the same into issue. In *Panama Refining Co. v. Ryan*, 293 U.S. 388, 55 S.Ct. 241 (1935), at issue were "hot oil" regulations promulgated via §10(a) of the National Industrial Recovery Act, which authorized the President "to prescribe

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such rules and regulations as may be necessary to carry out the purposes" of the Act; 293 U.S., at 407. Finding that the President's rule making authority under this act amounted to an unconstitutional delegation of legislative power to the President, the regulations at issue were found to be "without constitutional authority;" 293 U.S., at 433. The National Industrial Recovery Act also authorized the President not only to promulgate "rules and regulations," it also authorized him to adopt entire "codes of fair competition." In both *Schechter Poultry Corp. v. United States*, 295 U.S. 495, 55 S.Ct. 837 (1935), and *Carter v. Carter Coal Co.*, 298 U.S. 238, 56 S.Ct. 855 (1936), such "codes" were found unconstitutional. A reading of the National Industrial Recovery Act reveals that it was primarily enforceable only through such "rules, regulations and codes."

In *Yakus v. United States*, 321 U.S. 414, 64 S.Ct. 660 (1944), and *M. Kraus & Bros. v. United States*, 327 U.S. 614, 66 S.Ct. 705 (1946), the price control laws at issue in these cases were dependent upon the promulgation of regulations. In *Douglas v. Comm. of Internal Revenue*, 322 U.S. 275, 64 S.Ct. 988 (1944), a statute dealing with income tax deductions contained the words "such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the Commissioner, with the approval of the Secretary." *Douglas* was decided solely by interpretation and construction of the regulation at issue. In *Comm. of Internal Revenue v. S. Texas Lumber Co.*, 333 U.S. 496, 503, 68 S.Ct. 695 (1948), at issue before the Court was the construction of a statute and regulation. Here, the Court found it essential to construe both the statute and regulation to decide the case:

"That the Commissioner was particularly intended by Congress to have broad rule-making power under the regulation was manifested by the first words in the new ... section which only permitted taxpayers to take advantage of it 'under regulations prescribed by the Commissioner with the approval of the Secretary.'"

See also *Fratt v. Robinson*, 203 F.2d 627 (9th Cir. 1953), a case involving a statute containing the language, "such rules and regulations as the Commissioner may prescribe."

In *United States v. Mersky*, 361 U.S. 431, 437-38, 80 S.Ct. 459 (1960), the Court had before it a statute which contained the words, "The Secretary of the Treasury may by regulations ..." Concerning this language, the Court stated:

"Here the statute is not complete by itself since it merely declares the range of its operation and leaves to its progeny the means to be utilized in the effectuation of its command Once promulgated, these regulations, called for by the statute itself, have the force of law, and violations thereof incur criminal prosecutions, just as if all the details had been incorporated into the congressional language. The result is that neither the statute nor the regulations are complete without the other, and only together do they have

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any force. In effect, therefore, the construction of one necessarily involves the construction of the other."

See also *United States v. Wayte*, 549 F.Supp. 1376, 1385 (C.D.Cal. 1982) ("the defendant's argument that the court should view the applicable statute, regulations and proclamation as one statutory scheme is well founded").

Here, §6091 is no different from the statute at issue in *Mersky*, supra. Twice within this section, Congress has directed the Secretary to define the duty of filing tax returns by means of regulations. Section 6091 "is not complete by itself since it merely declares the range of its operation and leaves to its [regulations] the means to be utilized in the effectuation of its command. The result is that neither the statute nor the regulations are complete without the other, and only together do they have any force." Thus, the duty to file a federal income tax return is not governed by statute; such duty only manifests itself via 26 C.F.R., §1.6091-2.

The conclusion that §6091 is entirely dependent upon regulations promulgated under its authority is buttressed by a review of other sections of the Internal Revenue Code. And, the principles enunciated above are directly relevant to these other sections of the Code which provide meaning to both §§ 6012 and 6091. For example, in *California Bankers*, supra, the Court noted that §6001 gave broad rule making authority to the Secretary, which is readily evident upon examination:

"Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe."

Remarkably, the language of §6001 is very similar to the statute at issue in *United States v. Eaton*, supra, in which the Court found it absolutely essential to deal with the corresponding regulation to decide the case. As in *Mersky*, supra, §6001 is incapable of enforcement without there first being implementing regulations. Finally, as in *California Bankers*, supra, §6001 is not self-executing, but entirely depends upon the further promulgation of regulations by the Secretary. In short, the plain meaning of §6001 is that the Secretary is given the authority to delineate by regulations the duty to make and file returns, which duty arises only by such regulations. And this authority of the Secretary must be considered when construing the purported duties arising under §§ 6012 and 6091.

Section 6011 of the Code is very similar to §6001:

"When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or

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statement shall include therein the information required by such forms and regulations."

Whereas §6001 commands "every person liable for any tax" to make returns via regulations prescribed by the Secretary, §6011 simply states that those who are "liable for any tax" shall make returns upon forms designated by the Secretary "and shall provide the information required by such forms." In reference to the making of returns, §6001 simply authorizes the Secretary to promulgate regulations in this respect, and, if the Secretary does so promulgate such regulations, then §6011 requires those liable for the tax to make such returns upon forms prescribed by the Secretary and designated in his regulations. It is quite evident from a combination of both §§ 6001 and 6011 that the duty to make returns is thus governed entirely by regulations.

With the authority granted to the Secretary via §§ 6001 and 6011 in mind, the meaning of §6012 of the Code becomes readily apparent. In *Panama Refining Company*, supra, the Court was confronted with an act of Congress which conveyed extremely broad rule making authority to the President. This Presidential authority was objectionable because it was unqualified and unrestrained; no policies were prescribed under which the exercise of such Presidential power was to be governed, and the act placed absolutely no prohibitions or restraints upon the exercise of such power. These features of the act, among others, were declared to be unlawful delegations of legislative power; see 293 U.S., at 415. It is the rule enunciated in *Panama Refining Company* which explains the reason for the existence of §6012 of the Code: it limits the otherwise very broad rule making authority of the Secretary under §§ 6001 and 6011.

Congress might have enacted in the Code only §§ 6001 and 6011 and left it at that, which would have meant that the Secretary's rule making power was limitless and unqualified. Under such circumstances, the Secretary could have required not only nonresident aliens and foreign corporations to make and file returns, he could have created classes such as "Alaskans living north of the Mason-Dixon line," as well as dogs, cats, cows, horses, sheep and political prisoners in Iraq. The purpose of §6012 is simply to define and limit the Secretary's otherwise broad rule making authority to the classes to which §6012 addresses itself: individuals, corporations, estates, trusts, estates or trusts with nonresident alien beneficiaries, political organizations, homeowners' associations, fiduciaries and receivers. Incidentally, the forms which the parties named in §6012 are required to "make" are not identified. Those forms as well as the information to be included on the forms are subject to the rule making authority of the Secretary as defined in §6011.

Not only is the Secretary's rule making authority limited by §6012, it is further limited by other following sections of the Code. The making of estate tax returns is governed by §6018, the making of gift tax returns is governed by §6019, the making of partnership tax returns is controlled by §6031; sections following these further prescribe other classes required to make returns. Thus, the power of the Secretary to define who or what classes

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are obligated to make returns is carefully circumscribed by statute to avoid constitutional issues regarding the Secretary's broad rule making authority.

The broad rule making authority of §§ 6001 and 6011 could encompass the power of the Secretary to issue rules requiring returns to be filed at whatever place he designated. If the Secretary's power in this respect were not limited by statute, he could issue rules which could in essence change the entire structure of government. The Secretary and the President could be members of one political party, and the Secretary could issue a rule that all members of Congress of another party had to file their tax returns with a space station in orbit around the earth. When the members of Congress to which such a rule would apply find it impossible to comply, they could all be indicted for tax evasion on April 16 and the structure of government would be radically changed as a consequence. This kind of broad rule making authority of unconstitutional dimensions is not found in the Code for very apparent reasons.

Pursuant to §7621 of the Code, the President is given the authority to create internal revenue districts, a power he also possessed under the 1939 Internal Revenue Code. As explained in Treasury Department Order 150-01 (51 Fed. Reg. 9571, 1986-1 C.B. 686), the President has delegated this authority to the Treasury Secretary, and T.D.O. 150-01 describes the boundaries of such various districts. Via §6091, Congress further declares that the Secretary's broad rule making authority under §§ 6001 and 6011, particularly that authority which would dictate the act of filing a tax return, is to be limited to either internal revenue districts or service centers, "as the Secretary may by regulations designate."

Based upon the authority of §6091, the Secretary of the Treasury has promulgated eight (8) different tax regulations to implement this statute, which are found at 26 C.F.R., §§ 1.6091-1, 1.6091-2, 1.6091-3, 1.6091-4, 20.6091-1, 25.6091-1, 31.6091-1 and 301.6091-1. Of these, only the regulation at §1.6091-2 relates to the duty of a domestic American citizen to file an individual federal income tax return.

The tax regulation at 26 C.F.R., §1.6091-2, provides in subparagraph (a) that income tax returns are to be filed with "the district director for an internal revenue district." But, this is a rule subject to an exception, and that exception appears within subparagraph (c). This latter provision declares that income tax returns shall be filed "with a service center" if instructions for the form in question so require.

The fact that 26 C.F.R., §1.6091-2, does indeed control the duty to file federal income tax returns is demonstrated by a variety of cases. In *United States v. Calhoun*, 566 F.2d 969, 973 (5th Cir. 1978), that court held as follows:

"The crime of failure to file an income tax return is committed in the judicial district in which the taxpayer is required to file."

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"The general rule is that a taxpayer shall make his return 'to the Secretary or his delegate ... in the internal revenue district' of his 'legal residence' or at the designated service center for that district. 26 U.S.C., §§ 6091(b)(1)(A)(i), (ii)."

Other cases have likewise identified §6091 and its regulations as those governing the duty to file a tax return; see *United States v. Griffin*, 814 F.2d 806, 810 (1st Cir. 1987); *United States v. Citron*, 221 F.Supp. 454, 456 (S.D.N.Y. 1963); *United States v. Gilkey*, 362 F.Supp. 1069, 1071 (E.D.Pa. 1973); *United States v. Ramantanin*, 452 F.2d 670, 671 (4th Cir. 1971); *United States v. Garman*, 748 F.2d 218, 219 (4th Cir. 1984); *United States v. Lawhon*, 499 F.2d 352, 355 (5th Cir. 1974); *United States v. Quimby*, 636 F.2d 86, 90 (5th Cir. 1981); *United States v. Rice*, 659 F.2d 524, 526 (5th Cir. 1981); *United States v. Lefkoff*, 113 F.Supp. 551 (D.Tenn. 1953); *United States v. Gorman*, 393 F.2d 209, 213, 214 (7th Cir. 1968); *United States v. Grabinski*, 727 F.2d 681, 684 (8th Cir. 1984); *United States v. Clinton*, 574 F.2d 464, 465 (9th Cir. 1978); and *United States v. Dawes*, 874 F.2d 746, 750 (10th Cir. 1989). There is thus no question that this tax regulation plainly controls the issue of where a tax return must be filed.

STATE COURT JURISDICTION CASES

ALABAMA:

1. *Brook v. State*, 155 Ala. 78, 46 So. 491 (1908):
Defendant charged with assault and battery occurring in Post Office in rented building; court simply held state court had jurisdiction.
2. *Webb v. J. G. White Engineering Corp.*, 204 Ala. 429, 85 So. 729 (1920):
Webb worked on U.S. property in Muscle Shoals; fire in bunkhouse injured him and he sued his employer. White averred lack of state court jurisdiction. Webb's suit was dismissed on grounds of lack of jurisdiction in state court. Supreme Court affirmed, and discussed major jurisdiction cases in holding there was no state jurisdiction.
3. *Garrison v. State*, 22 Ala. App. 444, 116 So. 706 (1928):
Possession of still and manufacturing whiskey in federal forest reservation; court held Alabama had jurisdiction over such lands.
4. *Hagood v. State*, 23 Ala. App. 138, 122 So. 299 (1929):
Still operated in federal forest; Alabama found to have jurisdiction.
5. *Pound v. Gaulding*, 237 Ala. 387, 187 So. 468 (1939):
Worker on construction project at Fort McClellan injured when scaffold fell. Suit under Employer's Liability Act upheld on grounds that such act was a law in effect at time U.S. acquired exclusive jurisdiction of property, thus this law was applicable in case.
6. *State v. Blair*, 238 Ala. 377, 191 So. 237 (1939):
Blair sued by State for gasoline excise tax for gas stored at Maxwell Field in Montgomery, such property being under U.S. exclusive jurisdiction. Verdict against state upheld on grounds of lack of jurisdiction at Maxwell. Case cites the major jurisdiction cases.
7. *O'Pry Heating & Plumbing Co. v. State*, 241 Ala. 507, 3 So.2d 316 (1941):
U.S. got land for veteran's hospital, and contracted with O'Pry for certain improvements to hospital. State sought to collect contractor's license. Court held state could not force licensing on contractor. In so holding, court held that revenue laws of state, even if in effect at time of cession, did not operate therein afterwards.
8. *Oldham v. State*, 37 Ala. App. 251, 67 So.2d 52 (1953):
Defendant charged and convicted of transporting liquor, being caught in a national forest. Court affirmed conviction holding that Alabama has criminal jurisdiction within national forests.

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9. *Oldham v. State*, 259 Ala. 507, 67 So.2d 55 (1953):

Conviction affirmed, court holding that Alabama has criminal jurisdiction over federal forest reservations.

ALASKA:

1. *In re Long's Petition*, 200 F.Supp. 313 (D.Alaska 1961):

Long was charged by state with burglary of building at Point Barrow within Naval Petroleum Reserve No. 4. He filed habe contending that state had no jurisdiction. The court found, however, that the state had concurrent jurisdiction and denied petition.

ARIZONA:

1. *Kahn v. Arizona State Tax Comm.*, 16 Ariz. App. 17, 490 P.2d 846 (1971):

Kahn was a lawyer residing on Indian reservation and objected to state income tax on jurisdictional grounds. But, court held that the reservation was within state's jurisdiction and sustained the tax.

2. *State v. Dykes*, 114 Ariz. 592, 562 P.2d 1090 (1977):

Expedition to Gila Bend Gunnery Range to steal shell casing, Gila Bend being U.S. property. Dykes left men in desert who died of thirst. Held, that State had criminal jurisdiction over land as U.S. didn't have exclusive jurisdiction.

ARKANSAS:

1. *Garland County v. Gaines*, 56 Ark. 227, 19 S.W. 602 (1892):

U.S. leased property in Hot Springs reservation, a place subject to state jurisdiction. Leasehold interest held taxable by state.

2. *Arlington Hotel Co. v. Fant*, 176 Ark. 613, 4 S.W.2d 7 (1928), *aff'd*, 278 U.S. 439, 49 S.Ct. 227 (1929):

Fire in hotel in Hot Springs National Park, and question related to which laws, before and after cession, applied in a U.S. enclave. Held, laws before applied, laws after did not.

3. *Young v. G. L. Tarlton*, 204 Ark. 283, 162 S.W.2d 477 (1942):

Question of whether Workmen's Compensation law applied in federal enclave; held, it did by express Congressional act.

4. *Lynch v. Hammock*, 204 Ark. 911, 165 S.W.2d 369 (1942):

Physician working in federal enclave held not subject to licensing by state.

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5. *Ladwig v. Nance*, 223 Ark. 559, 267 S.W.2d 314 (1954):
Masseurs at Hot Springs National Park held not subject to state law regarding registration.

6. *Miller v. State*, 225 Ark. 285, 281 S.W.2d 946 (1955):
Miller had contract to perform work on property leased to U.S. Ramsey had contract to construct on federal property, but as to both tracts, U.S. did not accept jurisdiction. In prosecution for violating licensing act, court held both amenable to state jurisdiction.

7. *Kurck v. State*, 235 Ark. 688, 362 S.W.2d 713 (1962):
Rape committed on lands owned by U.S., but for which jurisdiction had not been accepted. Held, state had jurisdiction.

CALIFORNIA:

1. *People v. Mouse*, 203 Cal. 782, 265 P. 944 (1928):
Crime committed in Home for Disabled Soldiers, in U.S. exclusive jurisdiction, could not be prosecuted in state court.

2. *People v. Standard Oil Co. of California*, 218 Cal. 123, 22 P.2d 2 (1933):
State action to collect gas excise taxes for sales made by Standard Oil to the Presidio. Here, court held that state had the jurisdiction to tax. Reversed, *Standard Oil Co. v. California*, 291 U.S. 242, 54 S.Ct. 381 (1934).

3. *Allen v. Industrial Accident Comm.*, 3 Cal.2d 214, 43 P.2d 787 (1935):
Worker injured at Fort Miley, enclave subject to U.S. jurisdiction, sought Workmen's Comp. benefits; same denied because the Commission had no jurisdiction on federal property.

4. *Standard Oil Co. of Calif. v. Johnson*, 10 Cal.2d 758, 76 P.2d 1184 (1938):
Question of imposition of sales tax on gas in several national parks in California. Held, since legislative act reserved right to tax in cession acts, tax was collectible.

5. *Martin v. Clinton Const. Co.*, 105 P.2d 1029 (Cal.App. 1940):
Injury occurred during construction of San Francisco-Oakland bridge, which passes through Yerba Buena Island, in U.S. jurisdiction. Case deals with application of state comp. laws in such situations, identical to *Murray v. Joe Gerrick*.

6. *Consolidated Milk Producers for San Francisco v. Parker*, 19 Cal.2d 815, 123 P.2d 440 (1942):
State law provided a milk producers' plan for marketing, but three sellers sold milk to Presidio in violation of plan. Court held plan could not be enforced inside Presidio, under the facts of the case.

State Court Jurisdiction Cases

7. *Pacific Coast Dairy v. Department of Agriculture*, 19 Cal.2d 818, 123 P.2d 442 (1942); reversed, *Pacific Coast Dairy v. Dept. of Agriculture*, 318 U.S. 285, 63 S.Ct. 628 (1943):

Milk price controls of state inapplicable inside Moffett Field.

8. *Johnson v. Morrill*, 20 Cal.2d 446, 126 P.2d 873 (1942):

Defense workers living on federal property sought suffrage denied by county. Court held them entitled to vote because U.S. never accepted jurisdiction.

9. *People v. Brown*, 69 Cal. App.2d 602, 159 P.2d 686 (1945):

Robbery at Naval Ordnance Training Station and defendant contended there was no state jurisdiction. Court held that there was presumption of state jurisdiction, and a defendant had to prove lack thereof by cession of state and acceptance by U.S.

10. *Arapajolu v. McMenamin*, 113 Cal. App.2d 824, 249 P.2d 318 (1952):

Residents of federal enclaves held entitled to vote.

11. *In re Terry Y.*, 101 Cal. App.3d 178, 161 Cal. Rptr. 452 (1980):

Jurisdictional principles discussed in youthful offender case.

COLORADO:

1. *Merrill v. Shearston*, 73 Colo. 230, 214 P. 540 (1923):

Residents of veterans hospital held not entitled to vote in state elections.

2. *Bd. of County Commissioners of County of Arapahoe v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960):

County sought to curtail welfare benefits being paid to resident of Fort Logan, a federal enclave. Court held resident could receive benefits. Case cites major jurisdictional cases.

3. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963):

State prosecution for theft occurring on federal property. Court held that state had criminal jurisdiction over property because U.S. failed to accept jurisdiction.

4. *Johnson v. City and County of Denver*, 186 Colo. 398, 527 P.2d 883 (1974):

Federal employees prosecuted for failure to pay occupational tax. U.S. had jurisdiction at place where these employees worked. Court held tax was not income tax for Buck Act purposes, and ruled Denver had no jurisdiction to levy tax in question.

5. *Rountree v. City and County of Denver*, 197 Colo. 497, 596 P.2d 739 (1979):

Denver occupational tax challenged by USPS employees. Court reversed its position in *Johnson* and overruled it; Court held that the Denver occupational tax

State Court Jurisdiction Cases

was an income tax which could via the Buck Act be imposed on federal employees.

CONNECTICUT:

1. *State v. Stonybrook, Inc.*, 149 Conn. 492, 181 A.2d 601 (1962):
U.S. owned government housing which did not comply with local building code. When later sold to Stonybrook, state prosecution for violations of code was upheld as within state jurisdiction.

2. *Dupuis v. Submarine Base Credit Union, Inc.*, 170 Conn. 344, 365 A.2d 1093 (1976):
Credit union at submarine base held subject to building code of municipality, since there was no federal exclusive jurisdiction. The case cites major jurisdictional cases.

DELAWARE:

(NONE)

FLORIDA:

1. *Valverde v. Valverde*, 121 Fla. 576, 164 So. 287 (1935):
Divorce action, with defendant contending his residence on federal property deprived state court of jurisdiction. Court held state court had jurisdiction because state had concurrent jurisdiction over U.S. property.

2. *Bancroft Inv. Corp. v. City of Jacksonville*, 157 Fla. 546, 27 So.2d 162 (1946):
Court first held that U.S. property sold via real estate sales contract could not be taxed; but, court reversed after decision in SRA.

3. *Tampa Bay Garden Apts. v. Gay*, 55 So.2d 739 (Fla. 1951):
State corporation leased property from U.S. at MacDill A.F.B. and built apartments but denied liability for state tax on rentals. Court held the tax valid.

4. *I.B.M. Corp. v. Vaughn*, 98 So.2d 747 (Fla. 1957):
Vaughn had accounting machines rented to U.S.A.F. at Eglin Field and challenged state's ad valorem tax. Court held that county had no jurisdiction to tax.

GEORGIA:

1. *Dicks v. Dicks*, 177 Ga. 379, 170 S.E. 245 (1933):
Held, that army officer residing on U.S. property subject to its jurisdiction was not entitled to divorce in Georgia courts.

State Court Jurisdiction Cases

2. Conley Housing Corp. v. Coleman, 211 Ga. 835, 89 S.E.2d 482 (1955):
Housing on U.S. property rented to private corporation held taxable by state.

3. I.B.M. Corp. v. Evans, 213 Ga. 333, 99 S.E.2d 220 (1957):
Held, that private property on a federal enclave was subject to state taxation.

4. Brittain v. Reid, 220 Ga. 794, 141 S.E.2d 903 (1965):
Whether taxicabs could operate in federal fort was a question incapable of resolution by state courts.

5. Dobbins v. State, 114 Ga. App. 403, 151 S.E.2d 549 (1966):
Defendant convicted of DUI while driving on air force base; since U.S. never accepted jurisdiction over base, state court had jurisdiction.

HAWAII:

(NONE)

IDAHO:

1. State ex rel Andrus v. Click, 97 Idaho 791, 554 P.2d 969 (1976):
State sought to enjoin mining activities in violation of state law occurring on federal property. Court found miners subject to state law, there being no conflict with federal law.

ILLINOIS:

1. People v. Hammond, 1 Ill.2d 65, 115 N.E.2d 331 (1953):
Defendant committed burglary in IRS office and state prosecuted. In argument that state lacked jurisdiction over crime, court held that State had jurisdiction over all crimes and defendant had duty to prove U.S. had exclusive jurisdiction.

2. Sunbeam Corp. v. Central Housekeeping Mart, 2 Ill. App.2d 543, 120 N.E.2d 362 (1954):
An Illinois fair trade law was not applicable in a military post.

3. Thiele v. City of Chicago, 12 Ill.2d 218, 145 N.E.2d 637 (1957):
Food store, located on property of US for which state ceded exclusive jurisdiction, was not subject to municipal licensing.

4. People v. Greer, 30 Ill.2d 415, 197 N.E.2d 22 (1964):
Crime of murder at post office held subject to state's jurisdiction.

INDIANA:

1. State ex rel Cashman v. Board of Commissioners, 153 Ind. 302, 54 N.E. 809 (1899):

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Soldiers' home, owned by and in exclusive jurisdiction of US, was receded to state. Held, the home was now within state jurisdiction, and soldiers were eligible to vote.

2. *State v. Pearson Construction Company*, 236 Ind. 602, 141 N.E.2d 448 (1957):
Court held state income tax was applicable to federal enclaves via the Buck Act.

IOWA:

1. *Harris v. Harris*, 205 Iowa 108, 215 N.W. 661 (1927):
Held, army officer could maintain divorce action.

2. *Northwestern Casualty & Surety Co. v. Conaway*, 210 Iowa 126, 230 N.W. 548 (1930):
Conaway was officer in Army in Minnesota and was served with process in civil action while there. In action in Iowa, court upheld judgment by finding he was amenable to process notwithstanding.

KANSAS:

1. *Craig v. Craig*, 143 Kan. 624, 56 P.2d 464 (1936):
Courts of Kansas open to residents of federal enclaves for divorce purposes.

2. *Herken v. Glynn*, 151 Kan. 855, 101 P.2d 946 (1940):
Contest over election involving soldiers at disabled soldiers' home who voted in election. Held, that soldiers in home within U.S. jurisdiction were not entitled to vote.

3. *State ex rel Parker v. Corcoran*, 155 Kan. 714, 128 P.2d 999 (1942):
Voting case decided by rule in Herken.

4. *Miller v. Hickory Grove School Board*, 162 Kan. 528, 178 P.2d 214 (1947):
Held that federal enclave, a military base, was outside the laws of the state.

5. *In re Armed Forces Cooperative Insuring Assn.*, 5 Kan. App.2d 787, 625 P.2d 11 (1981):
Association was a mail order insurance business located in Fort Leavenworth. Court held that state could not assess ad valorem tax on the property of the association as this entity was not taxable via state reservation to tax corporations in enclave.

KENTUCKY:

1. *Henry Bickel Co. v. Wright's Admin.*, 180 Ky. 181, 202 S.W. 672 (1918):
Canal, alleged to be in U.S. jurisdiction, was the site of a wrongful death. At trial, defense attempted to aver, but totally failed to prove, the canal was in U.S.

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jurisdiction. Court held that defense had to aver and prove there was no state jurisdiction.

2. *Commonwealth v. King*, 252 Ky. 699, 68 S.W.2d 45 (1934):

Indictment for making false entries on books of a bank "within Ft. Knox." Since Ft. Knox was in U.S. jurisdiction, court held state indictment was properly dismissed.

3. *Davis v. Howard*, 306 Ky. 149, 206 S.W.2d 467 (1947):

Challenge to collection of gasoline tax within Camp Campbell on grounds that the enclave was not within state's jurisdiction. However, Court held that Buck Act permitted the collection of the tax, and was, in essence, a recession of taxing jurisdiction.

4. *Commissioners of Sinking Fund v. Howard*, 248 S.W.2d 340 (1952):

Louisville extended its limits to include federal ordnance plant subject to U.S. jurisdiction. Its efforts to thereafter collect an occupational tax in enclave was upheld pursuant to Buck Act. The Supreme Court affirmed; see *Howard v. Commissioners of Sinking Fund*, 344 U.S. 624, 73 S.Ct. 465 (1953).

5. *Atcher v. Elizabethtown Lincoln-Mercury*, 249 S.W.2d 743 (Ky.App. 1952):

Child fell out of car traveling on road through Fort Knox, and state suit filed against car dealer who challenged jurisdiction. Court held that the road, an easement in favor of state, was still subject to state jurisdiction even though within fort.

6. *Hardin County Board of Supervisors v. Kentucky Limousines*, 293 S.W.2d 239 (Ky. 1956):

Held, that taxicabs operating within Fort Knox not subject to state taxation.

7. *Lathey v. Lathey*, 305 S.W.2d 920 (Ky. 1957):

Child custody battle, with child living with father in Fort Knox. Court held that persons within Fort Knox are not within jurisdiction of Kentucky courts.

8. *Kingwood Oil Co. v. Henderson County Board of Supervisors*, 367 S.W.2d 129 (Ky. 1963):

Oil and gas lease for federal lands within Camp Breckinridge held not subject to state taxation.

9. *Brandenburg Telephone Co. v. South Central Bell Telephone Co.*, 506 S.W.2d 513 (Ky.App. 1974):

Fort Knox wanted private companies to take over its phone system and this case was contest between two competitors. Court held state public service commission had jurisdiction of the matter.

State Court Jurisdiction Cases

LOUISIANA:

1. *Murphy Corp. v. Fontenot*, 225 La. 379, 73 So.2d 180 (1954):
U.S. owned 22,000 acres of land for Barksdale A.F.B. Oil and gas company exploited on these federal lands, but objected to imposition of state severance tax. Held, since lands were not used for federal purposes and were being exploited by private companies, tax could be imposed.
2. *I.B.M. Corp. v. Ott*, 230 La. 666, 89 So.2d 193 (1955):
I.B.M. leased equipment to U.S., and some equipment was located on property in U.S. jurisdiction, and some not so located. Court held that the equipment on property within U.S. jurisdiction was not taxable, and equipment on private property leased to U.S. was.
3. *Natural Gas & Oil Corp. v. Waggoner*, 151 So.2d 575 (La.App. 1963):
Oil companies extracting oil and gas from Barksdale A.F.B. held liable for severance tax, imposed under state law. However, on appeal to U.S. Supreme Court in *Humble Pipe Line Co. v. Waggoner*, 376 U.S. 369, 84 S.Ct. 857 (1964), tax was held unenforceable in enclave.

MAINE:

1. *State v. Kelly*, 76 Me. 331 (1884):
Murder committed at Fort Popham held outside jurisdiction of state.
2. *State v. Intoxicating Liquors*, 78 Me. 401, 6 A. 4 (1886):
Liquor seized in transit to National Soldiers' Home, a federal enclave subject to U.S. jurisdiction. Since state had no jurisdiction over the home, seizure held unlawful.
3. *Brooks Hardware Co. v. Greer*, 111 Me. 78, 87 A. 889 (1913):
Greer was disbursing agent for soldiers' home subject to U.S. jurisdiction, and hardware company sought to attach funds in his hands payable to company's debtor. Held, state process inapplicable in federal jurisdiction.
4. *State v. Allard*, 313 A.2d 439 (Me. 1973):
State prosecution for LSD possession while within customs border station. In construing state cession statute, Court concluded that state reserved criminal jurisdiction and thus the state had jurisdiction of this offense.

MARYLAND:

1. *Lowe v. Lowe*, 150 Md. 392, 133 A. 729 (1926):
Resident of Perry Point, U.S. property subject to its jurisdiction, sought divorce in

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state court. Court held that resident of such enclave was not a state resident and was not entitled to a state divorce.

2. *Mayor & City Council of Baltimore v. Linthicum*, 170 Md. 245, 183 A. 531 (1936):

Owner of land leased to U.S. for post-office sought zoning variance. Court held property not to be in exclusive jurisdiction of the U.S.

3. *Royer v. Board of Election Supervisors*, 231 Md. 561, 191 A.2d 446 (1963):
Royer was resident of Perry Point and sought registration as state voter. Court held that since he resided in U.S. jurisdiction, he was not state resident entitled to vote.

MASSACHUSETTS:

1. *Commonwealth v. Clary*, 8 Mass. 72 (1811):

State law requiring licenses to sell liquor had no application to U.S. arsenal at Springfield, the state having ceded jurisdiction to the U.S.

2. *Mitchell v. Tibbetts*, 17 Pick. 298 (1836):

State law relating to vessels bringing stone to state held not applicable to vessel delivering stone to Charlestown Navy Yard, in U.S. jurisdiction.

3. *Newcomb v. Rockport*, 183 Mass. 74, 66 N.E. 587 (1903):

Lighthouse keepers on U.S. property sought to compel town to provide schooling to their children. Court held that town was not required to provide schooling, even though there was no exclusive U.S. jurisdiction.

4. *Fay v. Locke*, 201 Mass. 387, 87 N.E. 753 (1909):

Land conveyed to U.S. subject to divestiture in event of non-conforming use. Upon occurrence of event, heirs of owners sought eviction. Court held the state courts, having concurrent jurisdiction over property, could try the case.

5. *Employers' Liability Assur. Corp. v. Dileo*, 298 Mass. 401, 10 N.E.2d 251 (1937):

Contract of employment and injury to claimant occurred on property in U.S. jurisdiction. Court held that state's workmen's compensation law didn't apply in U.S. territory.

6. *Commonwealth v. Trott*, 331 Mass. 491, 120 N.E.2d 289 (1954):

U.S. took island for bird sanctuary, without exclusive jurisdiction. Fisherman taking fish near island were prosecuted for violating state fishing laws. Court held state had jurisdiction of crimes and federal licenses were to no avail.

MICHIGAN:

State Court Jurisdiction Cases

1. *People v. Burke*, 161 Mich. 397, 126 N.W. 446 (1910):
Defendant committed larceny in rented post office; held, state court had jurisdiction.
2. *Willis v. Oscar Daniels Co.*, 200 Mich. 19, 166 N.W. 496 (1918):
Deceased worked on canal under construction on U.S. property, also within U.S. jurisdiction. Action for wrongful death instituted against contractor-employer. Court held that state workmen's comp. law didn't apply in U.S. jurisdiction. Problem: the cession provided for concurrent state jurisdiction.
3. *Oscar Daniels Co. v. City of Sault St. Marie*, 208 Mich. 363, 175 N.W. 160 (1919):
Oscar Daniels, contractor in above canal, protested imposition of city taxes. In this case, the court distinguished its prior holding and stated that Willis held that the state cannot legislate regarding any matter involving construction of the canal. Here, state jurisdiction for tax purposes existed, as such did not interfere with U.S. jurisdiction.
4. *People v. Van Dyke*, 276 Mich. 32, 267 N.W. 778 (1936):
Larceny in rented post-office. This was a habe challenging jurisdiction. Court held that since property was rented and not ceded to U.S., state had jurisdiction.
5. *In re Kelly*, 311 Mich. 596, 19 N.W.2d 218 (1945):
Burglary on U.S. property which U.S. disclaimed jurisdiction; held state had jurisdiction.

MINNESOTA:

1. *Orme v. Atlas Gas & Oil Co.*, 217 Minn. 27, 13 N.W.2d 757 (1944):
Action involving contract to operate gas station, the operation of which was impaired by federal, wartime regulations. Case merely mentions jurisdictional principles.

MISSISSIPPI:

1. *State v. Seymour*, 78 Miss. 134, 28 So. 799 (1900):
Alleged crime occurred on property, Ship Island, ceded to U.S. Held, state had no jurisdiction to prosecute.
2. *Tubby v. State*, 327 So.2d 272 (Miss. 1976):
Indian burned another Indian's house, and charged state lacked jurisdiction to prosecute, for this offense involving "Indian lands." Court held state had jurisdiction.

MISSOURI:

State Court Jurisdiction Cases

1. *Cockburn v. Willman*, 301 Mo. 575, 257 S.W. 458 (1923):
Cockburn indicted in Iowa for crime and subsequently found in veteran's hospital in Missouri. He brought a habe to challenge extradition warrant, arguing he could not be served in a federal enclave. Court held he was subject to state jurisdiction, there being no cession to U.S.

2. *Kansas City v. Garner*, 430 S.W.2d 630 (Mo.App. 1968):
Petty theft from concessionaire in federal building and defendant challenged state court's jurisdiction. Court upheld jurisdiction stating that defendant had to prove lack of jurisdiction via cession.

3. *Kansas City v. Querry*, 511 S.W.2d 790 (Mo. 1974):
City sought to collect earnings taxes in Air Force base within city limits. Court upheld tax on grounds state reserved right to tax in cession state and the existence of Buck Act.

MONTANA:

1. *Burgess v. Territory*, 19 P. 558 (1888):
Murder at federal fort in a territory held to be within jurisdiction of territorial courts.

2. *State v. Tully*, 31 Mont. 365, 78 P. 760 (1904):
Murder in federal fort; court held state had no jurisdiction because property was ceded to the U.S. See *United States v. Tully*, 140 F. 899 (D.Mont. 1905), where federal court found that U.S. lacked jurisdiction. Tully walked from both prosecutions.

3. *State ex rel Board of Commissioners of Valley County v. Bruce*, 106 Mont. 322, 77 P.2d 403 (1938):
U.S. acquired lands about time that state cession statute was changed from no reservation of right to tax to a reservation preserving taxing power on federal property. At issue was whether there was a power to tax activity on this federal dam building project. Court held that the old statute reserving no right to tax applied to these federal lands. Affirmed on appeal: 305 U.S. 577, 59 S.Ct. 465 (1939).

4. *Valley County v. Thomas*, 109 Mont. 345, 97 P.2d 345 (1939):
Fort Peck dam project, with U.S. owning land. McCone County issued car licenses to residents of Fort Peck, even though formerly in Valley County. Valley County sued for the fees so obtained, but lost. Court now reconsidered cession statute, overruled Bruce, and upheld power to tax in enclave.

5. *State v. Rindal*, 146 Mon. 64, 404 P.2d 327 (1965):
Theft of property from a missile site, and defendant challenged state court's

State Court Jurisdiction Cases

jurisdiction. Court held that state had jurisdiction under terms of cession statute, and defendant had to show federal jurisdiction and acceptance.

6. *State ex rel Parker v. District Court*, 147 Mon. 151, 410 P.2d 459 (1966):
Member of Air Force committed murder at base and challenged state's jurisdiction to try him. Court followed *Rindal*.

NEBRASKA:

1. *Anderson v. Chicago & N.W. Ry. Co.*, 102 Neb. 578, 168 N.W. 196 (1918):
Cattle on Fort Robinson military base killed by train. State law required fencing of rights-of-way. Railroad company averred the existence of federal jurisdiction, and requirement of military officials condemning fencing. Court held state law was not controlling.

2. *Tagge v. Gulzow*, 132 Neb. 276, 271 N.W. 803 (1937):
U.S. owned Delaware corporation which owned farmlands where complainants resided. Held, state had jurisdiction over farmlands.

NEVADA:

1. *State v. Mack*, 23 Nev. 359, 47 P. 763 (1897):
U.S. land for courthouse and post office in Carson City was the scene of an assault; defendant challenged jurisdiction, contending state had ceded jurisdiction to U.S. Court agreed and held there was no state jurisdiction.

2. *State v. Mendez*, 57 Nev. 192, 61 P.2d 300 (1936):
One Indian murdered another in Wadsworth, on Pyramid Lake Reservation. Finding the town had been withdrawn from the reservation, court held state had jurisdiction.

3. *Pendleton v. State*, 734 P.2d 693 (Nev. 1987):
D.U.I. occurring on federal land. Court held that defendant had duty to show state ceded land to U.S. to prove lack of jurisdiction.

NEW HAMPSHIRE:

1. *Scribner v. Wikstrom*, 93 N.H. 17, 34 A.2d 658 (1943):
U.S. acquired land for dam and contracted work to Wikstrom, who contended state could not impose property taxes on him. Finding that the tax did not interfere with the federal project and that U.S. didn't perfect title before imposition of tax, Court held tax valid.

2. *Newington v. Campanella & Cardi Const. Co.*, 168 A.2d 496 (N.H. 1961):
Company cut timber from U.S. lands and town claimed a tax, to which company

State Court Jurisdiction Cases

objected on jurisdictional grounds. Finding that U.S. never accepted jurisdiction over land, tax was sustained.

NEW JERSEY:

1. *State v. Morris*, 76 N.J.L. 222, 68 A. 1103 (1908):

Assault and battery prosecution occurring at Fort Hancock and plea to state court's jurisdiction was sustained because state ceded jurisdiction to U.S.

2. *Board of Chosen Freeholders v. McCorkle*, 98 N.J.S. 451, 237 A.2d 640 (1968):
Question concerned whether state could provide welfare benefits and treatment in mental institutions for residents of federal enclaves. Although the enclaves in question were within U.S. jurisdiction, court held that benefits of state law could be extended to enclave residents notwithstanding.

3. *State In re D.B.S.*, 137 N.J.S. 371, 349 A.2d 105 (1975):

Juvenile committed crimes at Fort Dix, within U.S. jurisdiction; he replied to delinquency petition by challenging state's jurisdiction. Finding such prosecution did not interfere with U.S. jurisdiction, the action was sustained.

4. *State v. Schumann*, 218 N.J.S. 508, 528 A.2d 68 (1987):

Child molestation occurring at Sandy Hook, within U.S. jurisdiction. On plea to state's jurisdiction, the court placed the burden on the state to prove its jurisdiction. This failure caused count in indictment to be dismissed. Note, the general rule is otherwise.

NEW MEXICO:

1. *Arledge v. Mabry*, 52 N.M. 303, 197 P.2d 884 (1948):

Election contest concerning a precinct, parts of which were in U.S. jurisdiction, the Los Alamos Project. This long case ultimately concluded some residents of area could vote, others could not. Residents on "public domain" property could vote since they were subject to state's jurisdiction. Of interest: The voting occurred in U.S. jurisdiction, so entire election results were voided.

2. *Chaney v. Chaney*, 53 N.M. 66, 201 P.2d 782 (1949):

Divorce action involving parties residing at Los Alamos. Held, state court could not grant divorce because parties were not residents in state's jurisdiction.

3. *Montoya v. Bolack*, 70 N.M. 196, 372 P.2d 387 (1962):

Navajo Indian Reservation is within state's jurisdiction and residents were entitled to vote.

State Court Jurisdiction Cases

4. *Burns v. State, Bureau of Revenue*, 79 N.M. 53, 439 P.2d 702 (1968):
Held, the state had jurisdiction to impose income taxes in federal enclaves via Buck Act.

5. *Langdon v. Jaramillo*, 80 N.M. 255, 454 P.2d 269 (1969):
Held, resident within U.S. jurisdiction not entitled to vote in state.

6. *State v. McCormack*, 100 N.M. 657, 674 P.2d 1117 (1984):
Trespass case involving power plant within U.S. jurisdiction. Held, state had jurisdiction.

NEW YORK:

1. *People v. Godfrey*, 17 Johns. 225 (N.Y. 1819):
Murder committed at Fort Niagara held to have been committed in state's jurisdiction.

2. *Barrett v. Palmer*, 135 N.Y. 336, 31 N.E. 1017 (1892):
Navy yard in Brooklyn within U.S. jurisdiction leased portion of land to city for a market, and city subleased. In action between two tenants for damages, state court held it had jurisdiction of action notwithstanding U.S. jurisdiction on basis of *McGlinn*. On appeal to U.S. Supreme Court, in *Palmer v. Barrett*, 162 U.S. 399, 16 S.Ct. 837 (1896), court held that Navy's lease to city temporarily suspended federal jurisdiction.

3. *Farley v. Scherno*, 208 N.Y. 269, 101 N.E. 891 (1913):
Scherno was selling liquor on property in U.S. jurisdiction and state sought a penalty. Court held penalty could not be imposed by state.

4. *People v. Kraus*, 212 App. Div. 397, 207 N.Y.S. 87 (1924):
Crime committed at Brooklyn Navy Yard (bookmaking) held not to be within state's jurisdiction because criminal jurisdiction was not reserved in cession act.

5. *People v. Hillman*, 246 N.Y. 467, 159 N.E. 400 (1927):
Robbery committed on road at West Point, land within U.S. jurisdiction.
Defendants attacked their conviction on grounds that the state had no legislative jurisdiction over property, and appellate court agreed.

6. *Sadrakula v. James Stewart and Co.*, 280 N.Y. 651, 20 N.E.2d 1015 (1939):
Decedent killed while building federal post office, contractor being in violation of state law. Court held state law applied in enclave. Affirmed, *James Stewart & Co. v. Sadrakula*, 309 U.S. 94, 60 S.Ct. 431 (1940).

7. *People v. Kobryn*, 294 N.Y. 192, 61 N.E.2d 441 (1945):
Defendant convicted of felony possession of dangerous weapon while inside a post

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office; appellate court found that state never ceded jurisdiction, thus defendant's conviction was valid.

8. *People v. Gerald*, 40 Misc.2d 819, 243 N.Y.S.2d 1001 (1963):

Assault at post office; defendant attacked state court's jurisdiction, but made no effort to prove title of property or cession. In such absence, state court's jurisdiction was upheld.

9. *Beagle v. Motor Vehicle Accident Indem. Corp.*, 26 A.D.2d 313, 274 N.Y.S.2d 60 (1966):

Held, that a particular state law regarding motor vehicle accidents was applicable in a federal enclave.

10. *Reybold v. Reybold*, 45 A.D.2d 263, 357 N.Y.S.2d 231 (1974):

Action to enforce divorce decree; court held state process could be served in an enclave.

11. *People v. Mitchell*, 90 Misc.2d 463, 395 N.Y.S.2d 340 (1977):

Defendant had stop-over in international travel at Kennedy Airport, and drugs were found in his possession. His attack on state court's jurisdiction was denied.

12. *People v. Dowdell*, 109 Misc.2d 605, 440 N.Y.S.2d 528 (1981):

Defendant charged for crime occurring at Veteran's Hospital, place in U.S. jurisdiction. Court upheld defendant's challenge to jurisdiction and dismissed case when it was shown that state had ceded jurisdiction of property to the U.S.

13. *People v. Fisher*, 97 A.D.2d 651, 469 N.Y.S.2d 187 (A.D. 3 Dept. 1983):

Defendant found in possession of drugs and gun when crossing border; his challenge to state's jurisdiction failed in that he didn't prove title and cession.

14. *People v. Williams*, 136 Misc.2d 294, 518 N.Y.S.2d 751 (1987):

Attorney assault in federal courthouse held to be outside state's jurisdiction, it being shown that U.S. owned property and had a cession of jurisdiction.

NORTH CAROLINA:

1. *State v. DeBerry*, 224 N.C. 834, 32 S.E.2d 617 (1945):

Assault and battery prosecution, crime occurring in federal courtroom in post office. Because of U.S. ownership of land and state cession, held that state had no jurisdiction.

2. *State v. Burell*, 256 N.C. 288, 123 S.E.2d 795 (1962):

Assault with intent to rape case occurring at Cherry Point Air Station, a federal fort. The court upheld state court's jurisdiction, finding that the U.S. never accepted jurisdiction over the property in question.

State Court Jurisdiction Cases

NORTH DAKOTA:

1. *LaDuke v. Melin*, 45 N.D. 349, 177 N.W. 673 (1920):
Fort Totten was formerly a military post for which state had ceded jurisdiction. Later, Fort was abandoned by U.S. and became simply public domain. Court held that people residing inside Fort Totten enclave could vote in state elections.
2. *State v. Lohnes*, 69 N.W.2d 508 (N.D. 1955):
Prosecution of Indian for assault and battery of another Indian occurring on Indian lands. Court held, based on Congressional acts, that U.S. possessed jurisdiction over Indians and their lands and state had no jurisdiction.

OHIO:

1. *Sinks v. Reese*, 19 Ohio St. 306 (1869):
In question of whether inmates of a National Home could vote, court concluded that they were not residents of state, but were in an area foreign to the state, the same being U.S. jurisdiction.
2. *Renner v. Bennett*, 21 Ohio St. 431 (1871):
3. *McGwinn v. Board of Education*, 78 Ohio App. 405, 69 N.E.2d 381 (1946):
Question of whether residents of federal housing project were eligible for the free schooling of their children. Finding no acceptance of U.S. jurisdiction and Congressional intention to leave such lands subject to state jurisdiction, court held that state public schooling was available to residents.
4. *Kitchens v. Duffield*, 83 Ohio App. 41, 76 N.E.2d 101 (1947):
Auto accident at Lockbourne Army Air Base in Ohio; court held state laws were applicable to case via Congressional act; *aff'd*, *Kitchens v. Duffield*, 149 Ohio St. 500, 79 N.E.2d 906 (1948).
5. *State ex rel Wendt v. Smith*, 63 Ohio Abs. 31, 103 N.E.2d 822 (1951):
Resident of federal enclave was not entitled to vote.
6. *City of Cincinnati v. Nussbaum*, 14 Ohio Misc. 19, 233 N.E.2d 152 (1968):
State prosecution for trespass in Federal Building, and defense complained that state had no jurisdiction. Finding that the U.S. had not been proven to have accepted jurisdiction, court held the state had jurisdiction.
7. *State v. Burger*, 33 Ohio App.3d 231, 515 N.E.2d 640 (1986):
DUI prosecution for offense committed on road near or on a federal arsenal. In challenge to jurisdiction, court upheld state's jurisdiction because defense failed to prove that U.S. had accepted jurisdiction over the property in question.

State Court Jurisdiction Cases

OKLAHOMA:

1. Rice v. Hammonds, 19 Okl. 419, 91 P. 698 (1907):
Oklahoma territory could tax cattle located on Fort Sill reservation.
2. Underhill v. State, 31 Okl. Crim. App. 149, 237 P. 628 (1925):
Challenge to unlawful possession of liquor charge, possession being in national park in U.S. jurisdiction. Court concluded state had no jurisdiction.
3. Chicago, R. I. & P. Ry. Co. v. Satterfield, 135 Okl. 183, 275 P. 303 (1929):
Court held that railroad's property at Fort Sill could be taxed because cession statute reserved right to tax railroads. Same opinion in another case: Chicago, R. I. & P Ry. Co. v. Satterfield, 135 Okl. 185, 275 P. 305 (1929).
4. In re Annexation of Reno Quartermaster Depot, 180 Okl. 274, 69 P.2d 659 (1937):
Children in federal enclave annexed to school district were entitled to schooling.
5. Ottinger Bros. v. Clark, 191 Okl. 488, 131 P.2d 94 (1942):
Worker at Fort Sill sustained injury and recovered workmen's comp. claim. The company contended the state law didn't apply in the enclave. Congressional act receded jurisdiction for purposes of comp. laws, and court held the state comp. law applied in the enclave.
6. McDonnell & Murphy v. Lunday, 191 Okl. 611, 132 P.2d 322 (1942):
Workmen's comp. claim arising at Fort Sill; decision same as Ottinger Bros.
7. State v. Cline, 322 P.2d 208 (Okl. Cr. App. 1958):
State prosecuted for disturbing peace at wildlife refuge owned by U.S. Trial court dismissed on jurisdictional grounds. Reversed on finding that state had never ceded jurisdiction.
8. Kverschner v. State, 493 P.2d 1402 (Okl. Cr. App. 1972):
State prosecution for sale of drugs occurring at Tinker Field, a federal enclave. To defendant's claim of lack of state jurisdiction, court held defendant had to prove U.S. had accepted jurisdiction of property and failure here resulted in conclusion state had jurisdiction.

OREGON:

1. State v. Chin Ping, 91 Or. 593, 176 P. 188 (1918):
Shooting committed on street in front of post office and deceased fell and died on sidewalk. Court held, in challenge to jurisdiction of state court, there was no showing of title in the U.S., and that events on street in front of building were definitely in state jurisdiction.

State Court Jurisdiction Cases

2. *Atkinson v. State Tax Comm.*, 156 Or. 461, 67 P.2d 161 (1937):
State sought to impose income tax on partners building dam at Bonneville Dam Project, under construction by U.S. Court upheld the tax as valid, there being no cession of jurisdiction to the U.S. Affirmed, 303 U.S. 20, 58 S.Ct. 419 (1938).
3. *State ex rel. Cox v. Hibbard*, 31 Or. App. 269, 570 P.2d 1190 (1977):
Director of State Lands sought injunction against mining on federal property without a state permit. Defendants made no claim of exclusive jurisdiction of U.S., and asserted only federal pre-emption. Court held the state had jurisdiction and state regulations applied to these activities.
4. *State v. Aguilar*, 85 Or.App. 410, 736 P.2d 620 (1987):
Defendant charged with DUI while on federal property, and lower court upheld challenge to state's jurisdiction. State obtained a reversal on appeal, with court holding that there were insufficient facts in record for that determination to have been made.

PENNSYLVANIA:

1. *Commonwealth v. Young*, Brightly N.P., 302 (Pa. 1818):
Question of whether sale of federal property, subject to state's jurisdiction, had to be sold according to state law; court held state law applied.
2. *Manlove v. McDermott*, 308 Pa. 384, 162 A. 278 (1932):
Deputy sheriff served process upon defendant at League Island Navy Yard, U.S. property subject to its jurisdiction. Court upheld service.
3. *Kiker v. City of Philadelphia*, 346 Pa. 624, 31 A.2d 289 (1943):
Kiker worked at League Island Navy Yard in Philadelphia, but complained of city income tax imposed on him on grounds of jurisdiction. Court upheld ability of city to impose the tax on basis of Buck Act.
4. *Schwartz v. O'Hara Township School District*, 375 Pa. 440, 100 A.2d 621 (1953):
Residents of V.A. Hospital in U.S. jurisdiction sought to compel Township to school their children. Court, however, found they were not state residents, thus they were not entitled to free public schooling.
5. *Brennan v. Shipe*, 414 Pa. 258, 199 A.2d 467 (1964):
Accident occurred at a depot within U.S. jurisdiction; defendant later moved to Florida. Defendant was served with process via "long arm statute". Court held that federal law made state law apply in case of accident on enclave; "long arm statute" upheld.

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6. *City of Philadelphia v. Bullion*, 28 Pa.Comm. 527, 368 A.2d 1375 (1977): Technician employed by U.S. Navy at League Island challenged city's income tax act, and attacked long arm statute. Tax upheld on basis of *Kiker*.

RHODE ISLAND:

1. *State v. Leary*, 46 R.I. 197, 125 A. 353 (1924):

Defendant was dredging Providence Harbor under contract with the U.S., and was charged with violating state law concerning smoke emission. Defendant's contention that the case was outside state jurisdiction and inside U.S. maritime jurisdiction was not upheld.

SOUTH CAROLINA:

1. *Brown v. Western Union Telegraph Co.*, 92 S.C. 354, 75 S.E. 542 (1912): Plaintiff, in D.C., did not receive telegram informing of sister's death; suit in state court was successful and damages recovered. But, on appeal to Supreme Court in *Western Union Telegraph Co. v. Brown*, 234 U.S. 542, 34 S.Ct. 955 (1914), plaintiff's verdict based on negligence in D.C. was reversed, court holding state law did not apply there.

2. *Beaufort County v. Jasper County*, 220 S.C. 469, 68 S.E.2d 421 (1951): Part of one county was sought to be annexed to other county; doing so was alleged to reduce size of one county below 500 square miles, especially when federal property in county was taken into consideration. Court held that mere ownership of land by U.S. did not take such land out of jurisdiction of county.

3. *State v. Rodriguez*, 279 S.C. 106, 302 S.E.2d 666 (1983): Lewd acts committed upon minor children by defendant at Naval hospital owned by U.S.; defendant attacked state's jurisdiction. Because U.S. never accepted jurisdiction, court concluded state still retained jurisdiction.

SOUTH DAKOTA:

1. *McMahon v. Polk*, 10 S.D. 296, 73 N.W. 77 (1897):

Candidates for office of state's attorney were engaged in this election contest, and one issue involved whether residents of federal enclaves could vote. Court held residents could not vote.

2. *School District No. 20 of Pennington County v. Steele*, 46 S.D. 589, 195 N.W. 448 (1923):

Question of whether child on federal enclave in U.S. jurisdiction entitled to state public schooling. Court held child not entitled to public schooling.

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3. *State v. Sauter*, 48 S.D. 409, 205 N.W. 25 (1925):
Defendant convicted of murdering Indians. Challenge to state jurisdiction because crime occurred on what was previously Cheyenne Indian Reservation. Court upheld jurisdiction by noting that boundaries of reservation were changed.
4. *State ex rel. Olson v. Shoemaker*, 73 S.D. 120, 39 N.W.2d 524 (1949):
Held, state had jurisdiction in murder case of non-Indian defendant convicted of murdering a non-Indian on an Indian Reservation.
5. *State v. Johnson*, 81 S.D. 20, 130 N.W.2d 106 (1964):
Defendant charged with DUI in Wind Cave National Park. In state's appeal of dismissal, Court held state had jurisdiction because U.S. did not accept jurisdiction.
6. *State v. Cochran*, 297 N.W.2d 483 (S.D. 1980):
State rape prosecution, the offense being committed at Fort Meade Military Reservation. In a habeas corpus application, court held that U.S. had retroceded concurrent jurisdiction of fort to state, thus state had jurisdiction.

TENNESSEE:

1. *Exum v. State*, 90 Tenn. 501, 17 S.W. 107 (1891):
State court held session in customs house within U.S. jurisdiction and defendant committed perjury there. Court held state had jurisdiction nonetheless.
2. *State ex rel. Lyle v. Willett*, 117 Tenn. 334, 97 S.W. 299 (1906):
Held, soldiers and other residents of Soldiers' Home were not state residents entitled to vote.
3. *Divine v. Unaka National Bank*, 125 Tenn. 98, 140 S.W. 747 (1911):
Administrator of soldier's estate brought action to recover bank deposits. Court held action valid even though property where deceased died and others still holding his property were within U.S. jurisdiction, the federal courts having no probate jurisdiction.
4. *Gill v. State*, 141 Tenn. 379, 210 S.W. 637 (1919):
Defendant charged with petit larceny occurring at U.S. powder plant, owned by U.S. State cession act required filing of a map to evidence acceptance by U.S. of jurisdiction. Finding that U.S. had not accepted jurisdiction, court concluded the state had jurisdiction.
5. *State v. Oliver*, 162 Tenn. 100, 35 S.W.2d 396 (1931):
State sought to condemn land to be given to U.S. for Great Smoky Mountains National Park. Court upheld validity of action and discussed jurisdictional principles.

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6. *State v. Allman*, 167 Tenn. 240, 68 S.W.2d 478 (1934):

Owner of land inside national park contended that the state had ceded jurisdiction of his land to U.S., and state had no right to tax the same. However, court found that U.S. was not the landowner, and that all such land was subject to concurrent jurisdiction of state; the tax was upheld.

TEXAS:

1. *Lasher v. State*, 30 Tex. App. 387, 17 S.W. 1064 (1891):

State prosecution for forgery occurring at Fort McIntosh, in U.S. jurisdiction. Court took judicial notice of this fact and held state had no jurisdiction over the offense.

2. *United States v. Schwalby*, 8 Tex. Civ. App. 679, 29 S.W. 90 (1894):

Schwalby claimed interest in real property alleged to be owned by U.S., for which a cession of jurisdiction existed. Suit commenced for trespass and Schwalby prevailed. On appeal, court held that jurisdiction within U.S. depended on title, and here the U.S. had only partial title; jurisdiction of state court upheld.

3. *Baker v. State*, 47 Tex.Cr.R. 482, 83 S.W. 1122 (1904):

Assault with intent to murder prosecution, the crime occurring outside Fort Brown on a street. U.S. had title and jurisdiction of the street, and defendant attempted to prove this but trial court excluded evidence holding U.S. had jurisdiction only within fort. Court reversed and held that actual boundaries were all important as the state would have no jurisdiction for an offense occurring on any spot within U.S. jurisdiction.

4. *Curry v. State*, 111 Tex. Cr. 264, 12 S.W.2d 796 (1928):

Defendant convicted of a fishing offense occurring on federal property, the land being owned by U.S., but there being no proof of cession of jurisdiction pursuant to state law. Court held that cession of jurisdiction by Governor pursuant to statute was essential to transfer jurisdiction, thus state court had jurisdiction here.

5. *United Services Automobile Ass'n. v. Harman*, 151 S.W.2d 609 (Tex.Civ.App. 1941):

Soldiers stationed at Fort Hoyle, military reservation in Maryland, but in U.S. jurisdiction, involved in auto accident in Baltimore; suit in Maryland had process served upon soldier in enclave. Suits in Texas instituted to recover against insurer on Maryland judgments, and insurer attacked Maryland process. Court held that Maryland process regarding a non-resident was entirely proper.

6. *City of Wichita Falls v. Bowen*, 143 Tex. 45, 182 S.W.2d 695 (1944):

City annexed adjoining military bases, and bus company owner was engaged in

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transportation between city and bases. His argument that city taxes on fares paid at bases were invalid on jurisdictional grounds was not sustained.

7. *Independent School Dist. of City of El Paso v. Central Education Agency*, 247 S.W.2d 597 (Tex.Civ.App. 1952):

El Paso, in agreement with military officers at Fort Bliss, annexed the reservation to school district and then sought additional state funding. The court found nothing improper in such arrangement.

8. *Sandel v. State*, 158 Tex.Cr.R. 101, 253 S.W.2d 283 (1952):

Auto accident on highway in Fort Hood; defendant was intoxicated and death resulted, hence murder prosecution. Defendant attacked state court's jurisdiction and proved title of land in U.S. and act of cession. State replied by showing that jurisdiction over the road was reserved to the state. Conviction upheld.

9. *Garcia v. State*, 169 Tex.Cr.R. 30, 331 S.W.2d 53 (1959):

Defendants employed by U.S. government at El Paso International Bridge were prosecuted by state for assault with intent to rape. Because the U.S. Immigration Building at the bridge was only leased to the U.S., court held state court had jurisdiction.

10. *Board of Equalization v. General Dynamics Corp.*, 344 S.W.2d 489 (Tex. Civ. App. 1961):

U.S. owned land and had obtained cession of jurisdiction, and General Dynamics had substantial amount of property located there which City of Fort Worth taxed. Court held that city had no jurisdiction to impose this tax.

11. *Calvert v. Adams*, 388 S.W.2d 742 (Tex. Civ. App. 1965):

Amusement machines located at Fort Hood had tax imposed. In suit to recover taxes, court held same could not be recovered; reversed, *Adams v. Calvert*, 396 S.W.2d 948 (Tex. 1965).

12. *Humble Oil & Refining Co. v. Calvert*, 464 S.W.2d 170 (Tex.Civ.App. 1971):
Held, state could not impose occupation taxes on company exploiting minerals at Corpus Christi Naval Air Station, in U.S. jurisdiction. Affirmed, 478 S.W.2d 926 (Tex. 1972).

UTAH:

1. *Rothfels v. Southworth*, 11 Utah.2d 169, 356 P.2d 612 (1960):

Utah legislature repealed statute declaring residents within U.S. jurisdiction could not vote. Court held that residents of reservation could vote.

2. *Richardson v. Turner*, 16 Utah.2d 371, 401 P.2d 443 (1965):

Habeas corpus action seeking complainant's release from state custody for

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indecent assault charge, the grounds being the lack of state jurisdiction. The court held otherwise, there being no cession.

VERMONT:

1. *State v. Hallock*, 114 Vt. 292, 44 A.2d 326 (1945):
Defendant had no driver's license and drove around on ice of Lake Champlain, and for this he was prosecuted. Conviction upheld.

VIRGINIA:

1. *Foley v. Shriver*, 81 Va. 568 (1886):
State process of attachment on judgment can't be executed in National Home within U.S. jurisdiction.

2. *Western Union Tel. Co. v. Chiles*, 107 Va. 60, 57 S.E. 587 (1907):
Action for statutory penalty for failure of telegraph company to deliver telegram to Navy gunner at Norfolk Navy Yard. Court held that the penalty could be applied notwithstanding the fact that the U.S. had jurisdiction over Navy Yard. Reversed by the Supreme Court in *Western Union Telegraph Co. v. Chiles*, 214 U.S. 274, 29 S.Ct. 613 (1909).

3. *Bank of Phoebus v. Byrum*, 110 Va. 708, 67 S.E. 349 (1910):
Judgment debtor sought attachment of property to satisfy judgment based on statute applicable to nonresidents; debtor was a soldier residing at Fort Monroe and contended this made him a state resident. Court held, however, that being in U.S. jurisdiction made him a nonresident of state.

4. *Nikis v. Commonwealth*, 144 Va. 618, 131 S.E. 236 (1926):
Bridge approach for bridge between Alexandria and Georgetown (Key bridge) was owned by U.S. and state had ceded jurisdiction. State prosecuted merchant trading there for failure to have state license, and he attacked state's jurisdiction. Court upheld state jurisdiction on grounds that private activity on federal property could be taxed and licensed.

5. *Ralph Sollitt & Sons Const. Co. v. Commonwealth*, 161 Va. 854, 172 S.E. 290 (1934):
Contractor was building a federal post office on U.S. land in Lynchburg, and state sought license tax. Because some of work on building involved exclusive use of streets near federal property, the tax was upheld.

6. *Buttery v. Robbins*, 177 Va. 368, 14 S.E.2d 544 (1941):
Question involved service of process within Shenandoah National Park in Blue Ridge Mountains, case being civil one for damages. Court held that Virginia

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cession statute reserved no civil jurisdiction for matters occurring in the Park, thus state court lacked jurisdiction.

7. *Hercules Powder Co. v. Ruben*, 188 Va. 694, 51 S.E.2d 149 (1949):
Breach of contract action based on events occurring on federal property within U.S. jurisdiction. Court held that state court had no jurisdiction in case.

8. *Waltrip v. Commonwealth*, 189 Va. 365, 53 S.E.2d 14 (1949):
State conviction for violating state gaming laws, the offense occurring within Camp Peary, owned by U.S. Finding that U.S. never accepted jurisdiction, court held that state laws applied on such property.

9. *Western Union Telegraph Co. v. Commonwealth*, 204 Va. 421, 132 S.E.2d 407 (1963):

Western Union did not file a report of its property located within U.S. enclaves and was penalized. Court held that the company had duty to show where its property was located and argue for exemption; failing this, it could be penalized.

10. *Smith v. Commonwealth*, 219 Va. 455, 248 S.E.2d 135 (1978):
State prosecution for capital murder following rape occurring on federal property. Court held that state had concurrent jurisdiction with U.S.

WASHINGTON:

1. *Concessions Co. v. Morris*, 109 Wash. 46, 186 P. 655 (1919):
Question of whether private property located at Camp Lewis, property within U.S. jurisdiction, could be taxed by state. Court held that property was outside state's jurisdiction and could not be taxed.

2. *State ex rel. Grays Harbor Const. Co. v. Dept. of Labor and Industries*, 167 Wash. 507, 10 P.2d 213 (1932):
Dept. of Labor contended that contractor working for U.S. in Rainier National Park was subject to state industrial insurance program (workmen's comp.). Finding that state law was in effect prior to date the U.S. acquired jurisdiction, court held that the state law applied within the park.

3. *Murray v. Joe Gerrick & Co.*, 172 Wash. 365, 20 P.2d 591 (1933):
Deceased worked upon a crane located at Puget Sound Navy Yard and was killed in accident. Claim against company initiated under workmen's comp. law enacted after jurisdiction of property transferred to U.S. Held, the law had no application in U.S. jurisdiction. Affirmed, *Murray v. Joe Gerrick and Co.*, 291 U.S. 315, 54 S.Ct. 432 (1934).

4. *Ryan v. State*, 188 Wash. 115, 61 P.2d 1276 (1936):
Ryan opposed imposition of state taxes for his activities on federal dam project

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known as Columbia Basin Project. Court held him so subject; case is predicate for Silas Mason opinion.

5. *State v. Rainier National Park Co.*, 192 Wash. 592, 74 P.2d 464 (1937):
Question involved whether state's workmen's comp. law applied within Mount Rainier National Park, within U.S. jurisdiction. Held, state law, substantially different from that in effect at time of cession, didn't apply and Congressional act on same subject did.

6. *Alaska v. Baker*, 64 Wash.2d 207, 390 P.2d 1009 (1964):
Baker was partner in company which did business for federal government on its property in Alaska; he failed to pay business license tax and Alaska sued in Washington state court to recover. Court held that the Alaska tax was collectible under the Buck Act.

7. *Lyda v. Port of Walla Walla*, 9 Wash. App. 115, 510 P.2d 1172 (1973):
Federal government, having jurisdiction over river bed, sold fill material to Port, which contracted for excavation of fill material with Sime Construction, who subcontracted with Lyda. Lyda performed part of the work then quit and sued for recovery of compensation under contract. The Port defended arguing that state law prevented suit by unlicensed contractor. Court held that state law applied as federal jurisdiction was only remotely related to contract; Lyda recovered nothing.

8. *State v. Williams*, 23 Wash. App. 694, 598 P.2d 731 (1979):
Defendants convicted of unlawful possession of shellfish taken from U.S. island, acquired for limited purpose. Court held state had jurisdiction.

WEST VIRGINIA:

1. *Carnegie-Illinois Steel Corp. v. Alderson*, 127 W.Va. 807, 34 S.E.2d 737 (1945):
Steel company challenged occupational tax imposed by state for activities; tax was upheld on basis of Buck Act.

2. *Adams v. Londeree*, 139 W.Va. 748, 83 S.E.2d 127 (1954):
Resident of federal enclave became candidate for mayor, and his qualifications to run were challenged on this basis. Held, candidate entitled both to run and vote.

WISCONSIN:

1. *In re O'Conner*, 37 Wis. 379 (1875):
Warrant can be served at soldiers home titled to corporation, against claim that it can't because within federal enclave.

2. *State v. Shepard*, 239 Wis. 345, 300 N.W. 905 (1941):
Indian arrested for violating state gaming laws, offense occurring on land of U.S.

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in trust for Indians. Held, since U.S. held lands in proprietary status only, defendant was subject to this state law, not being within "Indian Country".

WYOMING:

1. *Scott v. United States*, 1 Wyo. 40 (1871):

2. *State v. Yellowstone Park Co.*, 57 Wyo. 502, 121 P.2d 170 (1942):
Park Company contested gas tax on gas it used within Yellowstone Park, in U.S. jurisdiction. Court held tax invalid as state had power to tax within enclave only to extent permitted by Congressional law, which allowed sales tax but not use tax.

3. *Texas Co. v. Siefried*, 60 Wyo. 142, 147 P.2d 837 (1944):
Gas wholesaler sold gas to contractors building roads in Yellowstone and state sought collection of sales tax. Tax was challenged but upheld on grounds that Congress permitted the tax.

CIRCUIT JURISDICTION CASES:

FIRST CIRCUIT:

1. *United States v. Travers*, 28 Fed. Cas. 204, No. 16,537 (C.C.D. Mass. 1814): Sailor in U.S. Navy yard had completed his Naval service and was discharged, but committed murder of an officer in a fight before leaving. This "opinion" is the jury instructions in the case, with the court holding that the yard was within U.S. jurisdiction.

2. *United States v. Davis*, 25 Fed. Cas. 781, No. 14,930 (C.C.D. Mass. 1829): Federal indictment for larceny at a Marine Hospital in Massachusetts, and defendant challenged jurisdiction. Justice Story held that the U.S. had jurisdiction over the offense via state cession and that Assimilative Crimes Act applied.

3. *United States v. Ames*, 24 Fed. Cas. 784, No. 14,441 (C.C.D. Mass. 1845): Ames built a dam on his land which caused flooding on U.S. lands; U.S. sued for trespass. The question in the case was whether state law and its damage remedy applied. Court held that property was within U.S. jurisdiction, thus state law did not apply.

4. *Kelly v. United States*, 27 F. 616 (D.Me. 1885): Defendant charged with manslaughter committed at Fort Popham in U.S. jurisdiction; defense contended that state never ceded jurisdiction. In upholding federal court's jurisdiction, court cited Maine's cession statute and opinion in *State v. Kelly*, 76 Me. 331.

5. *Pothier v. Rodman*, 291 F. 311 (1st Cir. 1923): Pothier indicted for murder in federal court in Washington for offense occurring at Camp Lewis; he was arrested in Rhode Island. Challenge via habe to jurisdiction on extradition was on grounds that Camp Lewis was still within state's jurisdiction, and appellate court agreed. Reversed, *Rodman v. Pothier*, 264 U.S. 299, 44 S.Ct. 360 (1924).

6. *City of Springfield v. United States*, 99 F.2d 860 (1st Cir. 1938): US Post office ceased operation in 1933 and property was thereafter leased to private interest and then sold. City sought to impose real estate tax in 1937 because U.S. was not using the property. Court held that, even though the city and state had jurisdiction over the property, no tax which interfered with the sale could be imposed.

7. *City of Franklin v. Coleman Bros. Corp.*, 152 F.2d 527 (1st Cir. 1945): The U.S. bought property for dam project and state ceded jurisdiction. The

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corporation contracted with U.S. to build dam and city imposed personal property tax. Held, city had no jurisdiction to impose the tax.

8. *Berube v. White Plains Iron Works, Inc.*, 211 F.Supp. 457 (D.Me. 1962): Both parties involved in auto accident at Loring Air Force Base, defendant being engaged there in construction. Berube apparently sued in state court and attempted long arm service, and suit was removed. Court dismissed suit, finding that defendant did not conduct business in Maine.

9. *Economic Development and Industrial Corp. of Boston v. United States*, 546 F.Supp. 1204 (D. Mass. 1982): State deeded title and jurisdiction of tract in question to U.S., but reserved an interest in event U.S. ceased using land as naval grounds. Thereafter, state enacted law requiring recording of instruments to protect reversion, a failure resulting in loss. Here, state did not record instrument regarding its above reversion. In contest over whether development corporation could still claim reversion, it prevailed by the "skin of its teeth."

SECOND CIRCUIT:

1. *United States v. Knapp*, 26 Fed. Cas. 792, No. 15,538 (S.D.N.Y. 1849): Federal prosecution for theft occurring at West Point, with defendant challenging jurisdiction. Finding that the state had ceded jurisdiction to the U.S., court upheld federal jurisdiction.

2. *United States v. Barney*, 24 Fed. Cas. 1011, No. 14,524 (C.C.S.D.N.Y. 1866): Defendant charged with forging and uttering false bond for revenue purposes relating to export of distilled spirits; defendant challenged jurisdiction which was based on a strained argument built on Assimilative Crimes Act. Court held that New York laws, repealed prior to date state ceded jurisdiction of property to U.S., did not apply to the property in question.

3. *Middleton v. La Compagnie Generale Transatlantique*, 100 F. 866 (2nd Cir. 1900): Deceased engaged in "mine work" in N.Y. harbor in small boat; wake of another swamped and drowned deceased. Widow sued, and question was related to place of accident, alleged within state of NY. Court held that Sandy Hook, an island near scene of accident in U.S. jurisdiction, had no effect on jurisdiction over the waters. State law was applied.

4. *United States v. City of Buffalo*, 54 F.2d 471 (2nd Cir. 1931): Property of U.S. was bought in 1920, and used until 1923, when U.S. entered contract to sell property. This action involved contention of whether taxes since

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1920 could be collected. Held, no taxes could be imposed during time of U.S. ownership.

5. *Quadrini v. Sikorsky Aircraft Division, United Aircraft Corp.*, 425 F.Supp. 81 (D.Conn. 1977):

Helicopter with two Marines aboard crashed in federal enclave in North Carolina. Case deals with McGlinn rule.

6. *Sylvane v. Whelan*, 506 F.Supp. 1355 (E.D.N.Y. 1981):

Action to abate as nuisance public nude bathing occurring in federal park. The court, noting impliedly the McGlinn rule via *Sadrakula*, was troubled by lack of explicit state law and fact that U.S. only had concurrent jurisdiction; complaint was dismissed.

7. *Vasina v. Grumman Corp.*, 644 F.2d 112 (2nd Cir. 1981):

Navy pilot killed in plane crash occurring at Boardman Bombing Range in Oregon; widow sued aircraft manufacturer and recovered large award. On appeal, Grumman argued for application of Oregon law at time U.S. acquired jurisdiction, but appellate court applied present Oregon law via federal statute.

THIRD CIRCUIT:

1. *United States v. Andem*, 158 F. 996 (D.N.J. 1908):

Prosecution for forging corporate seal to a pleading filed in federal court, located in a building within U.S. jurisdiction. Prosecution used Assimilative Crimes Act and relied on state statute. Defendant challenged federal court's jurisdiction, but the court found U.S. ownership of lands and state cession; motion was denied.

2. *United States v. Mayor and Council of City of Hoboken*, 29 F.2d 932 (D.N.J. 1928):

City sought to tax piers owned by U.S.; U.S. sought and obtained, injunction regarding taxes. Court entered injunction for one year only, and taxes for subsequent years were to be adjudicated between parties pursuant to state law.

3. *Capetola v. Barclay White Co.*, 139 F.2d 556 (3rd Cir. 1943):

Plaintiff injured while working at Philadelphia Navy Yard, and he obtained workmen's comp. benefits under state law. He then sued to recover further on grounds that the state statute was inapplicable in the federal enclave. Court held that, by act of Congress, the state law applied in the enclave, thus plaintiff had recovered all allowed by law.

4. *United States v. City of Chester*, 144 F.2d 415 (3rd Cir. 1944):

The U.S. filed suit against city which was attempting to apply its building code to housing being built on U.S. property. Notwithstanding presence of U.S.

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jurisdiction, court held that city's building code did not apply because of language of federal statute.

5. *Ackerly v. Commercial Credit Co.*, 111 F.Supp. 92 (D.N.J. 1953):

Suit for damages for death caused by explosion at South Amboy. One defendant challenged process on grounds that it wasn't doing business in New Jersey; it argued that most of its business was within a U.S. enclave, and very little in the state. But, court disagreed and held it was doing business in state.

6. *Application of Thompson*, 157 F.Supp. 93 (E.D.Pa. 1957):

Petitioner resided in New Jersey but worked at Philadelphia Navy Shipyard, a federal enclave. City imposed income tax pursuant to Buck Act, and defendant failed to pay and was arrested. Court upheld tax nonetheless. Affirmed, *United States ex rel. Thompson v. Lennox*, 258 F.2d 320 (3rd Cir. 1958).

7. *United States v. Lewisburg Area School District*, 539 F.2d 301 (3rd Cir. 1976):

School district and county sought to impose per capita tax and occupation tax on residents of federal penitentiary, within U.S. jurisdiction. The U.S. sued to enjoin such effort. Court held that the Buck Act permitted the occupation tax but not the per capita tax.

8. *Water Isle Hotel and Beach Club, Ltd. v. Kon Tiki St. Thomas, Inc.*, 795 F.2d 325 (3rd Cir. 1986):

The U.S. owned an island in Virgin Islands and leased to Beach Club. Virgin Islands had an open shore law, exploited by Kon Tiki, which brought people to the U.S. island to use beach. Beach Club sought to enjoin Kon Tiki's use of the beach, but Court held that the U.S. had only a proprietary interest in the island, and that open shore law applied and permitted Kon Tiki's use.

FOURTH CIRCUIT:

1. *Ex parte Tatem*, 23 Fed. Cas. 708, No. 13,759 (E.D.Va. 1877):

Federal prosecution for murder committed at Navy yard in Virginia; defendant released on bail. Defendant filed habe when state arrested and incarcerated him for state offense. Because the U.S. owned the lands in question and state had ceded jurisdiction, court held State had no jurisdiction of offense and granted the habe.

2. *United States v. Penn*, 48 F. 669 (E.D.Va. 1880):

U.S. found not to have jurisdiction to prosecute for petit larceny at Arlington Cemetery.

3. *Crook, Horner & Co. v. Old Point Comfort Hotel Co.*, 54 F. 604 (E.D.Va. 1893):

The Chamberlin Hotel was under construction on U.S. property, Fortress Monroe, in U.S. jurisdiction. Mortgage and other liens were filed of record in county of the

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state, and question involved was that of priority of the liens. The Virginia cession statute provided for reversion of title to state in event of abandonment. The court found that the U.S. had abandoned military use of the hotel cite, thus the state laws regarding liens had application.

4. *United States v. Cordy*, 58 F.2d 1013 (D.Md. 1932):

State gasoline tax held inapplicable to sales made at Fort Meade, within U.S. jurisdiction.

5. *Mannix v. United States*, 140 F.2d 250 (4th Cir. 1944):

Defendant charged with attempted rape at U.S. Public Health Service office on U.S. property. Court held that this fact gave the court jurisdiction.

6. *United States v. Watson*, 80 F.Supp. 649 (E.D.Va. 1948):

Defendant charged with several traffic offenses occurring on road near Quantico; his attack on jurisdiction was sustained and court stated:

"Without proof of the requisite ownership or possession of the United States, the crime has not been made out."

7. *Markham v. United States*, 215 F.2d 56 (4th Cir. 1954):

Petitioner, convicted of murder committed at Old Army Base in Norfolk, sought a 2255 vacation of his sentence on jurisdictional grounds. Besides the presence of several indicators of federal jurisdiction, the court concluded this issue could not be raised via a 2255.

8. *United States v. Dreos*, 156 F.Supp. 200 (D.Md. 1957):

Lawyer tagged for speeding on Balto-Washington Parkway, and he challenged jurisdiction and radar guns. Jurisdictional challenge denied on grounds that the U.S. had concurrent jurisdiction over this parkway, and on basis of property clause.

9. *Stokes v. Adair*, 265 F.2d 662 (4th Cir. 1959):

Auto accident occurring at Fort Leavenworth, Kansas; Virginia citizen then sued Virginia citizen in federal court, but suit was dismissed for alleged lack of diversity. Court held, however, that McGlenn rule made state law federal and action was valid based on federal law.

10. *United States v. Gray Line Water Tours of Charleston*, 311 F.2d 779 (4th Cir. 1962):

Tour company was landing visitors at pier to Fort Sumter and U.S. brought action to enjoin. In upholding injunction, court upheld grant of concession to tour company's competitor on property clause grounds.

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11. *United States v. Schuster*, 220 F.Supp. 61 (E.D.Va. 1963):

Prosecution for unauthorized use of auto under state law via Assimilative Crimes Act; car was taken from lot rented to U.S., adjoining a base. State law granted concurrent jurisdiction to U.S. for leased property so the court upheld federal jurisdiction.

12. *United States v. Lovely*, 319 F.2d 673 (4th Cir. 1963):

Lovely convicted of rape committed at New Fort Jackson in South Carolina; he thereafter sought release via a 2255 on jurisdictional grounds. On appeal of denial of motion, court stated that an old state cession statute requiring the U.S. to record evidence of title, if still effective, would prevent U.S. having jurisdiction here because the U.S. failed to record. But another state cession statute didn't require such recording, so the court concluded federal jurisdiction existed.

13. *Bartsch v. Washington Metro. Area Transit Comm.*, 357 F.2d 923 (4th Cir. 1966):

Taxicab owner sought review of agency order; court held that National Airport was in U.S. jurisdiction.

14. *Cornman v. Dawson*, 295 F.Supp. 654 (D.Md. 1969):

Residents of federal enclave sought right to vote in state elections. Because of federal legislation permitting the state to exercise jurisdiction in federal enclaves, and because state law granted many rights to enclave residents, court held they were entitled to vote. Affirmed, *Evans v. Cornman*, 398 U.S. 419, 90 S.Ct. 1753 (1970).

15. *Board of Supervisors of Fairfax County, Va. v. United States*, 408 F.Supp. 556 (E.D.Va. 1976):

County brought action to enjoin a public nuisance, which was a reformatory owned and operated by the U.S. County wanted the U.S. to curtail use of the place as a prison. This decision was simply on a motion to dismiss, and court discussed McGlenn rule that state nuisance laws at time of cession would be applicable.

16. *United States v. Holmes*, 414 F.Supp. 831 (D.Md. 1976):

Defendant entered Aberdeen Proving Grounds by wading into the water and was arrested by U.S. officers. She attacked jurisdiction by alleging that the waters around Aberdeen were in state jurisdiction. Court found, however, that the U.S. had jurisdiction of the waters.

17. *Pratt v. Kelly*, 585 F.2d 692 (4th Cir. 1978):

Action concerning auto accident on Blue Ridge Parkway commenced in federal court but dismissed on lack of subject matter jurisdiction. Court affirmed, holding that the state in cession reserved jurisdiction over civil matters.

18. *United States v. South Carolina*, 578 F.Supp. 549 (D.S.C. 1983):
The U.S. sought injunction against state law requiring military installations to buy alcoholic beverages only from state licensed dealers. Court held state law unconstitutional as to these federal enclaves and ruled that state statute was pre-empted via regulations.

FIFTH CIRCUIT:

1. *United States v. Hopkins*, 26 Fed. Cas. 371, No. 15,387a (C.C.D.Ga. 1830):
State cession statute applied only to federal forts; in federal murder prosecution arising from a duel at an arsenal, court held that U.S. had no jurisdiction.
2. *United States v. Meagher*, 37 F. 875 (W.D.Tex. 1888):
Defendant indicted for murder committed at Fort Clark and this case is the jury instructions given. Court held that the state had ceded jurisdiction of the fort to the U.S.
3. *United States v. Lewis*, 111 F. 630 (W.D.Tex. 1901):
Defendant indicted for murder committed at Fort Sam Houston, and this case was the jury instructions given. Court instructed regarding necessity of state cession, here proven, to give the court jurisdiction.
4. *Pundt v. Pendleton*, 167 F. 997 (N.D.Ga. 1909):
A teamster employed and residing at Fort Oglethorpe was alleged to be subject to state road and repair duty; when he failed to appear, he was jailed and this was a habe to get him out. The court found him not liable for road duty on grounds that the state law interfered with the fort.
5. *Brown v. United States*, 257 F. 46 (5th Cir. 1919):
Defendant, a contractor at post office site, murdered another, but challenged court's jurisdiction. The court found ownership and cession and upheld jurisdiction as well as indictment's pleading of jurisdiction.
6. *England v. United States*, 174 F.2d 466 (5th Cir. 1949):
Defendant, in the Army, took a check from Fort Sam Houston and was prosecuted for larceny. His challenge to the information on jurisdictional grounds was not upheld.
7. *United States v. Nebo Oil Co.*, 90 F.Supp. 73 (W.D.La. 1950):
The inevitable collision between mineral and surface owner, with the U.S. here being surface owner. The opinion is long, deals extensively with minerals and applies jurisdictional rules. (Of interest: U.S. is not "within jurisdiction" of state).
8. *Mater v. Holley*, 200 F.2d 123 (5th Cir. 1952):
Personal injury action for events occurring at Fort McPherson; district court

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dismissed for lack of jurisdiction in absence of diversity. Court found that U.S. was owner of property and had jurisdiction; state torts law pursuant to McGlenn rule applied in enclave and were federal laws, hence the action was good.

9. *City of Birmingham v. Thompson*, 200 F.2d 505 (5th Cir. 1952):

City sought building permit from contractor of Veteran's Hospital. Finding ownership and cession of jurisdiction with no reservation in state concerning building permits, court found that city had no jurisdiction to impose permit requirement.

10. *Hudspeth v. United States*, 223 F.2d 848 (5th Cir. 1955):

Jurisdictional challenge was not upheld, as place was within U.S. jurisdiction.

11. *Krull v. United States*, 240 F.2d 122 (5th Cir. 1957):

In rape prosecution, jurisdiction upheld, court finding ownership and cession.

12. *Stockwell v. Page Aircraft Maintenance*, 212 F.Supp. 102 (M.D.Ala. 1962):

Service of process for corporation at Fort Rucker; held that the fort was within Alabama as state never ceded jurisdiction.

13. *Gainey v. United States*, 324 F.2d 731 (5th Cir. 1963):

Manslaughter conviction for event occurring at U.S. Penitentiary; held the pen was an area over which the U.S. had legislative jurisdiction.

14. *Halpert v. Udall*, 231 F.Supp. 574 (S.D.Fla. 1964):

U.S. acquired land for Everglades and state ceded jurisdiction. Private land owner in park challenged closing of road and regulation he contended affected value of his property; claims were dismissed.

15. *Fountain v. New Orleans Public Service, Inc.*, 265 F.Supp. 630 (E.D.La. 1967):

Wrongful death action for events occurring in Foreign Trade Zone at Port of New Orleans. Plaintiff claimed the zone to be "under the jurisdiction of the U.S."; however, court dismissed complaint because the U.S. did not own or lease the land and state had never ceded jurisdiction.

16. *Dekalb County, Ga. v. Henry C. Beck Co.*, 382 F.2d 992 (5th Cir. 1967):

Action by county to collect permit fee from contractor building a hospital on U.S. lands at Emory. Summary judgment against county was reversed on appeal, the court finding that the U.S. never accepted jurisdiction, and that record was devoid of facts necessary to make a supremacy clause finding regarding county's building code.

17. *Mississippi River Fuel Corp. v. Cocreham*, 382 F.2d 929 (5th Cir. 1967):

The U.S. owned and had state cession for Barksdale A.F.B., upon which the

corporation was producing oil and gas for which state sought to impose severance tax. Court held that severance tax could not be imposed in this place outside the jurisdiction of the state.

18. *Graham v. Brewer*, 295 F.Supp. 1140 (N.D.Ala. 1968):

Plaintiff was arrested for possession of liquor in dry county, when liquor was bought in a wet county. One arrest occurred at Wilson Dam, alleged to be in U.S. jurisdiction. This declaratory judgment action was dismissed, court finding no proof of U.S. jurisdiction.

19. *United States v. Townsend*, 474 F.2d 209 (5th Cir. 1973):

Townsend convicted of receiving stolen property taken from Reese A.F.B., in U.S. jurisdiction. His conviction was reversed when court reviewed the record and determined that there was no evidence showing receipt of the stolen property within U.S. jurisdiction.

20. *United States v. Benson*, 495 F.2d 475 (5th Cir. 1974):

Robbery committed at Fort Rucker, within U.S. jurisdiction; defendant convicted and challenged jurisdiction. In affirming conviction, court held:

"It is axiomatic that the prosecution must always prove territorial jurisdiction over a crime in order to sustain a conviction therefor."

Court took judicial notice regarding Fort Rucker.

21. *Leonard v. United States*, 500 F.2d 673 (5th Cir. 1974):

Defendant charged with rape, the abduction occurring at Maxwell A.F.B., but completed off-base. Court held that the U.S. had jurisdiction over offense.

22. *Vincent v. General Dynamics Corp.*, 427 F.Supp. 786 (N.D.Tex. 1977):

Employees challenged collective bargaining agreements to federal enclave, an air force plant, arguing the applicability of Texas "right to work" law. Court held that the right to work law did not apply in this federal enclave.

23. *United States v. Gliatta*, 580 F.2d 156 (5th Cir. 1978):

Dispute over parking at post office facility resulted in defendant being charged for violating regulations. On appeal from conviction, defendant attacked jurisdiction. The court found that the U.S. had no cession, but upheld convictions on property clause basis.

24. *Lord v. Local Union No. 2088, I.B.E.W.*, 646 F.2d 1057 (5th Cir. 1981):

Challenge to collective bargaining agreement as to two federal enclaves, Patrick A.F.B. and Cape Canaveral A.F.B., based on state "right to work" law. Court held that state law was pre-empted by the federal and did not apply within enclave.

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25. *Bonner v. Chevron U.S.A.*, 668 F.2d 817 (5th Cir. 1982):
Bonner sued Chevron for injuries received at oil platform on continental shelf; court held that act of Congress made state law applicable.

SIXTH CIRCUIT:

1. *United States v. Tierney*, 28 Fed. Cas. 159, No. 16,517 (C.C.S.D. Ohio 1864):
Federal prosecution for theft of mule from Camp Hurtt, which was leased property. Defendant's challenge to jurisdiction was sustained because leased lands were subject to state jurisdiction.

2. *United States v. Tucker*, 122 F. 518 (W.D.Ky. 1903):
Defendant indicted for assault with intent to murder committed at a federal dam in U.S. jurisdiction. Court found U.S. ownership and state cession and upheld jurisdiction.

3. *Falls City Brewing Co. v. Reeves*, 40 F.Supp. 35 (W.D.Ky. 1941):
Brewing company sold liquor to post exchange at Fort Knox; it filed suit against state officer who contended that permit was needed to sell at exchange on basis of Buck Act. Held, under facts, Buck Act did not apply and state had no taxing authority at Fort Knox.

4. *First Hardin National Bank v. Fort Knox National Bank*, 361 F.2d 276 (6th Cir. 1966):
Fort Knox Bank sought to establish a branch in adjoining town and local banks challenged the attempt as unlawful. Court disagreed and permitted the branch.

5. *United States v. Blunt*, 558 F.2d 1245 (6th Cir. 1977):
Inmate at F.C.I. in Lexington was convicted of assault with deadly weapon and challenged jurisdiction. Court took judicial notice that the prison was within U.S. territorial jurisdiction.

6. *United States v. McGee*, 432 F.Supp. 557 (S.D. Ohio 1977):
Dayton sought to annex Wright-Patterson A.F.B. to city and U.S. sued for injunction, which was granted. Court held that, when U.S. opposed annexation on grounds of interference, court would prevent annexation. Affirmed, 611 F.2d 375 (6th Cir. 1979).

7. *United States v. McGee*, 714 F.2d 607 (6th Cir. 1983):
Second attempt by Dayton to annex Wright-Patterson enjoined.

SEVENTH CIRCUIT:

1. *United States v. Railroad Bridge Co.*, 27 Fed. Cas. 686, No. 16,114 (C.C.N.D. Ill. 1855):

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Rock Island, in the Mississippi River, had at one time been a federal fort, but fort was abandoned and island was in the public domain. Illinois legislature chartered railroad and gave it eminent domain powers and railroad took land on island for bridge. Since the U.S. has no jurisdiction over property, it was subject to state jurisdiction and federal property could be taken via eminent domain. This case had good discussion of proprietorial lands of U.S.

2. *World's Columbian Exposition v. United States*, 56 F. 654 (7th Cir. 1893):
The U.S. sought to enjoin opening of exposition on Sunday, contrary to its desires and statute. But, since U.S. had no property interest in the exposition, injunction denied; the U.S. did not own property or have a cession.

3. *In re Kelly*, 71 F. 545 (E.D. Wis. 1895):
Kelly was charged with assault with deadly weapon at National Soldier's Home, property being owned by corporation. Court held there was no federal jurisdiction, on grounds that cession act of state could not be construed as conveying exclusive jurisdiction.

4. *Bennett v. Ahrens*, 57 F.2d 948 (7th Cir. 1932):
Lawyer charged via state indictment with attempted murder and was arrested on grounds of federal building in East St. Louis. Court held arrest as validly executed on federal property.

5. *United States v. Gill*, 204 F.2d 740 (7th Cir. 1953):
Various federal assault charges were filed against defendant, the facts arising from a boat trip across Lake Michigan near Indiana. Court held there was federal jurisdiction.

6. *Williams v. United States*, 145 F.Supp. 4 (W.D. Wis. 1956):
Lady fell at post office and was severely injured; she filed tort claim against U.S. contending that the absence of handrails at the post office was negligence and same was required by state law. Court dismissed claim, finding state law didn't apply.

7. *United States v. Pate*, 393 F.2d 44 (7th Cir. 1968):
Pate was convicted in state court for murder at Post Office; court held that Post Office was within state's jurisdiction, the U.S. not having accepted jurisdiction.

8. *United States v. Johnson*, 426 F.2d 1112 (7th Cir. 1970):
Defendant convicted of burglary at Veteran's Hospital, in U.S. jurisdiction. Finding the U.S. owned the land prior to 1940, court held there was federal jurisdiction.

9. *United States v. Tanner*, 471 F.2d 128 (7th Cir. 1972):
Defendants convicted of transporting explosives in interstate commerce and other

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charges stemming from scheme to blow up ships. Most convictions were affirmed, except for that involving destruction of ships within admiralty jurisdiction of U.S. Here, the facts were that the ship blown up was at Calumet Harbor, a place within Illinois jurisdiction; these convictions were reversed.

EIGHTH CIRCUIT:

1. *Martin v. House*, 39 F. 694 (E.D.Ark. 1888):
State court can't execute on property in U.S. jurisdiction.
2. *Bannon v. Burnes*, 39 F. 892 (W.D.Mo. 1889):
Ceded property not subject to taxation.
3. *In re Ladd*, 74 F. 31 (D.Neb. 1896):
State arrested Ladd, an officer running post exchange at Fort Robinson, for unlawful sale of liquor without state license. Ladd sought habeas corpus and court granted it holding that state law did not apply at Fort Robinson.
4. *Hollister v. United States*, 145 F. 773 (8th Cir. 1906):
Another charged with larceny on Indian lands and Hollister posted bond, which was forfeited. Issue involved jurisdiction over Indian lands, and the same was upheld.
5. *Robbins v. United States*, 284 F. 39 (8th Cir. 1922):
Defendant was transporting for hire within National Park without permission from director, and the U.S. sought and obtained injunction. Court held that regulations requiring permit were valid under property clause.
6. *Williams v. Arlington Hotel Co.*, 22 F.2d 669 (8th Cir. 1927):
Hotel, in U.S. jurisdiction, destroyed by fire and action brought for property damage. Court held that McGlenn rules applied to the property.
7. *St. Louis-San Francisco Ry. Co. v. Satterfield*, 27 F.2d 586 (8th Cir. 1928):
Railroad challenged state's authority to tax its property located at Fort Sill. Court held that state cession statute reserved right to tax so the tax was valid.
8. *United States v. Unzeuta*, 35 F.2d 750 (8th Cir. 1929):
Court held that U.S. had no jurisdiction over murder committed in freight car inside Fort Robinson; reversed, 281 U.S. 138, 50 S.Ct. 284 (1930).
9. *Hill v. Ring Const. Co.*, 19 F.Supp. 434 (W.D.Mo. 1937):
This case is an anomaly regarding the McGlenn rule; it deals with cubic yards.
10. *Coffman v. Cleveland Wrecking Co. of Cincinnati*, 24 F.Supp. 581 (W.D.Mo. 1938):
Held, that McGlenn rule made state law so incorporated federal.

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11. *Jewell v. Cleveland Wrecking Co.*, 28 F.Supp. 364 (W.D.Mo. 1938):
State case involving personal injuries on federal property removed to federal court; held, state court had jurisdiction.
12. *Olsen v. McPartlin*, 105 F.Supp. 561 (D.Minn. 1952):
Suit based on accident occurring at Fort Snelling held sustainable in federal court on grounds of federal question, the court following the McGlenn rule.
13. *United States v. Heard*, 270 F.Supp. 198 (W.D.Mo. 1967):
Defendant charged with carrying concealed weapon at Jobs Corps Center, within U.S. jurisdiction. Finding both U.S. ownership and state cession, defendant's challenge to jurisdiction was denied.
14. *United States v. City of Bellevue, Neb.*, 474 F.2d 473 (8th Cir. 1973):
City's effort to annex SAC base denied and subjected to injunction; such would interfere with base.
15. *United States v. Redstone*, 488 F.2d 300 (8th Cir. 1973):
Defendant convicted of assault with dangerous weapon, event occurring at Fort Lincoln Military Reservation. Court found U.S. ownership and state cession and upheld jurisdiction.
16. *United States v. Goings*, 504 F.2d 809 (8th Cir. 1974):
Assault prosecution for event occurring on land owned by corporation. On appeal from dismissal of case, court held that U.S. had at one time owned and had jurisdiction over the property; but when it conveyed lands to corporation, the United Tribes, it lost jurisdiction.
17. *United States v. Consolidated Wounded Knee Cases*, 389 F.Supp. 235 (D.Neb. 1975):
Some 65 Indians charged for acts committed near Wounded Knee, S.D., on Pine Ridge Indian Reservation; these defendants challenged jurisdiction arguing that the Sioux Indians were separate nation. But, the court found it had jurisdiction, but the fact of U.S. ownership of lands does not appear in opinion.
18. *United States v. Brown*, 552 F.2d 817 (8th Cir. 1977):
Defendant convicted of hunting in violation of regulations for National Park. His challenge to jurisdiction was denied based on property clause.
19. *Minnesota by Alexander v. Block*, 660 F.2d 1240 (8th Cir. 1981):
State and many others challenged federal act's application to land not owned by U.S. Court held that act could control activity on non-federal lands under property clause.

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20. *Black Hills Power & Light Co. v. Weinberger*, 808 F.2d 665 (8th Cir. 1987):
Held, state could not dictate which electric company would supply power to Ellsworth A.F.B.

21. *United States v. Parker*, 622 F.2d 298 (8th Cir. 1980):
Murder case with victim being hit over head off of Fort Leonard Wood; victim left at isolated spot on base. Court held that if murder occurred off base, there would be no federal jurisdiction.

NINTH CIRCUIT:

1. *Ex parte Sloan*, 22 Fed. Cas. 324, No. 12,994 (D. Nev. 1877):
After Nevada was admitted into Union, the U.S. reserved title to Moapa Indian reservation, which was place of murder of government employee. Defendants challenged federal murder indictment on jurisdictional grounds by filing habe. Court granted habe on basis that Nevada and not the U.S. had jurisdiction over the crime. Defendants were released to state custody.

2. *Sharon v. Hill*, 24 F. 726 (D.Cal. 1885):
During a deposition, defendant drew a pistol and made threats, such offense occurring in courthouse. This opinion was made to give notice that carrying guns in the courthouse was thereafter to be considered an offense against the United States, since the courthouse was within exclusive jurisdiction of the U.S.

3. *United States v. Bateman*, 34 F. 86, 89 (N.D.Cal. 1888):
Defendant indicted for murder committed at Presidio, and attacked court's jurisdiction on grounds that the U.S. did not have jurisdiction there. The Court agreed, dismissed the indictment and held:

"The United States were both proprietors and sovereigns of the Presidio lands till the admission of the State of California into the Union. By the act of admission, reserving only their proprietary right over these lands, they relinquished to the state their governmental or local sovereign right, and jurisdiction, and were thenceforth only proprietors in the sense that any natural person owning land is a proprietor. Having so relinquished their sovereign rights, that condition remains to this day, unless the state has in some way, either directly or by implication, receded to the United States its sovereign jurisdiction. This could be done by direct cession, or by consenting through its legislature to the purchase of land for such governmental purposes, and a purchase for such purposes in pursuance of such consent. Neither has been done in this instance."

4. *United States v. San Francisco Bridge Co.*, 88 F. 891, 894 (N.D. Cal. 1898):
Defendant company was engaged in building a federal post office in San

Francisco; contrary to law of U.S., it required or permitted laborers to work more than 8 hours a day. Conviction of company upheld, notwithstanding challenge to jurisdiction, the U.S. here not having any. Conviction was upheld impliedly on property clause and the control of Congress over public works of the U.S., matters outside state jurisdiction. But, court did state:

"Upon this state of facts, it must be held that the state of California retains complete and exclusive political jurisdiction over such land, and, this being so, there can be no question that person there committing murder, or any other offense denounced by its laws, would be subject to trial and punishment by the courts of the state."

5. *United States v. Tully*, 140 F. 899 (D.Mon. 1905):

Defendant charged with murder committed at Fort Missoula, a place within U.S. jurisdiction. However, crime was committed in area of fort subject to state jurisdiction, and defendant's challenge to jurisdiction of the U.S. was upheld, the court holding that the lands where the crime was committed was within state jurisdiction.

6. *United States v. Holt*, 168 F. 141 (W.D.Wash. 1909):

Defendant convicted of a murder committed at Fort Worden, in U.S. jurisdiction. Defendant challenged the court's jurisdiction post-trial, but the same was upheld, the court finding that the U.S. owned the land and the state had ceded jurisdiction. Affirmed, *Holt v. United States*, 218 U.S. 245, 31 S.Ct. 2 (1910).

7. *United States v. Pierce County*, 193 F. 529, 531 (W.D.Wash. 1912):

The U.S. acquired several lots for erection of post office and courthouse; after acquisition and state cession, a tax was imposed on such property. Court invalidated the tax, stating:

"In the case of lands acquired by the United States for needful public buildings, with the consent of the state legislature, as is the situation here, the national Constitution withdraws such 'places' entirely from the jurisdiction of the state immediately upon their purchase by the general government."

8. *Steele v. Halligan*, 229 F. 1011 (W.D.Wash. 1916):

Action for personal injuries to inmate in federal prison which was removed to federal court. Here, U.S. owned prison lands and had state cession of jurisdiction. In challenge to removal petition, court held that laws of state regarding private rights in existence at time of cession become the law of federal enclave, until conflicting legislation is passed by Congress.

9. *United States v. Lewis*, 253 F. 469 (S.D.Cal. 1918):

To an indictment charging an Indian with murder of another Indian, a plea to the court's jurisdiction was made. Land in question was public domain lands subject to

homestead, and U.S. held title in trust for Indians. Finding that California had not ceded jurisdiction of this land to the U.S., court dismissed indictment.

10. *United States v. Wurtzbarger*, 276 F. 753 (D.Or. 1921):

Defendant indicted for murder occurring at Indian school and challenged the court's jurisdiction. Finding U.S. ownership and state cession, the motion was denied.

11. *United States v. Hunt*, 19 F.2d 634 (D.Az. 1927):

The U.S. sued to enjoin state officials who were attempting to stop U.S. from killing deer on its lands in violation of state gaming law. On property clause basis, injunction was issued. Affirmed, *Hunt v. United States*, 278 U.S. 96, 49 S.Ct. 38 (1928).

12. *United States v. Watkins*, 22 F.2d 437 (N.D.Cal. 1927):

Defendant indicted for murder committed at the Presido and moved to dismiss on grounds that the court had no jurisdiction. Court found a cession of jurisdiction and denied defendant's motion.

13. *Yellowstone Park Trans. Co. v. Gallatin County*, 31 F.2d 644 (9th Cir. 1929):

Park company instituted suit to challenge taxes imposed by county on its property located within the park, a place within U.S. jurisdiction. The court voided the taxes as being imposed outside of the county and state jurisdiction.

14. *Six Companies, Inc. v. DeVinney*, 2 F.Supp. 693 (D.Nev. 1933):

Corp. working at Boulder Canyon Project Federal Reservation sought to enjoin imposition of county taxes on grounds that the land in question was within U.S. jurisdiction. Land had been previously within public domain of U.S. and was merely set aside for this federal project. U.S. officials attempted to claim jurisdiction pursuant to state laws granting jurisdiction, but the Nevada governor denied such assertion. Court held that setting aside public domain lands for this dam construction project was not a purpose for which U.S. could obtain jurisdiction under the state cession statute. Finding state jurisdiction, the tax was upheld.

15. *Rainier Nat. Park Co. v. Martin*, 23 F.Supp. 60 (W.D. Wash. 1937):

Company operating in national park challenged imposition of state taxes. Finding that state cession statute reserved right of taxation in enclave, and finding act of Congress permitting taxation, the tax was upheld.

16. *Yosemite Park & Curry Co. v. Collins*, 20 F.Supp. 1009 (N.D.Cal. 1937):

Court held state law imposing fees on liquor sales did not fall within reservation in state act ceding jurisdiction to U.S. for park; reversed, *Collins v. Yosemite Park & Curry Co.*, 304 U.S. 518, 58 S.Ct. 1009 (1938).

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17. *United States v. McGowan*, 89 F.2d 201 (9th Cir. 1937):

The U.S. sought to forfeit two cars which possessed whisky in "Indian country." District court and 9th Circuit held that mere ownership of U.S. lands, in trust for Indians, did not create federal jurisdiction. Reversed, *United States v. McGowan*, 302 U.S. 535, 58 S.Ct. 286 (1938).

18. *United States ex rel. Bowen v. Johnston*, 58 F.Supp. 208 (N.D. Cal. 1944):

The continuing saga of Bowen's challenge to his imprisonment on jurisdictional grounds. His contention that the U.S. never accepted jurisdiction over Chickamauga National Park was not upheld.

19. *United States v. Aho*, 68 F.Supp. 358 (D.Or. 1944):

Drainage district, costs of which were born by land owners in the district, opposed acquisition of land in district by U.S. via eminent domain, the district contending it likewise was entitled to compensation. Court held that U.S. could not acquire the land without compensating the district.

20. *Rogers v. Squier*, 157 F.2d 948 (9th Cir. 1946):

Defendant convicted of rape committed at Fort Douglas in Utah sought habeas corpus on jurisdictional grounds. He argued that state reserved criminal jurisdiction over the fort in two separate cession statutes. Court found that the acts did confer jurisdiction to the U.S. and denied relief.

21. *Petersen v. United States*, 191 F.2d 154 (9th Cir. 1951):

The U.S. acquired lands for Kings Canyon National Park, but within park were some privately owned lands. California ceded jurisdiction for all lands inside the park and the question at issue was whether the private lands were likewise in U.S. jurisdiction. Private landowners obtained state permit to sell liquors and U.S. sought injunction. Court held that the state could cede jurisdiction to privately owned lands inside the park.

22. *United States v. Fallbrook Public Utility District*, 108 F.Supp. 72 (S.D. Cal. 1952):

Question involving water rights to Santa Margarita River.

23. *State of California v. United States*, 235 F.2d 647 (9th Cir. 1956):

Long case dealing with water rights of all parties; involves jurisdictional principles.

24. *United States v. Warne*, 190 F.Supp. 645 (N.D. Cal. 1960):

California's milk control law was challenged by U.S. insofar as it applied to military bases. The law regulated milk prices and imposed penalties. The court analyzed the title to each military base and the state cession statute applicable to

each, as well as U.S. acceptance of jurisdiction. Court held California law inapplicable on jurisdiction and supremacy clause grounds.

25. *United States v. Packard*, 236 F.Supp. 585 (N.D.Cal. 1964):

Defendant was duly convicted of refusing to leave naval reservation.

26. *Swanson Painting Co. v. Painters Local Union No. 260*, 391 F.2d 523 (9th Cir. 1968):

Company working at Malmstrom A.F.B., in U.S. jurisdiction, held to be doing business in state for "long arm" service process.

27. *Macomber v. Bose*, 401 F.2d 545 (9th Cir. 1968):

Water rights dispute concerning private lands inside Glacier National Park, and question was whether the case involved a federal question. Court held that state cession, incorporating law regarding private rights, made this dispute one involving a federal question, the privately owned lands being in U.S. jurisdiction.

28. *Arizona v. Manypenny*, 445 F.Supp. 1123 (D.Az. 1977):

Immigration officer shot Mexican on U.S. property. Held, the state had jurisdiction of the criminal offense and state law applied, even though the case was removed to federal court.

29. *United States v. 319.88 Acres of Land*, 498 F.Supp. 763 (D.Nev. 1980):

U.S. sought to condemn private lands located inside Lake Mead National Recreation Area, and question of gambling was crucial to determination of compensation. A Park Service regulation prevented gambling on federally or privately owned property inside parks. Court found that the state had ceded concurrent jurisdiction of the property, even though privately owned, to the U.S.; thus the regulation applied to the property and prevented gambling as a use.

30. *Bilderback v. United States*, 558 F.Supp. 903 (D.Or. 1982):

A Forest Service pack horse got loose, entered highway and was hit, causing damage and injuries; this was a tort claim against U.S. The U.S. argued for application of Oregon's open range law permitting animals to run free. Although the state held open a cession of jurisdiction of this property, the U.S. never accepted. But, under the property clause, regulations prohibiting free roaming existed, and court held these regulations applicable here.

31. *United States v. Jenkins*, 734 F.2d 1322 (9th Cir. 1983):

Defendant got into fight while attempting to enter Camp Pendleton military base and was charged with assault. After conviction, defendant's appeal challenged the lack of Article III status of U.S. magistrates. Court held that within U.S. jurisdiction, trial by magistrate was valid.

32. *City of Alameda v. Todd Shipyards Corp.*, 635 F.Supp. 1447 (N.D.Cal. 1986): City sold land to U.S., and U.S. sold to the corporation. The question involved the rights to land below watermark on tidelands. Case deals with jurisdictional principles.

33. *United States v. Leavitt*, 608 F.2d 1290 (9th Cir. 1979): Leavitt convicted of careless driving in Olympic National Park; court held this was within U.S. jurisdiction.

34. *Morgan v. United States*, 709 F.2d 580 (9th Cir. 1983): Wrongful death action for accident, electrocution, occurring at Grand Coulee Dam Recreation Area. Held, state law applied because of federal law.

35. *Hildeband v. United States*, 261 F.2d 354 (9th Cir. 1958): Non-Indian defendant plead guilty to second degree murder committed on Indian reservation; on habe, defendant released: "The federal courts do not have jurisdiction of Washington intra-reservation crimes involving non-Indians," at 356. Indictment was dismissed.

TENTH CIRCUIT:

1. *United States v. Stahl*, 27 Fed. Cas. 1288, No. 16,373 (C.C.D. Kan. 1868): Held, that murder committed at Fort Harker was subject to state jurisdiction and not that of U.S. because state had not ceded jurisdiction.

2. *Ex parte Hebard*, 11 Fed. Cas. 1010, No. 6313 (C.C.D. Kan. 1877): In 1875, Kansas ceded jurisdiction of Fort Leavenworth to the U.S. Here, Hebard was federally prosecuted for larceny committed at the fort. On challenge to jurisdiction, court held that the mere state cession of jurisdiction for property owned by U.S. was sufficient to confer jurisdiction; habe denied.

3. *Danielson v. Donmopray*, 57 F.2d 565 (D.Wy. 1932): Deceased killed in car accident at Fort Francis E. Warren in Wyoming. State wrongful death action filed and then removed. Court followed McGlenn rule.

4. *Dyhre v. Hudspeth*, 106 F.2d 286 (10th Cir. 1939): Mail fraud case; on habe, defendant discharged because use of the U.S. Mails, the jurisdictional basis for the case, was not a part of the fraud scheme.

5. *Johnson v. Yellow Cab Transit Co.*, 137 F.2d 274 (10th Cir. 1943): Officers Club at Fort Sill ordered liquor, which was seized by the state. Transit company sued and obtained injunction. Court held state liquor laws inapplicable to fort. Affirmed, 321 U.S. 383, 64 S.Ct. 622 (1944).

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6. *United States v. Chicago, R. I. & P. Ry. Co.*, 171 F.2d 377 (10th Cir. 1948):
Workmen's foot injured while train passed through Fort Sill. Company paid claim and instituted tort claim against U.S. Recovery based on state law permitted.

7. *Murphy v. Love*, 249 F.2d 783 (10th Cir. 1957):
Love was transporting liquors to Fort Leavenworth and obtained injunction prohibiting interference. Affirmed since state had no jurisdiction and tax on liquor was inapplicable via Buck Act.

8. *Hayes v. United States*, 367 F.2d 216 (10th Cir. 1966):
Prisoner convicted of murder committed at Leavenworth Prison challenged jurisdiction. Same was denied.

9. *Hall v. United States*, 404 F.2d 1367 (10th Cir. 1969):
Defendant's challenge that Fort Sill, place where he stole an automobile, was not within U.S. jurisdiction was denied.

10. *United States v. Carter*, 430 F.2d 1278 (10th Cir. 1970):
Defendant was convicted of assault with deadly weapon which occurred at Lowry A.F.B. Held, court could take judicial notice that property was within U.S. jurisdiction.

11. *McQueary v. Laird*, 449 F.2d 608 (10th Cir. 1971):
The U.S. stored chemical agents at Rocky Mountain Arsenal and residents of area complained. Court dismissed suit, but discussed jurisdictional principles.

12. *United States v. City of Leavenworth*, 443 F.Supp. 274 (D.Kan. 1977):
Kansas power company had imposed on it exactions relating to providing power to customers, including the U.S. penitentiary at Fort Leavenworth. The U.S. objected, but court held fees could be applied, as it was not impermissible tax on U.S. property.

13. *United States v. Cassidy*, 571 F.2d 534 (10th Cir. 1978):
Defendant, inmate at F.C.I. in Englewood, attempted escape and was prosecuted. His jurisdictional challenge was not upheld, the court finding U.S. ownership and state cession; acceptance was not required for this property bought in 1938.

14. *United States v. Seward*, 687 F.2d 1270 (10th Cir. 1983):
Defendant convicted of trespass at U.S. nuclear power plant; court upheld convictions on property clause grounds.

ELEVENTH CIRCUIT:

The Fifth Circuit cases have precedence in the Eleventh Circuit.

SUPREME COURT JURISDICTION CASES:

1. *Reily v. Lamar*, 2 Cranch 344 (1804):
Person living in Maryland at time of creation of Washington, D.C., became a D.C. resident by remaining there, and was no longer a state resident.
2. , 16 U.S. (3 Wheat.) 336 (1818):
Murder committed on U.S. warship in Boston harbor held to be within jurisdiction of the state and not that of the United States.
3. *New Orleans v. United States*, 35 U.S. (10 Pet.) 662 (1836):
Both parties claimed ownership to land; court held that city was owner.
4. , 44 U.S. (3 How.) 212 (1845):
Contest over title to real property adjacent Mobile Bay.
5. *United States v. Erie Ry. Co.*, 106 U.S. 327, 333, 1 S.Ct. 223 (1882):
Federal tax case, no important principle within majority opinion. However, Justice Field wrote in his dissent:

"The power of the United States to tax is limited to persons, property, and business within their jurisdiction, as much as that of a state is limited to the same subjects within its jurisdiction."
6. , 114 U.S. 525, 5 S.Ct. 995 (1885):
Court held that the state could tax railroad company's property inside Fort Leavenworth enclave due to fact that state reserved power to tax in cession act.
7. , 114 U.S. 542, 5 S.Ct. 1005 (1885):
Railroad company's train passing through Fort Leavenworth enclave struck and killed McGlenn's cow. State law at time of cession required railroads to fence rights-of-way. Court held state law in existence at time of cession applied to enclave.
8. , 146 U.S. 325, 13 S.Ct. 60 (1892):
Benson convicted of murder committed at Fort Leavenworth; he contended that U.S. had no jurisdiction over fort for part not used for military purposes. But, court held that U.S. had jurisdiction over all property owned by the U.S.
9. *Palmer v. Barrett*, 162 U.S. 399, 16 S.Ct. 837 (1896):
The U.S. had jurisdiction over Brooklyn Navy Yard, but leased part thereof to New York City for a market. City subleased market spaces and this was state court action regarding dispute between two tenants. Court held state court had subject matter jurisdiction since act of cession applied only as long as the U.S. used

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property for government purposes, and the U.S. lease to city caused reversion of state jurisdiction.

10. *Camfield v. United States*, 167 U.S. 518, 17 S.Ct. 864 (1897):

Railroad owned all odd sections and U.S. owned all even sections in two townships. Camfield fenced around outside of both townships, thus getting benefits of government lands. Court held that fences had to be torn down. It held that U.S., as proprietor of its own lands, could regulate use of its lands via police powers.

11. *Hamburg American Steamship Co. v. Grube*, 196 U.S. 407, 25 S.Ct. 352 (1905):

Suit for wrongful death occurring in New York harbor as result of ship collision. In vicinity, the U.S. owned Sandy Hook, and ship company claimed that state law did not apply at place of collision. Court affirmed state court judgment, finding that Sandy Hook cession did not likewise include cession over waters.

12. , 209 U.S. 36, 28 S.Ct. 422 (1908):

The U.S. bought land for site of post office and courthouse and state ceded jurisdiction. Battle was convicted of murder which occurred during construction, and he argued that the U.S. had no jurisdiction over this offense. Court held that the U.S. had jurisdiction.

13. , 214 U.S. 274, 29 S.Ct. 613 (1909):

Navy gunner at Norfolk Navy Yard sued telegraph company to recover penalty permitted by state law for failure to deliver telegram. Court held that this state law had no application within U.S. jurisdiction.

14. *Holt v. United States*, 218 U.S. 245, 31 S.Ct. 2 (1910):

Indictment charging murder within U.S. jurisdiction held sufficient.

15. *United States v. Grimaud*, 220 U.S. 506, 31 S.Ct. 480 (1911):

The U.S. owned grazing lands in public domain; grazing was regulated via requirement to obtain permit. Grimaud grazed without permit and was indicted. Court held regulations applying to federal property valid. See also *Light v. United States*, 220 U.S. 523, 31 S.Ct. 485 (1911).

16. *Western Union Telegraph Co. v. Brown*, 234 U.S. 542, 34 S.Ct. 955 (1914):

Brown, in D.C., did not receive telegram informing of sister's death; he sued in state to recover damages for non-delivery in D.C. Court held suit could not be based on state law for tort committed in U.S. jurisdiction.

17. *Omaechevarria v. State of Idaho*, 246 U.S. 343, 346, 38 S.Ct. 323 (1918):

Idaho law with penal provisions regulating grazing held applicable to federal rangelands.

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"[T]he police power of the state extends over the federal public domain, at least when there is no legislation by Congress on the subject."

18. *Rodman v. Pothier*, 264 U.S. 399, 44 S.Ct. 360 (1924):

The U.S. indicted Pothier for murder committed in Washington State at Camp Lewis; he was arrested in Rhode Island and instituted a habe arguing that Camp Lewis, at the time of offense, was only within state's jurisdiction. Court held that only district court in Washington could make such determination, not court in Rhode Island.

19. *Colorado v. Toll*, 268 U.S. 228, 45 S.Ct. 505 (1925):

State complained in federal court that superintendent of Rocky Mountain National Park was, pursuant to regulations, seeking to enforce the same in derogation of rights of state within the park, especially over roads in the park. State contended that it had never ceded jurisdiction of lands in Park to the U.S. The district court dismissed complaint, but Supreme Court reversed; at issue was state cession of jurisdiction.

20. *Arlington Hotel Co. v. Fant*, 278 U.S. 439, 49 S.Ct. 227 (1929):

The U.S. owned lands at Hot Springs National Park and hotel was built there. In 1903, state law provided that in event of fire an innkeeper was insurer of guest's property; the state ceded jurisdiction of park to U.S. in 1903. Here, there was a fire and property loss at hotel for which injured parties recovered judgment. Court affirmed, holding that law in existence at time of cession, and not law enacted thereafter, applied.

21. , 281 U.S. 138, 50 S.Ct. 284 (1930):

Unzeuta was indicted for murder committed on freight car, event occurring at Fort Robinson in Nebraska. He was successful in district court on his challenge to federal jurisdiction. But, the court reversed, holding that the railroad right-of-way was within U.S. jurisdiction, the state having ceded complete jurisdiction of fort to the U.S.

22. *Surplus Trading Co. v. Cook*, 281 U.S. 647, 50 S.Ct. 455 (1930):

Arkansas county sought to impose tax on personal property of company located within Camp Pike, in U.S. jurisdiction. Court reversed state supreme court decision permitting the tax; court held that the state had no jurisdiction to tax this property within U.S. jurisdiction.

23. *Standard Oil Co. v. California*, 291 U.S. 242, 54 S.Ct. 381 (1934):

Oil company sold and delivered oil to Presidio, within U.S. jurisdiction. Court held that the state had no jurisdiction to lay this tax.

24. *...*, 291 U.S. 315, 54 S.Ct. 432 (1934):

Puget Sound Navy Yard owned by U.S. was ceded by state to U.S. in 1891. State adopted workmen's comp. law in 1911. Here, estate of decedent killed at Navy Yard sought remedy under comp. law. Held, comp. law didn't apply in U.S. jurisdiction.

25. *James v. Dravo Contracting Co.*, 302 U.S. 134, 58 S.Ct. 208 (1937):

Dravo obtained contract from U.S. to build dams on rivers in West Virginia. State sought tax on gross amounts of contracts and company sued in federal court to restrain collection, and obtained injunction. Court reversed and held that tax could be imposed for work performed in the state because the state statute reserved "concurrent jurisdiction" over federally owned lands.

26. *Silas Mason Co. v. Tax Commission of State of Washington*, 302 U.S. 186, 58 S.Ct. 233 (1937):

Mason had contract to build parts of Grand Coulee Dam on Columbia River and sued in state court to enjoin state's effort to collect income tax, the argument being based upon an alleged lack of state jurisdiction. Court agreed with state supreme court that state cession statute was in this situation inapplicable to confer jurisdiction to U.S. for lands acquired for project; further, court found that evidence disclosed that U.S. did not accept jurisdiction over lands. Finding state jurisdiction, the tax was upheld.

27. *Atkinson v. State Tax Commission of Oregon*, 303 U.S. 20, 58 S.Ct. 419 (1938):

Atkinson had contract to build part of Bonneville Dam on Columbia River in Oregon and challenged state income tax on jurisdictional grounds. Court upheld tax, finding that contractor's work was performed on property not owned by U.S., and on property owned by U.S., but for which the U.S. had not adequately demonstrated acceptance of jurisdiction, this being based on construction of state cession statute.

28. *Collins v. Yosemite Park & Curry Co.*, 304 U.S. 518, 58 S.Ct. 1009 (1938):

State had ceded jurisdiction of park to U.S., but one act reserved right to tax. The park company sued to enjoin state's effort to collect tax on alcoholic beverages, alleging that state had no tax jurisdiction. The district court granted injunction and state appealed. Court reversed, holding that state in its cession act reserved right to tax and state taxes could be collected from park company; but, regulatory provisions of tax acts could not be enforced inside the park.

29. *...*, 306 U.S. 19, 59 S.Ct. 442 (1939):

Bowen was convicted of murder at Chickamauga and Chattanooga National Park in Georgia, with park being in U.S. jurisdiction. He was incarcerated at Alcatraz and brought a habe seeking his release on grounds that the U.S. had no jurisdiction

at the park. The court, however, denied his release, finding both U.S. ownership and state cession for park.

30. *James Stewart & Co. v. Sadrakula*, 309 U.S. 94, 60 S.Ct. 431 (1940):
Decedent was working on federal post office site, and state law required certain things regarding construction. This law was not followed at this site and as a result, his death occurred. Suit for wrongful death based on negligence via violating state law was instituted and recovery obtained. Court held that this state labor law, in existence at the time of state cession for post office, applied within enclave.

31. , 318 U.S. 261, 63 S.Ct. 617 (1943):
State law regulated sales of milk and provided penalties; Penn Dairies sold milk at below lawful price to Army camp built on lands leased from state. Court upheld imposition of state penalty, there being no federal jurisdiction.

32. , 318 U.S. 285, 63 S.Ct. 628 (1943):
State law regulated sales price for milk and imposed penalties. Pacific Coast sold milk to Moffett Field at price below regulated price and state sought to impose penalty. Court held that since Moffett Field was in U.S. jurisdiction, penalty could not be imposed.

33. , 319 U.S. 312, 63 S.Ct. 1122 (1943):
Court held that since U.S. had not accepted jurisdiction over Camp Claiborne, the U.S. could not prosecute for rape committed there.

34. *Johnson v. Yellow Cab Transit Co.*, 321 U.S. 383, 64 S.Ct. 622 (1944):
Liquor in transit to Fort Sill was seized by state officials, and carrier sued to recover the liquor; district court granted relief and state appealed. Court held state law making it illegal to transport liquor into state without a permit had no application to shipment destined for Fort Sill, a place in U.S. jurisdiction.

35. *Wilson v. Cook*, 327 U.S. 474, 66 S.Ct. 663 (1946):
Wilson's partnership had contract to cut timber off U.S. lands and state sought to impose a severance or license tax. Some of federal lands had no cession of state jurisdiction; other lands were subject of state cession of "concurrent jurisdiction". Court upheld the tax, stating the state had territorial jurisdiction to impose it.

36. *S.R.A. v. Minnesota*, 327 U.S. 558, 66 S.Ct. 749 (1946):
The U.S. owned post office and had jurisdiction over it; U.S. sold it in 1939 by conditional sale contract. Buyer objected to 1940 real property tax and argued that property was outside state's taxing jurisdiction. Court held, however, that when U.S. sold the property, state obtained jurisdiction and tax could be imposed.

37. , 344 U.S. 624, 73 S.Ct. 465 (1953):

The U.S. bought property for ordnance plant in 1940 and state ceded jurisdiction to U.S. Louisville then annexed property to city and sought to impose license tax on employees at the plant, who then sued in state court to enjoin collection of tax on jurisdictional grounds. Here, the court sustained the tax as valid on basis of Buck Act.

38. Offutt Housing Co. v. County of Sarpy, 351 U.S. 253, 76 S.Ct. 814 (1956):

State housing corporation built apartments on property of U.S. located at Offutt A.F.B. in Nebraska, which was in U.S. jurisdiction. County sought to tax leasehold interest of corporation, who objected on jurisdiction grounds. The court found the tax valid pursuant to Congressional legislation permitting state taxation of these facilities on federal land.

39. Paul v. United States, 371 U.S. 245, 83 S.Ct. 426 (1963):

California's milk control law set minimum price for milk and penalized sales below official price. The U.S. sued to enjoin enforcement of state law insofar as the same applied to three military bases, the U.S. contending state law didn't apply in areas of its exclusive jurisdiction. Court held that federal regulations required competitive bidding for U.S. purchases from appropriated funds, thus the regulations overrode state law. But, regarding purchases of milk from non-appropriated funds, in cases of clubs and post exchanges, state law could apply if it were in effect at time the U.S. acquired lands in question.

40. Humble Pipe Line Co. v. Waggonner, 376 U.S. 369, 84 S.Ct. 857 (1964):

The U.S. acquired in 1930 lands for Barksdale A.F.B. in Louisiana, and state ceded jurisdiction without reservation to tax. Thereafter, lands at base were leased to produce oil and gas and state sought to impose tax. Court held, however, the state had no jurisdiction to tax this property outside its jurisdiction.

41. United States v. State Tax Commission of Mississippi, 412 U.S. 363, 93 S.Ct. 2183 (1973):

Mississippi commission had regulation requiring foreign liquor distillers and others to collect and send to state a markup on liquor sold to officers' clubs and other places on U.S. bases in Mississippi. The U.S. brought suit to challenge validity of regulation's application to two bases in exclusive jurisdiction of U.S. and another two only in concurrent jurisdiction. Court held the state regulation inapplicable to the two bases in exclusive jurisdiction of the U.S.; as to the two subject to concurrent jurisdiction, the issue was sent back to district court.

42. McClanahan v. State Tax Comm. of Arizona, 411 U.S. 164, 93 S.Ct. 1257 (1973):

Arizona sought to impose income tax on Indian living on reservation even though

TREASURY DEPARTMENT ORDERS

Back in the late 1930s and early 1940s, federal officials realized that government agencies which had their structures and functions arranged by statutes were cumbersome and inefficient. For example, a statute could dictate that a certain office, officer or employee had a particular duty to perform, yet in practice that office or individual could either have little to do or lots. Parts of an agency could be understaffed and overworked, while different branches of the same agency could be overstaffed and underemployed. To improve efficiency, a new management approach was devised so that the department heads could streamline their agencies and make them more efficient. This required abandonment of using statutes to define the structure and duties of an agency; and it mandated delegating authority to agency heads to "reorganize" the various federal agencies. Pursuant to "reorganization acts" adopted by Congress, this was authorized. Contrary to certain beliefs held by some, these reorganization plans had nothing to do with some scheme of "national bankruptcy."

Pursuant to the Reorganization Act of 1949, 5 U.S.C., §§ 901, et. seq., Reorganization Plan No. 26 of 1950 was adopted on May 31, 1950, and this plan reorganized the Department of the Treasury in the following manner:

"Section 1. Transfer of functions to the Secretary [T]here are hereby transferred to the Secretary of the Treasury all functions of all other officers of the Department of the Treasury and all functions of all agencies and employees of such Department.

"Section 2. Performance of functions of Secretary. The Secretary of the Treasury may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Treasury of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan."

See Plan at 1950 U.S. Code Congressional Service 1467. Thus as a direct result of Plan No. 26, all duties and functions set forth in the 1939 Internal Revenue Code and other congressional revenue acts were delegated to the Secretary, leaving in him the duty of assigning functions and tasks to those under his control.

The 1954 Internal Revenue Code adopted this management approach embodied within Plan No. 26 and memorialized it via statute; see 26 U.S.C., §§ 7801 and 7802. Under that Code, the authority to administer and enforce the Code was vested in the hands of the Secretary of the Treasury, who had to delegate to the Commissioner of Internal Revenue and his subordinates similar authority. Consequently, the authority of all Treasury officers and employees below that of the Secretary depends upon either Treasury

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Department Orders ("TDOs") or duly promulgated agency regulations. Both TDOs and regulations are the typical vehicles for delegating authority to subordinates.

Those TDOs issued by the Secretary since Plan No. 26 are found within the "150 series" cited in the below list, which provides the place of publication for each order as well as its date:

(1) T.D.O. 150-1, 17 Fed. Reg. 4590 (May 8, 1952)

Re: Assistant General Counsel for Bureau

(2) T.D.O. 150-2, 17 Fed. Reg. 4590 (May 15, 1952)

Re: Delegation of functions to CIR

(3) T.D.O. 150-3, 17 Fed. Reg. 4590 (May 15, 1952)

Re: Chicago District

(4) T.D.O. 150-4, 17 Fed. Reg. 5776 (June 23, 1952)

Re: New York City District

(5) T.D.O. 150-5, 17 Fed. Reg. 7160 (July 29, 1952)

Re: National Office reorganization and title changes

(6) T.D.O. 150-6, 17 Fed. Reg. 8128 (Sept. 4, 1952)

Re: Baltimore District

(7) T.D.O. 150-7, 17 Fed. Reg. 8490 (Sept. 17, 1952)

Re: Buffalo District

(8) T.D.O. 150-8, 17 Fed. Reg. 8880 (Sept. 29, 1952)

Re: Boston District

(9) T.D.O. 150-9, 17 Fed. Reg. 9226 (Oct. 8, 1952)

Re: St. Paul District

(10) T.D.O. 150-10, 17 Fed. Reg. 9227 (Oct. 9, 1952)

Re: Chicago District includes Wisconsin

(11) T.D.O. 150-11, 17 Fed. Reg. 9591 (Oct. 8, 1952)

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Re: Atlanta District

(12) T.D.O. 150-12, 17 Fed. Reg. 9592 (Oct. 8, 1952)

Re: Louisville District

(13) T.D.O. 150-13, 17 Fed. Reg. 9827 (Oct. 28, 1952)

Re: Seattle District

(14) T.D.O. 150-14, 17 Fed. Reg. 10390 (Nov. 7, 1952)

Re: Philadelphia District

(15) T.D.O. 150-15, 17 Fed. Reg. 10518 (Nov. 14, 1952)

Re: St. Louis District

(16) T.D.O. 150-16, 17 Fed. Reg. 10518 (Nov. 14, 1952)

Re: Dallas District

(17) T.D.O. 150-17, 17 Fed. Reg. 10574 (Nov. 17, 1952)

Re: Graham as Acting CIR

(18) T.D.O. 150-18, 17 Fed. Reg. 10603 (Nov. 18, 1952)

Re: Birmingham District

(19) T.D.O. 150-19, 17 Fed. Reg. 10710 (Nov. 21, 1952)

Re: Denver District

(20) T.D.O. 150-20, 17 Fed. Reg. 10747 (Nov. 21, 1952)

Re: Los Angeles District

(21) T.D.O. 150-21, 17 Fed. Reg. 10834 (Nov. 21, 1952)

Re: Cleveland District

(22) T.D.O. 150-22, 17 Fed. Reg. 10834 (Nov. 21, 1952)

Re: Detroit District

(23) T.D.O. 150-23, 18 Fed. Reg. 555 (Jan. 20, 1953)

Re: Winkle as Acting CIR

Treasury Department Orders

(24) T.D.O. 150-24, 18 Fed. Reg. 2152 (April 10, 1953)

Re: Reorganization of few National Offices

(25) T.D.O. 150-25, 18 Fed. Reg. 3238 (June 1, 1953)

Re: Section 3761 compromise authority to CIR

(26) T.D.O. 150-26, 18 Fed. Reg. 3499 (June 15, 1953)

Re: District Comm. changed to Regional Comm.

(27) T.D.O. 150-27, unpublished.

(28) T.D.O. 150-28, 18 Fed. Reg. 4183 (July 6, 1953)

Re: Authority to certify assessment lists

(29) T.D.O. 150-29, unpublished.

(30) T.D.O. 150-30, unpublished.

(31) T.D.O. 150-31, unpublished.

(32) T.D.O. 150-32, 18 Fed. Reg. 7518 (Nov. 18, 1953)

Re: Closing agreement authority to CIR

(33) T.D.O. 150-33, 18 Fed. Reg. 7803 (Nov. 27, 1953)

Re: Authority to abate jeopardy

(34) T.D.O. 150-34, unpublished.

(35) T.D.O. 150-35, 19 Fed. Reg. 1776 (March 25, 1954)

Re: Authority to inspect returns

(Rev. 1), 24 Fed. Reg. 3960, 1959-1 CB 767 (May 8, 1959)

(36) T.D.O. 150-36, 19 Fed. Reg. 5411, 1954-2 C.B. 733

Re: General delegation re '54 Code (Aug. 17, 1954)

(37) T.D.O. 150-37, unpublished.

(38) T.D.O. 150-38, unpublished.

(39) T.D.O. 150-39, 20 Fed. Reg. 4522 (June 22, 1955)

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Re: Addition to L.A. District

Rev., 48 Fed. Reg. 16160, 1983-1 CB 801 (Mar. 28, 1983)

(40) T.D.O. 150-40, 20 Fed. Reg. 6105 (Aug. 16, 1955)

Re: Bonding of IRS employees

(41) T.D.O. 150-41, 21 Fed. Reg. 1111, 1956-1 C.B. 1009

Re: Approval of tax regulations (Feb. 13, 1956)

(42) T.D.O. 150-42, 21 Fed. Reg. 5852, 1956-2 C.B. 1367

Re: Canal Zone and possessions (July 27, 1956)

(43) T.D.O. 150-43, 21 Fed. Reg. 8149, 1956-2 C.B. 1367

Re: National Office change (Oct. 5, 1956)

(44) T.D.O. 150-44, 21 Fed. Reg. 9946, 1956-2 C.B. 1368

Re: National Office change (Nov. 16, 1956)

(45) T.D.O. 150-45, 22 Fed. Reg. 3022, 1957-1 C.B. 717

Re: Regs for Federal Firearms Act (April 22, 1957)

(Rev. 1), 33 Fed. Reg. 17856, 1968-2 C.B. 965;

(Rev. 2), 35 Fed. Reg. 16660, 1970-2 C.B. 645.

(46) T.D.O. 150-46, 23 Fed. Reg. 3676, 1958-1 C.B. 679

Re: New National Office (May 19, 1958)

(47) T.D.O. 150-47, 23 Fed. Reg. 7711, 1958-2 C.B. 1085

Re: Delk as Acting CIR (Sept. 27, 1958)

(48) T.D.O. 150-48, 23 Fed. Reg. 8735, 1958-2 C.B. 1085

Re: Latham as CIR (Nov. 5, 1958)

(49) T.D.O. 150-49, 24 Fed. Reg. 9948, 1960-1 C.B. 859

Re: Manhattan District (Nov. 25, 1959)

(50) T.D.O. 150-50, 24 Fed. Reg. 10083, 1960-1 C.B. 859

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Re: Alteration of few districts (Dec. 3, 1959)

(51) T.D.O. 150-51, unpublished.

(52) T.D.O. 150-52, 25 Fed. Reg. 8759, 1960-2 C.B. 917

Re: Offices in National Office (Sept. 1, 1960)

(53) T.D.O. 150-53, 25 Fed. Reg. 12756, 1961-1 C.B. 859

Re: Reorganization of few districts (Dec. 7, 1960)

(54) T.D.O. 150-54, 26 Fed. Reg. 626, 1961-1 C.B. 859

Re: Fox as Acting CIR (Jan. 19, 1961)

(55) T.D.O. 150-55, 26 Fed. Reg. 800, 1961-1 C.B. 860

Re: Delegations re Guam and Samoa (Jan. 19, 1961)

Revoked, 40 Fed. Reg. 10198, 1975-1 C.B. 758.

(56) T.D.O. 150-56, 26 Fed. Reg. 8953, 1961-2 C.B. 544

Re: National Office changes (Sept. 15, 1961)

(57) T.D.O. 150-57, 28 Fed. Reg. 2313, 1963-1 C.B. 425

Re: Changes in Regions (March 4, 1963)

(58) T.D.O. 150-58, 28 Fed. Reg. 5219, 1963-1 C.B. 427

Re: Changes in Regions (May 17, 1963)

(59) T.D.O. 150-59, 29 Fed. Reg. 2562, 1964-1 C.B. 605

Re: Redesignation of Regions (Feb. 11, 1964)

(60) T.D.O. 150-60, 29 Fed. Reg. 7430, 1964-2 C.B. 900

Re: Delegations to CIR (June 3, 1964)

(61) T.D.O. 150-61, 29 Fed. Reg. 9634, 1964-2 C.B. 900

Re: Harding as Acting CIR (July 10, 1964)

(62) T.D.O. 150-62, 29 Fed. Reg. 14798, 1964-2 C.B. 901

Re: delegations to CIR (Oct. 26, 1964)

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(63) T.D.O. 150-63, 29 Fed. Reg. 14861, 1964-2 C.B. 901

Re: Changes in few districts (Oct. 23, 1964)

(64) T.D.O. 150-64, unpublished.

(65) T.D.O. 150-65, 30 Fed. Reg. 65, 1965-2 C.B. 861

Re: Changes in Region (Jan. 4, 1965)

(66) T.D.O. 150-66, unpublished.

(67) T.D.O. 150-67, 33 Fed. Reg. 15449, 1968-2 C.B. 966

Re: Del. to CIR re firearms laws (Oct. 11, 1968)

(68) T.D.O. 150-68, 34 Fed. Reg. 1214, 1969-1 C.B. 465

Re: Smith as Acting CIR (Jan. 17, 1969)

(69) T.D.O. 150-69, 1975-2 C.B. 606 (March 14, 1969)

Re: IRS employees

Revised, ____ Fed. Reg. _____, 1980-1 C.B. 717

(70) T.D.O. 150-70, 34 Fed. Reg. 8170, 1969-1 C.B. 465

Re: Interest equalization tax (March 20, 1969)

(71) T.D.O. 150-71, 1971-2 C.B. 578 (Jan. 8, 1971)

Re: Economic Opportunity Act

(72) T.D.O. 150-72, unpublished.

(73) T.D.O. 150-73, 36 Fed. Reg. 12177, 1971-2 C.B. 579

Re: Swartz as Acting CIR (June 22, 1971)

(74) T.D.O. 150-74, 36 Fed. Reg. 12996, 1971-2 C.B. 579

Re: National Office changes (June 30, 1971)

(75) T.D.O. 150-75, 36 Fed. Reg. 16947 (Aug. 19, 1971)

Re: Em. Preparedness Ec. Stab. Order No. 1

(76) T.D.O. 150-76, 36 Fed. Reg. 22188 (Nov. 13, 1971)

Re: Wage and price controls

(77) T.D.O. 150-77, 37 Fed. Reg. 5513 (March 9, 1972)

Re: Wage and price controls

(78) T.D.O. 150-78, unpublished.

(79) T.D.O. 150-79, 37 Fed. Reg. 18481 (Sept. 5, 1972)

Re: Pay Board

(80) T.D.O. 150-80, 37 Fed. Reg. 28641 (Dec. 12, 1972)

Re: Wage and price controls

(81) T.D.O. 150-81, 38 Fed. Reg. 12136, 1973-1 C.B. 846

Re: Harless as Acting CIR (May 3, 1973)

(82) T.D.O. 150-82, unpublished.

(83) T.D.O. 150-83, 38 Fed. Reg. 23543, 1973-2 C.B. 508

Re: Competent or Taxation Authority (Aug. 21, 1973)

(84) T.D.O. 150-84, unpublished.

(85) T.D.O. 150-85, 41 Fed. Reg. 50523, 1976-2 C.B. 678

Re: National Office changes (Nov. 5, 1976)

(86) T.D.O. 150-86, 42 Fed. Reg. 2151, 1977-1 C.B. 590

Re: N. Mariana SS tax (Dec. 31, 1976)

(87) T.D.O. 150-87, 42 Fed. Reg. 40068, 1977-2 C.B. 584

Re: Tax checks of officials (July 29, 1977)

T.D.O. 150-87A, ___ Fed. Reg. ___, 1978-2 C.B. 568.

(88) T.D.O. 150-88, 42 Fed. Reg. 61700, 1978-1 C.B. 598

Re: Immunity orders (Nov. 29, 1977)

(89) T.D.O. 150-89, unpublished.

(90) T.D.O. 150-90, 43 Fed. Reg. 12984, 1978-1 C.B. 598

Re: National Office changes (Jan. 31, 1978)

(91) T.D.O. 150-91, unpublished.

(92) T.D.O. 150-92, 1979-2 C.B. 601 (March 29, 1979)

Re: Outer Continental Shelf Act

(93) T.D.O. 150-93, 46 Fed. Reg. 30746, 1981-2 C.B. 732

Re: Transfer of office (June 29, 1981)

(94) T.D.O. 150-94, 46 Fed. Reg. 45239 (Nov. 14, 1981)

Re: Houston District

(95) T.D.O. 150-95, 47 Fed. Reg. 3464, 1982-1 C.B. 510

Re: Reorg. of National Office (Jan. 11, 1982)

(96) T.D.O. 150-96, 47 Fed. Reg. 13267, 1982-1 C.B. 511

Re: F.O.D. created (March 15, 1982)

(97) T.D.O. 150-98, 47 Fed. Reg. 44459 (Sept. 14, 1982)

Re: Del. to CIR re W.Va.P.S.C.

(98) T.D.O. 150-106, 1985-2 C.B. 758 (Feb. 8, 1985)

Re: Change from Reno to Vegas

(99) T.D.O. 150-01, 51 Fed. Reg. 9571, 1986-1 C.B. 686

Re: designation of districts (Feb. 27, 1986)

(100) T.D.O. 150-02, 51 Fed. Reg. 9573, 1986-1 C.B. 688

Re: National Office changes (Feb. 27, 1986)

(101) T.D.O. 150-02, 51 Fed. Reg. 30022, 1986-2 C.B. 747

Re: National Office changes (July 30, 1986)

The following are the TDOs regarding creation of the BATF:

(102) T.D.O. 221, 37 Fed. Reg. 11696, 1972-1 C.B. 777

Re: Creation of BATF (June 6, 1972)

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(103) T.D.O. 221-3, 40 Fed. Reg. 6516, 1975-1 C.B. 759

Re: BATF (Dec. 24, 1974)

(104) T.D.O. 221-3 (Rev. 1), 41 Fed. Reg. 10079, 1976-1 C.B. 584

Re: BATF (Feb. 21, 1976)

(105) T.D.O. 221-3 (Rev. 2), 42 Fed. Reg. 3725, 1977-1 C.B. 591

Re: BATF (Jan. 14, 1977).

The above list provides most of the cites where these orders were published in the Federal Register. However to compile this list, my primary source was the Cumulative Bulletin and I acquired the Federal Register cite from the CB. In those instances where the CB did not list the Federal Register citation, I was able in some situations to obtain the Federal Register cite

It must be noted that many of these TDOs have apparently been repealed or revoked, but efforts to locate a cite for any order where such action occurred have been unsuccessful. It must likewise be remembered that only some 30+ of these orders are in effect currently, and these have been renumbered by Treasury and the renumbered TDOs have not been published in either the Federal Register or Cumulative Bulletin.

To understand the importance of this list, you must know about the federal Administrative Procedure Act ("APA"); a brief about the APA is enclosed with this brief.

COMMISSIONER'S DELEGATION ORDERS

Below is a list of every Commissioner's Delegation Order ("CDO") which was published in the Cumulative Bulletin from 1954 to about 1990. Data concerning whether the particular CDO in question also appears in the current IRM 1229 is also provided. Those CDOs which have a number symbol (#) on the left indicate those CDOs which are not currently published in IRM 1229, indicating that the particular CDO has been revoked or might possibly apply to a different tax collection unit. Those which have an asterik (*) appearing on the left are those for which the currently effective revision has not been published in either the Federal Register or Cumulative Bulletin. Those having neither a number symbol or asterik are those which have been published and likewise appear in the current IRM 1229, the same being CDOs No. 4, 11, 23, 51, 93, 109, 114, 130, 137, 139, 143, 153, 155, 156, 157, 179, 180, 191, 193, 196, 197, 200, 203, 209, 222, 226 and 232. The list below does not cite a very important amendment made to some 57 CDOs via the publication of an order in the Federal Register for May 23, 1986, 51 Fed. Reg. 18989.

#1. Duties of the Deputy Commissioner.

CDO No. 1, __ Fed. Reg. _____, 1955-2 CB 893.

#2. Authority to communicate with Swedish finance minister.

CDO No. 2, 20 Fed. Reg. 3044, 1955-2 CB 893.

CDO No. 2: Revoked, 30 Fed. Reg. 15440, 1966-1 CB 587.

#3. Designation to act as Commissioner of Internal Revenue.

CDO No. 3, 20 Fed. Reg. 3833, 1955-2 CB 893.

CDO No. 3 (Rev. 1), 39 Fed. Reg. 33714, 1974-2 CB 463.

CDO No. 3 (Rev. 2), 40 Fed. Reg. 33247, 1975-2 CB 537.

CDO No. 3 (Rev. 3), 43 Fed. Reg. 29644, 1978-2 CB 463.

4. Authority to issue summonses, admin. oaths, et cet.

CDO No. 4, 20 Fed. Reg. 4143, 1955-2 CB 894.

CDO No. 4 (Rev.), 22 Fed. Reg. 3894, 1957-1 CB 718.

CDO No. 4 (Rev. 2), 38 Fed. Reg. 12136, 1973-1 CB 743.

CDO No. 4 (Rev. 3), __ Fed. Reg. _____, 1975-2 CB 537.

CDO No. 4 (Rev. 4), 42 Fed. Reg. 42915, 1977-2 CB 495.

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CDO No. 4 (Rev. 5), 43 Fed. Reg. 30005, 1978-2 CB 463.

CDO No. 4 (Rev. 6), 43 Fed. Reg. 45663, 1978-2 CB 465.

CDO No. 4 (Rev. 7), 44 Fed. Reg. 5236, 1979-1 CB 470.

CDO No. 4 (Rev. 8), 44 Fed. Reg. 23147, 1979-1 CB 472.

CDO No. 4 (Rev. 9), 44 Fed. Reg. 38694, 1979-2 CB 479.

CDO No. 4 (Rev. 10), 45 Fed. Reg. 5879, 1980-1 CB 569.

CDO No. 4 (Rev. 11), 45 Fed. Reg. 47778, 1980-2 CB 752.

CDO No. 4 (Rev. 12), 46 Fed. Reg. 25381, 1981-2 CB 539.

CDO No. 4 (Rev. 13), __ Fed. Reg. _____, 1982-1 CB 331.

CDO No. 4 (Rev. 14), 48 Fed. Reg. 32426, 1983-2 CB 405.

CDO No. 4 (Rev. 15), 49 Fed. Reg. 13946, 1984-2 CB 467.

CDO No. 4 (Rev. 19), 54 Fed. Reg. 3718, 1989-2 CB 370.

CDO No. 4 (Rev. 20), 55 Fed. Reg. 7626, 1990-1 CB 294.

*5. Order of succession.

CDO No. 5, 20 Fed. Reg. 4227, 1955-2 CB 894.

CDO No. 5 (Rev.), 24 Fed. Reg. 6697, 1959-2 CB 907.

CDO No. 5 (Rev. 2), 25 Fed. Reg. 10604, 1960-2 CB 917.

CDO No. 5 (Rev. 3), 27 Fed. Reg. 7504, 1962-2 CB 395.

CDO No. 5 (Rev. 4), 28 Fed. Reg. 3218, 1963-1 CB 429.

CDO No. 5 (Rev. 5), 29 Fed. Reg. 11470, 1964-2 CB 902.

CDO No. 5 (Rev. 6), 36 Fed. Reg. 19983, 1971-2 CB 524.

CDO No. 5 (Rev. 7), 39 Fed. Reg. 33714, 1974-2 CB 463.

CDO No. 5 (Rev. 8), 40 Fed. Reg. 33248, 1975-2 CB 538.

CDO No. 5 (Rev. 9), 43 Fed. Reg. 29645, 1978-2 CB 466.

CDO No. 5 (Rev. 10), __ Fed. Reg. _____, 1982-1 CB 332.

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#6. Authorizations re § 3504 withholding agents.

CDO No. 6, 20 Fed. Reg. 4661, 1955-2 CB 895.

CDO No. 6 (Rev.), 22 Fed. Reg. 7082, 1957-2 CB 1088.

CDO No. 6 (Rev. 2), 25 Fed. Reg. 6486, 1960-2 CB 918.

#7. Authority to grant extensions (corporate estimated income tax).

CDO No. 7, 20 Fed. Reg. 7083, 1955-2 CB 896.

CDO No. 7: Revoked, 25 Fed. Reg. 3599, 1960-1 CB 860.

*8. Authority to sign agreements re personal holding companies.

CDO No. 8, __ Fed. Reg. ____, 1955-2 CB 896.

CDO No. 8 (Rev. 1), 32 Fed. Reg. 11646, 1967-2 CB 597.

CDO No. 8 (Rev. 2), 33 Fed. Reg. 4111, 1968-1 CB 735.

CDO No. 8 (Rev. 3), 34 Fed. Reg. 17200, 1969-2 CB 281.

CDO No. 8 (Rev. 4), 35 Fed. Reg. 18332, 1971-1 CB 653.

CDO No. 8 (Rev. 5), 43 Fed. Reg. 29645, 1978-2 CB 467.

CDO No. 8 (Rev. 6), 43 Fed. Reg. 45487, 1978-2 CB 467.

CDO No. 8 (Rev. 7), 44 Fed. Reg. 5238, 1979-1 CB 473.

CDO No. 8 (Rev. 8), __ Fed. Reg. ____, 1982-1 CB 333.

*9. Use of government owned automobiles.

CDO No. 9, not published.

#10. (Title unknown).

CDO No. 10, not published.

11. Authority to accept or reject offers in compromise.

CDO No. 11, __ Fed. Reg. ____, 1956-1 CB 1010.

CDO No. 11 (Rev.), 25 Fed. Reg. 3766, 1960-2 CB 919.

CDO No. 11 (Rev. 2), 27 Fed. Reg. 357, 1962-1 CB 396.

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- CDO No. 11 (Rev. 3), 28 Fed. Reg. 6836, 1963-2 CB 732.
- CDO No. 11 (Rev. 4), 33 Fed. Reg. 5229, 1968-1 CB 735.
- CDO No. 11 (Rev. 5), 36 Fed. Reg. 7152, 1971-1 CB 653.
- CDO No. 11 (Rev. 6), 36 Fed. Reg. 9571, 1971-1 CB 653.
- CDO No. 11 (Rev. 7), 41 Fed. Reg. 20897, 1976-1 CB 538.
- CDO No. 11 (Rev. 8), 42 Fed. Reg. 38251, 1977-2 CB 496.
- CDO No. 11 (Rev. 9), 43 Fed. Reg. 16587, 1978-1 CB 511.
- CDO No. 11 (Rev. 10), 44 Fed. Reg. 5237, 1979-1 CB 473.
- CDO No. 11 (Rev. 11), 44 Fed. Reg. 50128, 1979-2 CB 481.
- CDO No. 11 (Rev. 12), 45 Fed. Reg. 46956, 1980-2 CB 754.
- CDO No. 11 (Rev. 13), __ Fed. Reg. _____, 1982-1 CB 333.
- CDO No. 11 (Rev. 14), 49 Fed. Reg. 17666, 1984-1 CB 319.
- CDO No. 11 (Rev. 15), 50 Fed. Reg. 3863, 1985-1 CB 423.
- CDO No. 11 (Rev. 19), 54 Fed. Reg. 35427, 1989-2 CB 371.
- *12. Designation of acting supervisory officials.**
- CDO No. 12, 20 Fed. Reg. 9870, 1956-1 CB 1011.
- *13. Redelelegation of Regional authority to Service Centers.**
- CDO No. 13, not published.
- *14. Granting of extensions of time to file statements.**
- CDO No. 14, 21 Fed. Reg. 502, 1956-1 CB 1011.
- CDO No. 14 (Rev. 1), 43 Fed. Reg. 45489, 1978-2 CB 467.
- CDO No. 14 (Rev. 2), __ Fed. Reg. _____, 1982-1 CB 333.
- #15. Inspection of returns by H.E.W.**
- CDO No. 15, 21 Fed. Reg. 654, 1956-1 CB 1012.
- CDO No. 15 (Rev. 1), 31 Fed. Reg. 7250, 1966-1 CB 587.

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CDO No. 15 (Rev. 2), 33 Fed. Reg. 18243, 1968-2 CB 905.

CDO No. 15 (Rev. 3), 37 Fed. Reg. 4372, 1972-1 CB 691.

*16. Authorization to approve confidential expenditures.

CDO No. 16, not published.

#17. Authority of District Directors to issue determination letters.

CDO No. 17, 21 Fed. Reg. 823, 1956-1 CB 1012.

CDO No. 17 (Rev. 1), 35 Fed. Reg. _____, 1970-1 CB 411.

#18. (Title unknown).

CDO No. 18, not published.

*19. Payments of expenses of transferred employees.

CDO No. 19, not published.

*20. Extension of time to pay excess profits, estate and gift taxes.

CDO No. 20, 21 Fed. Reg. 1111, 1956-1 CB 1013.

*21. Extension of time to file and pay certain excise taxes.

CDO No. 21, 21 Fed. Reg. 1520, 1956-1 CB 1013.

#22. Extension of time to file estate tax returns.

CDO No. 22, 21 Fed. Reg. 1520, 1956-1 CB 1014.

CDO No. 22: Revoked, 25 Fed. Reg. 3599, 1960-1 CB 860.

23. Settlement of tort claims.

CDO No. 23, 21 Fed. Reg. 1520, 1956-1 CB 1014.

CDO No. 23 (Rev.), 25 Fed. Reg. 392, 1960-1 CB 861.

CDO No. 23 (Rev. 2), 25 Fed. Reg. 10106, 1960-2 CB 919.

CDO No. 23 (Rev. 3), 28 Fed. Reg. 4262, 1963-1 CB 430.

CDO No. 23 (Rev. 4), 31 Fed. Reg. 2785, 1966-1 CB 588.

CDO No. 23 (Rev. 5), 32 Fed. Reg. 6062, 1967-1 CB 528.

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CDO No. 23 (Rev. 6), 35 Fed. Reg. 1174, 1970-1 CB 411.

CDO No. 23 (Rev. 7), 43 Fed. Reg. 29646, 1978-2 CB 468.

CDO No. 23 (Rev. 12), 54 Fed. Reg. 33144, 1989-2 CB 372.

*24. Authority to require keeping of records.

CDO No. 24, 21 Fed. Reg. 1520, 1956-1 CB 1015.

*25. Reimbursements to employees for certain expenses.

CDO No. 25, not published.

#26. (Title unknown).

CDO No. 26, not published.

*27. Authority to administer oaths to employees.

CDO No. 27, not published.

*28. Designation of officers as authorized certifying officers.

CDO No. 28, not published.

*29. Certification and approval of internal revenue collections.

CDO No. 29, not published.

#30. (Title unknown).

CDO No. 30, not published.

#31. Administration of ATF taxes and laws.

CDO No. 31, 21 Fed. Reg. 3083, 1956-1 CB 1015.

CDO No. 31 (Rev. 1), 34 Fed. Reg. 87, 1969-1 CB 379.

CDO No. 31 (Rev. 2), 35 Fed. Reg. 16808, 1970-2 CB 487.

CDO No. 31 (Rev. 3), 36 Fed. Reg. 18678, 1971-2 CB 524.

CDO No. 31 (Rev. 4), 36 Fed. Reg. 22607, 1971-2 CB 525.

#32. Authority of Director of International Operations.

CDO No. 32, 21 Fed. Reg. 3083, 1956-1 CB 1016.

Commissioner's Delegation Orders

CDO No. 32 (Rev. 1), 35 Fed. Reg. 11191, 1970-2 CB 487.

CDO No. 32 (Rev. 1): Revoked, __ Fed. Reg. _____, 1983-2 CB 406.

#33. Authority of Assistant Commissioner (Operations).

CDO No. 33, 21 Fed. Reg. 4415, 1956-2 CB 1375.

#34. Offers in compromise re Chapter 51 taxes: Regional Commissioner and Assistant Regional Commissioner ("ARC").

CDO No. 34, 21 Fed. Reg. 5851, 1956-2 CB 1375.

CDO No. 34: Revoked, 38 Fed. Reg. 33407, 1973-2 CB 462.

*35. Agreements as determinations under § 1313.

CDO No. 35, 21 Fed. Reg. 5972, 1956-2 CB 1376.

CDO No. 35 (Rev. 1), 29 Fed. Reg. 13434, 1964-2 CB 903.

CDO No. 35 (Rev. 2), 32 Fed. Reg. 11646, 1967-2 CB 597.

CDO No. 35 (Rev. 3), 33 Fed. Reg. 4112, 1968-1 CB 736.

CDO No. 35 (Rev. 4), 34 Fed. Reg. 17201, 1969-2 CB 281.

CDO No. 35 (Rev. 5), 35 Fed. Reg. 18332, 1971-1 CB 654.

CDO No. 35 (Rev. 6), 40 Fed. Reg. 3319, 1975-1 CB 635.

CDO No. 35 (Rev. 7), 43 Fed. Reg. 4308, 1978-1 CB 511.

CDO No. 35 (Rev. 8), 43 Fed. Reg. 29648, 1978-2 CB 468.

CDO No. 35 (Rev. 9), 43 Fed. Reg. 45490, 1978-2 CB 468.

CDO No. 35 (Rev. 10), 44 Fed. Reg. 5239, 1979-1 CB 474.

CDO No. 35 (Rev. 11), 45 Fed. Reg. 14357, 1980-1 CB 571.

CDO No. 35 (Rev. 12), __ Fed. Reg. _____, 1982-1 CB 334.

#36. Authority of Director of International Operations.

CDO No. 36, 21 Fed. Reg. 5852, 1956-2 CB 1376.

CDO No. 36 (Rev. 1), 25 Fed. Reg. 12526, 1960-2 CB 920.

CDO No. 36 (Rev. 1): Revoked, __ Fed. Reg. _____, 1983-2 CB 407.

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#37. Authority to administer oaths and certify.

CDO No. 37, 21 Fed. Reg. 6521, 1956-2 CB 1376.

CDO No. 37 (Rev.), 22 Fed. Reg. 386, 1957-1 CB 719.

CDO No. 37 (Rev. 2), 22 Fed. Reg. 7382, 1957-2 CB 1089.

CDO No. 37 (Rev. 3), 34 Fed. Reg. 19517, 1969-2 CB 281.

#38. (Title unknown).

CDO No. 38, not published.

*39. Tours of duty and overtime.

CDO No. 39, not published.

*40. Credits and refunds.

CDO No. 40, 21 Fed. Reg. 8304, 1956-2 CB 1377.

CDO No. 40 (Rev.), 24 Fed. Reg. 486, 1959-1 CB 768.

CDO No. 40 (Rev. 2), 44 Fed. Reg. 28742, 1979-2 CB 481.

#41. (Title unknown).

CDO No. 41, not published.

*42. Authority to execute consents re period of limitations.

CDO No. 42, 21 Fed. Reg. 8980, 1956-2 CB 1378.

CDO No. 42 (Rev. 1), 33 Fed. Reg. 18591, 1969-1 CB 379.

CDO No. 42 (Rev. 2), 34 Fed. Reg. 5609, 1969-1 CB 379.

CDO No. 42 (Rev. 3), 38 Fed. Reg. 6833, 1973-1 CB 744.

CDO No. 42 (Rev. 4), 39 Fed. Reg. 15055, 1974-1 CB 410.

CDO No. 42 (Rev. 5), 39 Fed. Reg. 35188, 1974-2 CB 463.

CDO No. 42 (Rev. 6), 40 Fed. Reg. 3319, 1975-1 CB 635.

CDO No. 42 (Rev. 7), 42 Fed. Reg. 15765, 1977-1 CB 527.

CDO No. 42 (Rev. 8), 43 Fed. Reg. 25757, 1978-2 CB 469.

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CDO No. 42 (Rev. 9), 43 Fed. Reg. 29639, 1978-2 CB 469.

CDO No. 42 (Rev. 10), 43 Fed. Reg. 45491, 1978-2 CB 469.

CDO No. 42 (Rev. 11), 44 Fed. Reg. 5240, 1979-1 CB 474.

CDO No. 42 (Rev. 12), 44 Fed. Reg. 30809, 1979-2 CB 482.

CDO No. 42 (Rev. 13), 44 Fed. Reg. 71495, 1980-1 CB 571.

CDO No. 42 (Rev. 15), 47 Fed. Reg. 2449, 1982-1 CB 334.

CDO No. 42 (Rev. 16), __ Fed. Reg. _____, 1982-1 CB 334.

CDO No. 42 (Rev. 18), 48 Fed. Reg. 9984, 1983-1 CB 529.

CDO No. 42 (Rev. 23), 55 Fed. Reg. 41153, 1990-2 CB 326.

CDO No. 42 (Rev. 24), 56 Fed. Reg. 14973, 1991-1 CB 310.

#43. (Title unknown).

CDO No. 43, not published.

#44. Public inspection of offers in compromise: refilling liquor bottles.

CDO No. 44, 21 Fed. Reg. 9681; 1956-2 CB 1378.

#45. (Title unknown).

CDO No. 45, not published.

*46. Authority for management and disposal of records.

CDO No. 46, not published.

*47. Authority for expenses for attending meetings.

CDO No. 47, not published.

*48. Foreign travel.

CDO No. 48, not published.

#49. (Title unknown).

CDO No. 49, not published.

*50. Withholding compensation due personnel.

Commissioner's Delegation Orders

CDO No. 50, not published.

51. Authority to sign proofs of claim and other documents.

CDO No. 51, 22 Fed. Reg. 3895, 1957-1 CB 720.

CDO No. 51 (Rev. 1), 29 Fed. Reg. 5645, 1964-1 CB 606.

CDO No. 51 (Rev. 2), 43 Fed. Reg. 29641, 1978-2 CB 470.

CDO No. 51 (Rev. 3), 44 Fed. Reg. 5240, 1979-1 CB 475.

CDO No. 51 (Rev. 4), 44 Fed. Reg. 18315, 1979-1 CB 475.

CDO No. 51 (Rev. 5), 45 Fed. Reg. 65763, 1980-2 CB 755.

CDO No. 51 (Rev. 6), 47 Fed. Reg. 31650, 1982-2 CB 745.

#52. (Title unknown).

CDO No. 52, not published.

#53. Authority of District Directors to cancel registration certs.

CDO No. 53, 22 Fed. Reg. 8543, 1957-2 CB 1090.

CDO No. 53: Revoked, 38 Fed. Reg. 31317, 1973-2 CB 462.

#54. Authority to issue notices re prohibited transactions.

CDO No. 54, 22 Fed. Reg. 8908, 1957-2 CB 1091.

*55. Balances withdrawn from appropriation and fund accounts.

CDO No. 55, not published.

*56. Gasoline and lubricating oil bonds.

CDO No. 56, 22 Fed. Reg. 166, 1958-1 CB 679.

*57. Notices of additional inspections of taxpayer's books.

CDO No. 57, 23 Fed. Reg. 1818, 1958-1 CB 680.

CDO No. 57 (Rev. 1), 25 Fed. Reg. 11015, 1960-2 CB 920.

CDO No. 57 (Rev. 2), 34 Fed. Reg. 19517, 1969-2 CB 281.

CDO No. 57 (Rev. 3), 37 Fed. Reg. 17221, 1972-2 CB 769.

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CDO No. 57 (Rev. 4), 45 Fed. Reg. 11972, 1980-1 CB 571.

CDO No. 57 (Rev. 5), __ Fed. Reg. _____, 1982-1 CB 335.

CDO No. 57 (Rev. 6), 48 Fed. Reg. 28167, 1983-2 CB 407.

#58. Delegation of additional functions to Deputy Commissioner.

CDO No. 58, __ Fed. Reg. _____, 1958-1 CB 680.

#59. (Title unknown).

CDO No. 59, not published.

*60. Cases in U.S. Tax Court.

CDO No. 60, 23 Fed. Reg. 2846, 1958-1 CB 681.

CDO No. 60 (Rev. 1), 42 Fed. Reg. 46969, 1977-2 CB 497.

CDO No. 60 (Rev. 2), 43 Fed. Reg. 16236, 1978-1 CB 512.

CDO No. 60 (Rev. 3), 43 Fed. Reg. 30004, 1978-2 CB 470.

CDO No. 60 (Rev. 4), 43 Fed. Reg. 46915, 1978-2 CB 471.

CDO No. 60 (Rev. 5), __ Fed. Reg. _____, 1979-2 CB 482.

#61. Assessment, claim and compromise re firearms taxes.

CDO No. 61, 23 Fed. Reg. 4062, 1958-1 CB 683.

CDO No. 61 (Rev. 1), 35 Fed. Reg. 6971, 1970-2 CB 488.

#62. Offers in compromise re Chapter 52 taxes.

CDO No. 62, 23 Fed. Reg. 4062, 1958-1 CB 683.

#63. Issues under § 722 of the '39 Code.

CDO No. 63, __ Fed. Reg. _____, 1958-2 CB 1092.

#64. Authority re § 722 issues.

CDO No. 64, 23 Fed. Reg. 6932, 1958-2 CB 1092.

CDO No. 64: Revoked, 33 Fed. Reg. 3236, 1968-1 CB 737.

#65. Revocation of Commissioner's Reorganization Order No. 2.

Commissioner's Delegation Orders

CDO No. 65, 23 Fed. Reg. 6532, 1958-2 CB 1093.

*66. Authority of Regional Appeals Director in Tax Court cases.

CDO No. 66, 23 Fed. Reg. 6531, 1958-2 CB 1093.

CDO No. 66, Amend. 1, 24 Fed. Reg. 6722, 1959-2 CB 908.

CDO No. 66 (Rev. 1), 31 Fed. Reg. 2393, 1966-1 CB 588.

CDO No. 66 (Rev. 2), 33 Fed. Reg. 3236, 1968-1 CB 737.

CDO No. 66 (Rev. 3), 34 Fed. Reg. 17201, 1969-2 CB 281.

CDO No. 66 (Rev. 4), 35 Fed. Reg. 18332, 1971-1 CB 654.

CDO No. 66 (Rev. 5), 42 Fed. Reg. 46968, 1977-2 CB 498.

CDO No. 66 (Rev. 6), 43 Fed. Reg. 4308, 1978-1 CB 512.

CDO No. 66 (Rev. 7), 43 Fed. Reg. 30003, 1978-2 CB 472.

CDO No. 66 (Rev. 8), 43 Fed. Reg. 46916, 1978-2 CB 473.

CDO No. 66 (Rev. 9), 44 Fed. Reg. 33509, 1979-2 CB 483.

CDO No. 66 (Rev. 10), 45 Fed. Reg. 14359, 1980-1 CB 571.

*67. Signing Commissioner's name or on his behalf.

CDO No. 67, 23 Fed. Reg. 8162, 1958-2 CB 1096.

CDO No. 67 (Rev.), 23 Fed. Reg. 8968, 1958-2 CB 1096.

CDO No. 67 (Rev. 2), 26 Fed. Reg. 1167, 1961-1 CB 862.

CDO No. 67 (Rev. 3), 26 Fed. Reg. 1371, 1961-1 CB 862.

CDO No. 67 (Rev. 4), 29 Fed. Reg. 9805, 1964-2 CB 903.

CDO No. 67 (Rev. 5), 30 Fed. Reg. 1011, 1965-1 CB 699.

CDO No. 67 (Rev. 6), 34 Fed. Reg. 1214, 1969-1 CB 380.

CDO No. 67 (Rev. 7), 34 Fed. Reg. 6202, 1969-1 CB 380.

CDO No. 67 (Rev. 8), 36 Fed. Reg. 15133, 1971-2 CB 526.

CDO No. 67 (Rev. 9), 36 Fed. Reg. 15133, 1971-2 CB 526.

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CDO No. 67 (Rev. 10), 38 Fed. Reg. 11357, 1973-1 CB 744.

CDO No. 67 (Rev. 11), 38 Fed. Reg. 14867, 1973-2 CB 462.

CDO No. 67 (Rev. 12), 42 Fed. Reg. 13101, 1977-1 CB 527.

CDO No. 67 (Rev. 13), 42 Fed. Reg. 23907, 1977-1 CB 527.

CDO No. 67 (Rev. 14), 45 Fed. Reg. 74608, 1981-1 CB 609.

CDO No. 67 (Rev. 15), 46 Fed. Reg. 18430, 1981-1 CB 609.

*68. Allowances to employees in foreign areas.

CDO No. 68, not published.

*69. Long distance calls.

CDO No. 69, not published.

#70. (Title unknown).

CDO No. 70, not published.

#71. (Title unknown).

CDO No. 71, not published.

#72. Authority of ARC re alcohol and tobacco taxes.

CDO No. 72, 24 Fed. Reg. 4185, 1959-1 CB 768.

#73. Authority to issue notices re consolidated group.

CDO No. 73, 24 Fed. Reg. 4639, 1959-2 CB 908.

CDO No. 73: Revoked, 40 Fed. Reg. 15406, 1975-1 CB 636.

*74. Travel of personnel detailed to IRS.

CDO No. 74, not published.

#75. Authority of Regional Appellate Division re offers.

CDO No. 75, 25 Fed. Reg. 3766, 1960-1 CB 861.

CDO No. 75, Amend. 1, 25 Fed. Reg. 6486, 1960-2 CB 921.

CDO No. 75 (Rev. 1), 27 Fed. Reg. 357, 1962-1 CB 396.

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CDO No. 75 (Rev. 2), 28 Fed. Reg. 6836, 1963-2 CB 732.

CDO No. 75 (Rev. 3), 34 Fed. Reg. 11108, 1969-2 CB 283.

CDO No. 75 (Rev. 4), 34 Fed. Reg. 17202, 1969-2 CB 283.

CDO No. 75 (Rev. 5), 35 Fed. Reg. 18333, 1971-1 CB 655.

CDO No. 75 (Rev. 6), 41 Fed. Reg. 20897, 1976-2 CB 623.

CDO No. 75 (Rev. 7), 43 Fed. Reg. 4309, 1978-1 CB 514.

CDO No. 75 (Rev. 8), 43 Fed. Reg. 45492, 1978-2 CB 474.

CDO No. 75 (Rev. 8), Revoked, 44 Fed. Reg. 50128, 1979-2 CB 484.

***76. Signing reports on budget status required by OMB.**

CDO No. 76, not published.

***77. Authority to rescind notices of deficiency (delegation to Regional Appellate Divisions).**

CDO No. 77, 25 Fed. Reg. 3766, 1960-1 CB 862.

CDO No. 77 (Rev. 1), 32 Fed. Reg. 11646, 1967-2 CB 598.

CDO No. 77 (Rev. 2), 33 Fed. Reg. 4112, 1968-1 CB 740.

CDO No. 77 (Rev. 3), 34 Fed. Reg. 17202, 1969-2 CB 283.

CDO No. 77 (Rev. 4), 35 Fed. Reg. 18333, 1971-1 CB 656.

CDO No. 77 (Rev. 5), 36 Fed. Reg. 25437, 1972-1 CB 691.

CDO No. 77 (Rev. 6), 37 Fed. Reg. 12853, 1972-2 CB 769.

CDO No. 77 (Rev. 7), 40 Fed. Reg. 15406, 1975-1 CB 636.

CDO No. 77 (Rev. 8), 40 Fed. Reg. 23772, 1975-1 CB 636.

CDO No. 77 (Rev. 9), 43 Fed. Reg. 4310, 1978-1 CB 514.

CDO No. 77 (Rev. 10), 43 Fed. Reg. 29642, 1978-2 CB 475.

CDO No. 77 (Rev. 11), 43 Fed. Reg. 45492, 1978-2 CB 475.

CDO No. 77 (Rev. 12), 44 Fed. Reg. 5241, 1979-1 CB 475.

CDO No. 77 (Rev. 13), 44 Fed. Reg. 30808, 1979-2 CB 484.

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CDO No. 77 (Rev. 14), 45 Fed. Reg. 14358, 1980-1 CB 573.

CDO No. 77 (Rev. 15), __ Fed. Reg. _____, 1982-1 CB 335.

CDO No. 77 (Rev. 16), 47 Fed. Reg. 37740, 1982-2 CB 745.

CDO No. 77 (Rev. 17), 48 Fed. Reg. 32426, 1983-2 CB 407.

CDO No. 77 (Rev. 18), 49 Fed. Reg. 47355, 1985-1 CB 423.

#78. (Title unknown).

CDO No. 78, not published.

#79. (Title unknown).

CDO No. 79, not published.

*80. Authority re correspondence courses.

CDO No. 80, not published.

*81. Delegation of authority in various personnel matters.

CDO No. 81, not published.

#82. (Title unknown).

CDO No. 82, not published.

#83. Delegation to permit inspection of returns.

CDO No. 83, 26 Fed. Reg. 10241, 1961-2 CB 545.

CDO No. 83 (Rev. 1), 30 Fed. Reg. 2116, 1965-1 CB 699.

CDO No. 83 (Rev. 2), 31 Fed. Reg. 7249, 1966-1 CB 591.

CDO No. 83 (Rev. 3), 37 Fed. Reg. 4371, 1972-1 CB 692.

CDO No. 83 (Rev. 4), 38 Fed. Reg. 8072, 1973-1 CB 744.

CDO No. 83 (Rev. 5), 39 Fed. Reg. 26431, 1974-2 CB 464.

#84. (Title unknown).

CDO No. 84, not published.

#85. (Title unknown).

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CDO No. 85, not published.

#86. Delegation to permit inspection of returns re 26 CFR § 601.702(d).

CDO No. 86, 27 Fed. Reg. 7461, 1962-2 CB 396.

CDO No. 86 (Rev. 1), 30 Fed. Reg. 2116, 1965-1 CB 700.

CDO No. 86 (Rev. 2), 31 Fed. Reg. 7249, 1966-1 CB 592.

CDO No. 86 (Rev. 3), 34 Fed. Reg. 5341, 1969-1 CB 380.

CDO No. 86 (Rev. 4), 37 Fed. Reg. 4372, 1972-1 CB 692.

CDO No. 86 (Rev. 5), 41 Fed. Reg. 2402, 1976-1 CB 539.

#87. (Title unknown).

CDO No. 87, not published.

CDO No. 87 (Rev. 1), 33 Fed. Reg. 4111, 1968-1 CB 740.

#88. Authority to revoke exemption of exempt organizations.

CDO No. 88, 27 Fed. Reg. 10861, 1962-2 CB 397.

CDO No. 88 (Rev. 1), 31 Fed. Reg. 227, 1966-1 CB 592.

CDO No. 88 (Rev. 2), 31 Fed. Reg. 2785, 1966-1 CB 593.

CDO No. 88 (Rev. 3), 35 Fed. Reg. _____, 1970-1 CB 411.

CDO No. 88 (Rev. 4), 40 Fed. Reg. 48532, 1975-2 CB 540.

CDO No. 88 (Rev. 5), 46 Fed. Reg. 3716, 1981-1 CB 609.

CDO No. 88 (Rev. 6), 47 Fed. Reg. 16131, 1982-1 CB 335.

*89. Administrative classification of documents and materials.

CDO No. 89, not published.

*90. Approval of form for nonexpenditure transfers.

CDO No. 90, not published.

*91. Agreement between IRS and Agency for International Devel.

CDO No. 91, not published.

Commissioner's Delegation Orders

***92. Delegation of authority in training & development matters.**

CDO No. 92, not published.

93. Authority for redetermination of invalid aggregates.

CDO No. 93, 29 Fed. Reg. 5911, 1964-1 CB 606.

CDO No. 93 (Rev. 1), 32 Fed. Reg. 11646, 1967-2 CB 599.

CDO No. 93 (Rev. 2), 34 Fed. Reg. 17202, 1969-2 CB 284.

CDO No. 93 (Rev. 3), 35 Fed. Reg. 18333, 1971-1 CB 656.

CDO No. 93 (Rev. 4), 43 Fed. Reg. 29642, 1978-2 CB 475.

CDO No. 93 (Rev. 5), 43 Fed. Reg. 45493, 1978-2 CB 475.

CDO No. 93 (Rev. 6), 44 Fed. Reg. 5241, 1979-1 CB 476.

CDO No. 93 (Rev. 7), 45 Fed. Reg. 14359, 1980-1 CB 573.

CDO No. 93 (Rev. 8), __ Fed. Reg. _____, 1982-1 CB 336.

#94. Authority re offers in compromise under Chapters 51 and 53.

CDO No. 94, 29 Fed. Reg. 7781, 1964-2 CB 904.

***95. Authority to approve travel, approve travel vouchers.**

CDO No. 95, not published.

***96. Application of rulings without retroactive effect.**

CDO No. 96, 29 Fed. Reg. 14860, 1964-2 CB 904.

CDO No. 96 (Rev. 1), 37 Fed. Reg. 18224, 1972-2 CB 769.

CDO No. 96 (Rev. 2), 40 Fed. Reg. 4023, 1975-1 CB 637.

CDO No. 96 (Rev. 3), 41 Fed. Reg. 29000, 1976-2 CB 623.

CDO No. 96 (Rev. 4), 45 Fed. Reg. 38198, 1980-2 CB 755.

CDO No. 96 (Rev. 5), 46 Fed. Reg. 33413, 1981-2 CB 541.

CDO No. 96 (Rev. 6), __ Fed. Reg. _____, 1982-1 CB 336.

CDO No. 96 (Rev. 7), 48 Fed. Reg. 12037, 1983-2 CB 407.

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***97. Closing agreements concerning tax liability.**

CDO No. 97, 29 Fed. Reg. 14860, 1964-2 CB 905.

CDO No. 97 (Rev. 1), 30 Fed. Reg. 11069, 1965-2 CB 862.

CDO No. 97 (Rev. 2), 31 Fed. Reg. 8641, 1966-2 CB 1189.

CDO No. 97 (Rev. 3), 31 Fed. Reg. 14601, 1966-2 CB 1190.

CDO No. 97 (Rev. 4), 32 Fed. Reg. 4141, 1967-1 CB 528.

CDO No. 97 (Rev. 5), 34 Fed. Reg. 11274, 1969-2 CB 284.

CDO No. 97 (Rev. 6), 34 Fed. Reg. 17202, 1969-2 CB 285.

CDO No. 97 (Rev. 7), 35 Fed. Reg. 7190, 1970-1 CB 412.

CDO No. 97 (Rev. 8), 35 Fed. Reg. 11191, 1970-2 CB 488.

CDO No. 97 (Rev. 9), 35 Fed. Reg. 18334, 1971-1 CB 656.

CDO No. 97 (Rev. 10), 36 Fed. Reg. 13161, 1972-1 CB 692.

CDO No. 97 (Rev. 11), 38 Fed. Reg. 29830, 1973-2 CB 463.

CDO No. 97 (Rev. 12), 40 Fed. Reg. 4023, 1975-1 CB 637.

CDO No. 97 (Rev. 13), 43 Fed. Reg. 4310, 1978-1 CB 515.

CDO No. 97 (Rev. 14), 43 Fed. Reg. 16235, 1978-1 CB 516.

CDO No. 97 (Rev. 15), 43 Fed. Reg. 29642, 1978-2 CB 476.

CDO No. 97 (Rev. 16), 43 Fed. Reg. 45494, 1978-2 CB 477.

CDO No. 97 (Rev. 17), 45 Fed. Reg. 11973, 1980-1 CB 573.

CDO No. 97 (Rev. 18), 45 Fed. Reg. 14357, 1980-1 CB 574.

CDO No. 97 (Rev. 19), __ Fed. Reg. _____, 1982-1 CB 337.

CDO No. 97 (Rev. 21), 47 Fed. Reg. 46613, 1983-1 CB 529.

CDO No. 97 (Rev. 23), 49 Fed. Reg. 22906, 1984-2 CB 468.

#98. Authority to extend time for filing Chapter 41 returns.

CDO No. 98, 29 Fed. Reg. 16209, 1964-2 CB 906.

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#99. Authority for filing returns with Service Centers.

CDO No. 99, 30 Fed. Reg. 160, 1965-1 CB 701.

CDO No. 99 (Rev. 1), 30 Fed. Reg. 11070, 1965-2 CB 863.

CDO No. 99 (Rev. 2), 31 Fed. Reg. 16282, 1967-1 CB 530.

CDO No. 99 (Rev. 3), 33 Fed. Reg. 5467, 1968-1 CB 741.

CDO No. 99 (Rev. 3): Revoked, 44 Fed. Reg. 63588, 1979-2 CB 484.

*100. Furnishing special statistical studies of returns.

CDO No. 100, 30 Fed. Reg. 1128, 1965-1 CB 701.

CDO No. 100 (Rev. 1), 43 Fed. Reg. 19314, 1978-1 CB 517.

CDO No. 100 (Rev. 2), 43 Fed. Reg. 29643, 1978-2 CB 478.

CDO No. 100 (Rev. 3), __ Fed. Reg. _____, 1982-1 CB 338.

#101. Requests for inspection of returns by states, territories.

CDO No. 101, 30 Fed. Reg. 2116, 1965-1 CB 702.

CDO No. 101 (Rev. 1), 43 Fed. Reg. 54748, 1978-2 CB 479.

*102. Delegation of authority in labor-management relations.

CDO No. 102, not published.

*103. Premium pay for administratively uncontrollable overtime.

CDO No. 103, not published.

*104. Absence, leave, and carry-over of annual leave.

CDO No. 104, not published.

*105. Authorization to engage in outside employment.

CDO No. 105, not published.

*106. Delegation of procurement authority.

CDO No. 106, not published.

*107. Authority to make determinations re savings institutions.

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CDO No. 107, 33 Fed. Reg. 11936, 1968-2 CB 905.

CDO No. 107 (Rev. 1), 34 Fed. Reg. 17203, 1969-2 CB 286.

CDO No. 107 (Rev. 2), 35 Fed. Reg. 18334, 1971-1 CB 657.

CDO No. 107 (Rev. 3), 43 Fed. Reg. 29649, 1978-2 CB 479.

CDO No. 107 (Rev. 4), 43 Fed. Reg. 45495, 1978-2 CB 479.

CDO No. 107 (Rev. 5), 44 Fed. Reg. 5243, 1979-1 CB 476.

CDO No. 107 (Rev. 6), __ Fed. Reg. _____, 1982-1 CB 339.

#108. Authority to compile & publish firearms ordinances.

CDO No. 108, 33 Fed. Reg. 16154, 1968-2 CB 906.

109. Authority to sign agreements re § 963.

CDO No. 109, 34 Fed. Reg. 2274, 1969-1 CB 380.

CDO No. 109 (Rev. 1), 34 Fed. Reg. 17203, 1969-2 CB 286.

CDO No. 109 (Rev. 2), 35 Fed. Reg. 18335, 1971-1 CB 657.

CDO No. 109 (Rev. 3), 43 Fed. Reg. 29649, 1978-2 CB 479.

CDO No. 109 (Rev. 4), 43 Fed. Reg. 45495, 1978-2 CB 480.

CDO No. 109 (Rev. 5), 44 Fed. Reg. 5243, 1979-1 CB 476.

CDO No. 109 (Rev. 6), __ Fed. Reg. _____, 1982-1 CB 339.

*110. Waiving claims against employees for overpayments.

CDO No. 110, not published.

*111. Federal Claims Collection Act of 1966.

CDO No. 111, not published.

CDO No. 111 (Rev. 1), 35 Fed. Reg. 2893, 1970-1 CB 412.

CDO No. 111 (Rev. 2), __ Fed. Reg. _____, 1976-1 CB 539.

CDO No. 111 (Rev. 3), 42 Fed. Reg. 58231, 1977-2 CB 499.

CDO No. 111 (Rev. 4), 43 Fed. Reg. 29650, 1978-2 CB 480.

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***112. Authority for letters and reports re employee plans.**

CDO No. 112, 35 Fed. Reg. _____, 1970-1 CB 413.

CDO No. 112 (Rev. 1), 40 Fed. Reg. 1283, 1975-1 CB 638.

CDO No. 112 (Rev. 2), 40 Fed. Reg. 28817, 1975-2 CB 541.

CDO No. 112 (Rev. 3), __ Fed. Reg. _____, 1976-1 CB 540.

CDO No. 112 (Rev. 4), __ Fed. Reg. _____, 1977-1 CB 527.

CDO No. 112 (Rev. 5), 43 Fed. Reg. 45495, 1978-2 CB 481.

CDO No. 112 (Rev. 6), 45 Fed. Reg. 38200, 1980-2 CB 756.

CDO No. 112 (Rev. 7), __ Fed. Reg. _____, 1982-1 CB 339.

CDO No. 112 (Rev. 8), 47 Fed. Reg. 26273, 1982-2 CB 745.

CDO No. 112 (Rev. 10), 56 Fed. Reg. 6419, 1991-1 CB 310.

***113. Authority to issue exempt organization determination letters.**

CDO No. 113, 35 Fed. Reg. _____, 1970-1 CB 413.

CDO No. 113 (Rev. 1), 35 Fed. Reg. _____, 1970-2 CB 489.

CDO No. 113 (Rev. 2), 40 Fed. Reg. 1282, 1975-1 CB 639.

CDO No. 113 (Rev. 3), 40 Fed. Reg. 17173, 1975-1 CB 640.

CDO No. 113 (Rev. 4), 42 Fed. Reg. 46090, 1977-2 CB 500.

CDO No. 113 (Rev. 5), 43 Fed. Reg. 29651, 1978-2 CB 481.

CDO No. 113 (Rev. 6), 43 Fed. Reg. 45496, 1978-2 CB 482.

CDO No. 113 (Rev. 7), __ Fed. Reg. _____, 1982-1 CB 340.

CDO No. 113 (Rev. 9), 50 Fed. Reg. 8043, 1985-1 CB 423.

CDO No. 113, 56 Fed. Reg. 7078, 1991-1 CB 311.

114. Designation to act as "Competent Authority" for tax treaties.

CDO No. 114, 35 Fed. Reg. 11191, 1970-2 CB 489.

CDO No. 114 (Rev. 1), 41 Fed. Reg. 49209, 1976-2 CB 623.

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CDO No. 114 (Rev. 2), __ Fed. Reg. _____, 1980-2 CB 757.

CDO No. 114 (Rev. 3), __ Fed. Reg. _____, 1982-1 CB 341.

CDO No. 114 (Rev. 4), 50 Fed. Reg. 6305, 1985-1 CB 424.

CDO No. 114 (Rev. 8), __ Fed. Reg. _____, 1988-1 CB 470.

CDO No. 114 (Rev. 9), 55 Fed. Reg. 28713, 1990-2 CB 326.

*115. Audit & settlement of accountable officers' accounts.

CDO No. 115, not published.

*116. Extension of time to file income and estate tax returns.

CDO No. 116, 36 Fed. Reg. 15061, 1971-2 CB 526.

CDO No. 116 (Rev. 1), 40 Fed. Reg. 33248, 1975-2 CB 541.

CDO No. 116 (Rev. 2), 43 Fed. Reg. 31257, 1978-2 CB 482.

CDO No. 116 (Rev. 3), 44 Fed. Reg. 5243, 1979-1 CB 476.

CDO No. 116 (Rev. 4), 45 Fed. Reg. 49204, 1980-2 CB 759.

CDO No. 116 (Rev. 5), __ Fed. Reg. _____, 1982-1 CB 341.

#117. (Title unknown).

CDO No. 117, not published.

#118. Authority for functions re Economic Opportunity Act.

CDO No. 118, 36 Fed. Reg. 17364, 1971-2 CB 527.

CDO No. 118 (Rev. 1), __ Fed. Reg. _____, 1983-1 CB 530.

#119. (Title unknown).

CDO No. 119, not published.

#120. Authority of appellate conferees in Tax Court cases.

CDO No. 120, 36 Fed. Reg. 21705, 1971-2 CB 527.

CDO No. 120: Revoked, 39 Fed. Reg. 40517, 1974-2 CB 464.

#121. (Title unknown).

Commissioner's Delegation Orders

CDO No. 121, not published.

*122. Assignment of personnel under Intergovernmental Personnel Act.

CDO No. 122, not published.

#123. (Title unknown).

CDO No. 123, not published.

#124. (Title unknown).

CDO No. 124, not published.

*125. Administrative resolution of irregularities in Imprest Funds.

CDO No. 125, not published.

#126. (Title unknown).

CDO No. 126, not published.

#127. Extension of time: elections re casualty losses.

CDO No. 127, 38 Fed. Reg. 5484, 1973-1 CB 745.

CDO No. 127 (Rev. 1), 38 Fed. Reg. 25457, 1973-2 CB 463.

CDO No. 127 (Rev. 1), 40 Fed. Reg. 22565, 1975-1 CB 640.

#128. (Title unknown).

CDO No. 128, not published.

#129. (Title unknown).

CDO No. 129, not published.

130. Authority to execute average weight agreements.

CDO No. 130, 38 Fed. Reg. 8008, 1973-1 CB 745.

CDO No. 130 (Rev. 1), 43 Fed. Reg. 29651, 1978-2 CB 482.

CDO No. 130 (Rev. 2), __ Fed. Reg. _____, 1982-1 CB 341.

#131. (Title unknown).

CDO No. 131, not published.

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#132. (Title unknown).

CDO No. 132, not published.

*133. Authority for personnel security functions.

CDO No. 133, not published.

*134. Authority to discharge executor from tax liability.

CDO No. 134, 38 Fed. Reg. 10164, 1973-1 CB 745.

#135. (Title unknown).

CDO No. 135, not published.

*136. Authority to sign agreements under Rev. Proc. 74-6.

CDO No. 136, 38 Fed. Reg. 12621, 1973-1 CB 745.

CDO No. 136 (Rev. 1), 39 Fed. Reg. 29604, 1974-2 CB 465.

CDO No. 136 (Rev. 2), 43 Fed. Reg. 4311, 1978-1 CB 517.

CDO No. 136 (Rev. 3), 43 Fed. Reg. 45496, 1978-2 CB 483.

CDO No. 136 (Rev. 4), __ Fed. Reg. _____, 1982-1 CB 341.

137. Functions relating to church tax inquiries and exams.

CDO No. 137, 38 Fed. Reg. 17852, 1973-2 CB 464.

CDO No. 137 (Rev. 1), 41 Fed. Reg. 47085, 1976-2 CB 624.

CDO No. 137 (Rev. 2), 52 Fed. Reg. 13560, 1988-1 CB 470.

#138. (Title unknown).

CDO No. 138, not published.

139. Regards private foundations and employee plans.

CDO No. 139, 38 Fed. Reg. 19976, 1973-2 CB 464.

CDO No. 139 (Rev. 1), 40 Fed. Reg. 1282, 1975-1 CB 641.

CDO No. 139 (Rev. 2), 41 Fed. Reg. 26036, 1976-2 CB 624.

CDO No. 139 (Rev. 3), 42 Fed. Reg. 63988, 1978-1 CB 518.

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CDO No. 139 (Rev. 4), 43 Fed. Reg. 29651, 1978-2 CB 483.

CDO No. 139 (Rev. 5), 44 Fed. Reg. 52392, 1979-2 CB 485.

CDO No. 139 (Rev. 6), __ Fed. Reg. _____, 1982-1 CB 342.

#140. (Title unknown).

CDO No. 140, not published.

#141. (Title unknown).

CDO No. 141, not published.

#142. (Title unknown).

CDO No. 142, not published.

143. Authority to perform functions re CTRs and 31 CFR, part 103.

CDO No. 143, 38 Fed. Reg. 34824, 1974-1 CB 411.

CDO No. 143 (Rev. 1), __ Fed. Reg. _____, 1982-1 CB 342.

CDO No. 143 (Rev. 4), 55 Fed. Reg. 13351, 1990-1 CB 295.

*144. Issue transfer certificates in certain estate tax cases.

CDO No. 144, 39 Fed. Reg. 2777, 1974-1 CB 411.

CDO No. 144 (Rev. 1), __ Fed. Reg. _____, 1982-1 CB 342.

#145. (Title unknown).

CDO No. 145, not published.

#146. (Title unknown).

CDO No. 146, not published.

#147. (Title unknown).

CDO No. 147, not published.

#148. (Title unknown).

CDO No. 148, not published.

#149. Authority to levy.

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CDO No. 149, 40 Fed. Reg. 22853, 1975-1 CB 641.

CDO No. 149 (Rev. 1), 44 Fed. Reg. 42835, 1979-2 CB 485.

CDO No. 149 (Rev. 1), Revoked, 45 Fed. Reg. 14358, 1980-1 CB 575.

#150. (Title unknown).

CDO No. 150, not published.

#151. Disclosure of information to Department of Labor.

CDO No. 151, __ Fed. Reg. _____, 1975-2 CB 542.

CDO No. 151 (Rev. 1), __ Fed. Reg. _____, 1976-1 CB 540.

*152. Collections from delinquent IRS officers and employees.

CDO No. 152, __ Fed. Reg. _____, 1975-2 CB 542.

CDO No. 152 (Rev. 1), 45 Fed. Reg. 6532, 1980-1 CB 576.

153. Authority for nationwide oil issues determinations.

CDO No. 153, 40 Fed. Reg. 52065, 1975-2 CB 542.

*154. Decisions on reports to Joint Committee on I.R. Taxation.

CDO No. 154, 41 Fed. Reg. 20898, 1976-2 CB 624.

CDO No. 154 (Rev. 1), __ Fed. Reg. _____, 1982-1 CB 342.

CDO No. 154 (Rev. 2), __ Fed. Reg. _____, 1982-2 CB 746.

CDO No. 154 (Rev. 3), __ Fed. Reg. _____, 1983-1 CB 530.

CDO No. 154 (Rev. 4), 50 Fed. Reg. 9754, 1985-1 CB 425.

155. Settlement offers in refund suits.

CDO No. 155, 41 Fed. Reg. 20897, 1976-2 CB 624.

CDO No. 155 (Rev. 1), __ Fed. Reg. _____, 1982-1 CB 342.

CDO No. 155 (Rev. 2), __ Fed. Reg. _____, 1982-2 CB 746.

156. Permitting disclosure of tax information and testimony.

CDO No. 156, 41 Fed. Reg. 20898, 1976-2 CB 624.

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CDO No. 156, Amend. 1, 42 Fed. Reg. 25945, 1977-2 CB 500.
CDO No. 156, Amend. 2, 42 Fed. Reg. 41206, 1977-2 CB 501.
CDO No. 156, Amend. 3, 42 Fed. Reg. 59581, 1977-2 CB 502.
CDO No. 156, Amend. 4, 43 Fed. Reg. 16235, 1978-1 CB 518.
CDO No. 156, Amend. 5, 43 Fed. Reg. 16237, 1978-1 CB 518.
CDO No. 156, Amend. 6, 43 Fed. Reg. 19095, 1978-1 CB 519.
CDO No. 156, Amend. 7, 43 Fed. Reg. 19314, 1978-1 CB 519.
CDO No. 156, Amend. 8, 43 Fed. Reg. 29652, 1978-2 CB 483.
CDO No. 156, Amend. 9, 44 Fed. Reg. 35074, 1979-2 CB 485.
CDO No. 156 (Rev. 1), 44 Fed. Reg. 45275, 1979-2 CB 485.
CDO No. 156 (Rev. 1), 45 Fed. Reg. 38199, 1980-2 CB 758.
CDO No. 156 (Rev. 1), 46 Fed. Reg. 29807, 1981-2 CB 542.
CDO No. 156 (Rev. 2), __ Fed. Reg. _____, 1982-1 CB 343.
CDO No. 156 (Rev. 2, Amend.), __ Fed. Reg. _____, 1982-1 CB 349.
CDO No. 156 (Rev. 5), __ Fed. Reg. _____, 1984-1 CB 319.
CDO No. 156 (Rev. 6), 50 Fed. Reg. 32514, 1985-2 CB 399.
CDO No. 156 (Rev. 10), 54 Fed. Reg. 26885, 1989-2 CB 372.
CDO No. 156 (Rev. 11), 54 Fed. Reg. 40230, 1989-2 CB 379.
CDO No. 156 (Rev. 12), __ Fed. Reg. ____, 1990-2 CB 327.

157. Seizure and forfeiture of personal property.

CDO No. 157, 41 Fed. Reg. 39355, 1976-2 CB 627.
CDO No. 157 (Rev. 1), 42 Fed. Reg. 64493, 1978-1 CB 519.
CDO No. 157 (Rev. 2), 43 Fed. Reg. 29652, 1978-2 CB 484.
CDO No. 157 (Rev. 3), __ Fed. Reg. _____, 1982-1 CB 350.
CDO No. 157 (Rev. 5), 52 Fed. Reg. 24086, 1988-1 CB 470.

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#158. Appeals re employee plans and exempt organizations.

CDO No. 158, 41 Fed. Reg. 40192, 1976-2 CB 627.

*159. Request for variance from minimum funding standards.

CDO No. 159, 41 Fed. Reg. 45034, 1976-2 CB 627.

CDO No. 159 (Rev. 1), 48 Fed. Reg. 55531, 1984-1 CB 327.

CDO No. 159 (Rev. 3), 55 Fed. Reg. 38779, 1990-2 CB 335.

*160. Authority of Regional Directors of Appeals: Jeopardy.

CDO No. 160, 41 Fed. Reg. 45591, 1976-2 CB 627.

CDO No. 160 (Rev. 1), 43 Fed. Reg. 4311, 1978-1 CB 520.

CDO No. 160 (Rev. 2), 43 Fed. Reg. 45497, 1978-2 CB 484.

CDO No. 160 (Rev. 3), __ Fed. Reg. _____, 1982-1 CB 350.

*161. Authority to affix Treasury Seal.

CDO No. 161, not published.

*162. Authority to practice before IRS.

CDO No. 162, 42 Fed. Reg. 19410, 1977-1 CB 528.

CDO No. 162 (Rev. 1), 43 Fed. Reg. 29653, 1978-2 CB 485.

CDO No. 162 (Rev. 2), __ Fed. Reg. _____, 1982-2 CB 747.

*163. Functions for Northern Mariana Islands S.S. tax.

CDO No. 163, 42 Fed. Reg. 21157, 1977-1 CB 528.

*164. Authority to prescribe identification media.

CDO No. 164, not published.

*165. Responses to FOIA appeals.

CDO No. 165, 42 Fed. Reg. 27379, 1977-2 CB 502.

CDO No. 165 (Rev. 1), 42 Fed. Reg. 38251, 1977-2 CB 502.

CDO No. 165 (Rev. 2), 45 Fed. Reg. 75413, 1981-1 CB 610.

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CDO No. 165 (Rev. 3), 46 Fed. Reg. 14515, 1981-1 CB 610.

CDO No. 165 (Rev. 7), 55 Fed. Reg. 53605, 1991-1 CB 312.

*166. Authority re prohibited transactions exemptions.

CDO No. 166, 42 Fed. Reg. 32864, 1977-2 CB 502.

#167. Authority to release information to Department of Labor.

CDO No. 167, 42 Fed. Reg. 32864, 1977-2 CB 503.

*168. Reimbursement of employee travel expenses.

CDO No. 168, not published.

*169. Authority to issue immunity orders.

CDO No. 169, 43 Fed. Reg. 4702, 1978-1 CB 520.

CDO No. 169 (Rev. 1), __ Fed. Reg. _____, 1982-2 CB 747.

#170. Authority of ARC for Midwest Region.

CDO No. 170, 43 Fed. Reg. 30003, 1978-2 CB 485.

*171. Authority of Regional Directors of Appeals.

CDO No. 171, 43 Fed. Reg. 46917, 1978-2 CB 485.

CDO No. 171 (Rev. 1), __ Fed. Reg. _____, 1982-2 CB 747.

*172. Authority to waive 100% excise tax under § 4971.

CDO No. 172, 43 Fed. Reg. 51494, 1978-2 CB 485.

CDO No. 172 (Rev. 1), 48 Fed. Reg. 55532, 1984-1 CB 328.

*173. Nationwide authority for metals issues.

CDO No. 173, 44 Fed. Reg. 3602, 1979-1 CB 477.

CDO No. 173 (Rev. 1), __ Fed. Reg. _____, 1982-2 CB 747.

CDO No. 173 (Rev. 2), 48 Fed. Reg. 45184, 1983-2 CB 409.

*174. Authority to approve employee plan amendments.

CDO No. 174, 44 Fed. Reg. 12127, 1979-1 CB 477.

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*175. Authority re employee plan amendments.

CDO No. 175, 44 Fed. Reg. 12127, 1979-1 CB 477.

*176. Authority to extend amortization period for plans.

CDO No. 176, 44 Fed. Reg. 12128, 1979-1 CB 477.

*177. Authority to grant variances re vesting in plans.

CDO No. 177, 44 Fed. Reg. 24356, 1979-1 CB 478.

*178. Authority to pay costs to third parties re summonses.

CDO No. 178, not published.

179. Coordination of issues for settlement of appeals.

CDO No. 179, 44 Fed. Reg. 33509, 1979-2 CB 493.

180. Authority to make requests for financial records.

CDO No. 180, 44 Fed. Reg. 43383, 1979-2 CB 493.

*181. Authority to designate qualified assistance programs.

CDO No. 181, 44 Fed. Reg. 56773, 1979-2 CB 494.

*182. Authority to execute returns.

CDO No. 182, 44 Fed. Reg. 67269, 1979-2 CB 494.

CDO No. 182 (Rev. 1), 46 Fed. Reg. 59361, 1982-1 CB 350.

CDO No. 182 (Rev. 2), 48 Fed. Reg. 9983, 1983-2 CB 409.

CDO No. 182 (Rev. 3), 48 Fed. Reg. 57400, 1984-1 CB 328.

*183. Extension of time to make certain elections.

CDO No. 183, 45 Fed. Reg. 45751, 1980-2 CB 759.

CDO No. 183 (Rev. 1), ___ Fed. Reg. _____, 1982-2 CB 747.

*184. Certification of time and attendance.

CDO No. 184, not published.

*185. Authority to provide advice on questionable payments.

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CDO No. 185, not published.

*186. Authority for travel and moving expense regulations.

CDO No. 186, not published.

*187. Determining Imprest Fund requirements.

CDO No. 187, not published.

*188. Authority to grant exemption re financial conflicts.

CDO No. 188, not published.

*189. Authority for travel at non-government expense.

CDO No. 189, not published.

*190. Transfer of appeals functions to Chief Counsel.

CDO No. 190, __ Fed. Reg. _____, 1982-1 CB 350.

191. Delegation of authority for levies to third parties.

CDO No. 191, 47 Fed. Reg. 8447, 1982-1 CB 352.

*192. Delegation of authority to use cash for travel.

CDO No. 192, not published.

193. Delegation to Deputy Commissioners of Internal Revenue.

CDO No. 193 (Rev. 1), 52 Fed. Reg. 30278, 1988-1 CB 470.

CDO No. 193 (Rev. 2), 54 Fed. Reg. 50040, 1989-2 CB 386.

#194. (Title unknown).

CDO No. 194, not published. Has been revoked.

#195. (Title unknown).

CDO No. 195, not published. Has been revoked.

196. Delegation of authority to file tax liens.

CDO No. 196, 47 Fed. Reg. 28000, 1982-2 CB 748.

197. Transfer of Director of Practice to IRS.

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CDO No. 197, 47 Fed. Reg. 29918, 1982-2 CB 748.

*198. Authority to affix IRS seal to documents.

CDO No. 198, 47 Fed. Reg. 46612, 1983-1 CB 531

*199. Authority to enter interagency reimbursement agreements.

CDO No. 199, not published.

200. Authority to issue notice re conflicting claims.

CDO No. 200, 48 Fed. Reg. 32426, 1983-2 CB 409.

*201. Authority to certify the destruction of IRS records.

CDO No. 201, not published.

*202. Appointment of custodian to evaluate foreign gifts.

CDO No. 202, not published.

203. Determinations re taxable Alaskan crude oil.

CDO No. 203, 48 Fed. Reg. 53781, 1983-2 CB 409.

*204. Rewards for information re tax violations.

CDO No. 204, 48 Fed. Reg. 55532, 1984-1 CB 328.

*205. Authority to approve consensual monitoring.

CDO No. 205, not published.

*206. Organized crime and drug enforcement task force cases.

CDO No. 206, not published.

*207. Request for space.

CDO No. 207, not published.

*208. Authority in performance of commercial activities.

CDO No. 208, not published.

209. Authority in partnership and S corporation matters.

CDO No. 209, 50 Fed. Reg. 3864, 1985-1 CB 425.

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CDO No. 209 (Rev. 1), 50 Fed. Reg. 36509, 1985-2 CB 407.

CDO No. 209 (Rev. 3), 52 Fed. Reg. 39765, 1988-1 CB 471.

CDO No. 209 (Rev. 4), 55 Fed. Reg. 41154, 1990-2 CB 335.

CDO No. 209 (Rev. 5), 56 Fed. Reg. 14973, 1991-1 CB 312.

*210. Determinations re abusive tax shelter partnerships.

CDO No. 210, 50 Fed. Reg. 5849, 1985-1 CB 426.

*211. Authority re complaints of discrimination.

CDO No. 211, not published.

*212. Decisions on student loan bonds.

CDO No. 212, not published.

*213. Authority to issue formal document requests.

CDO No. 213, 50 Fed. Reg. 37108, 1985-2 CB 407.

*214. Delegations re Internal Revenue Bulletin.

CDO No. 214, not published.

*215. Delegation of authority to Chief Counsel re employees.

CDO No. 215, not published.

*216. Authority to make shortage category determinations.

CDO No. 216, not published.

*217. Authority for determinations re electronic products.

CDO No. 217, not published.

*218. Austin Compliance Center.

CDO No. 218, not published.

*219. Authority to make jeopardy and termination assessments.

CDO No. 219, not published.

*220. Authority to claim executive privilege.

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CDO No. 220, not published.

*221. Extensions re magnetic media reporting requirements.

CDO No. 221, not published.

222. Authority to approve use of pen registers.

CDO No. 222 (Rev. 2), 55 Fed. Reg. 10864, 1990-1 CB 296.

*223. Authority to certify re personal holding companies.

CDO No. 223, not published.

*224. Consents to revocation of elections re § 897.

CDO No. 224, not published.

*225. Authority of exam managers re tax shelter cases.

CDO No. 225, not published.

226. Authority to extend time to file form 1042.

CDO No. 226, 52 Fed. Reg. 37712, 1987-2 CB 354.

*227. Use of alcoholic beverages at National Office.

CDO No. 227, not published.

*228. Authority to abate interest due to IRS error or delay.

CDO No. 228, not published.

*229. Termination of collection action against depositaries.

CDO No. 229, not published.

*230. Authority to establish depositary accounts.

CDO No. 230, not published.

*231. Repayment of erroneous refunds.

CDO No. 231, not published.

232. Delegation re taxpayer assistance orders.

CDO No. 232 (Rev. 1), 54 Fed. Reg. 47020, 1989-2 CB 387.

SECTION 7608: CRIMINAL ENFORCEMENT OF FEDERAL TAX LAWS

In criminal tax cases, the Special Agent is the central investigative figure. Once a "target" of the investigation is identified, the Special Agent issues 2039 summonses to gather financial information, which is ultimately summarized in his final report to his superiors, those superiors including his Chief and the Assistant Regional Commissioner. After the DoJ approves a case for prosecution, the Special Agent works closely with an AUSA and federal grand jury, and in doing so, he may even serve grand jury subpoenas and receive documents so subpoenaed. If an indictment is returned, the Agent "executes and serves search warrants and arrest warrants," and he often carries a firearm. This simplified summary of the acts of a typical Special Agent makes it abundantly clear that his authority to act is derived from §7608 of the Internal Revenue Code. If you ask a Special Agent to cite his statutory authority to act, he will invariably reply "§7608."

The problem with the mere citation of §7608 is apparent upon review of the section itself. This section currently has three (3) subsections, and the first two are the most important. Subsection (a) simply authorizes a criminal investigator to investigate crimes regarding the taxes imposed in subtitle E of the Code, which are the alcohol, tobacco and firearms taxes. It is subsection (b) which would provide the authority to investigate an income tax crime. The purpose of this memo is to analyze the C.I.D. function of the I.R.S., and to determine what investigative authority is possessed by this unit, if any, pursuant to §7608. In fact, the American public should know the functions and delegated authority of C.I.D. because it is charged with the knowledge of the scope and limitations upon the authority of federal agents, who can only act within the scope of such authority. See *Federal Crop Insurance Corp. v. Merrill*, 332 U.S. 380, 384, 68 S. Ct. 1, 3 (1947); *Dade Park Jockey Club v. Commonwealth*, 253 Ky. 314, 69 S.W.2d 363, 365 (1934); *Morris Plan Bank of Georgia v. Simmons*, 201 Ga. 157, 39 S.E.2d 166, 175 (1946); *Northern Pac. Ry. Co. v. United States*, 70 F. Supp. 837, 860 (D.Minn. 1946); *Sunshine Dairy v. Peterson*, 183 Or. 305, 193 P.2d 543, 552 (1948); *United States v. Jones*, 176 F.2d 278, 281 (9th Cir. 1949); *Patten v. State Personnel Board*, 234 P.2d 987, 990 (Cal. App. 1951); *State ex rel Young v. Niblack*, 99 N.E.2d 839, 841 (Ind. 1951); *State v. Hartford Accident & Indemnity Co.*, 138 Conn. 334, 84 A.2d 579, 581 (1951); *Davis v. Pelley*, 102 N.E.2d 910, 912 (Ind. 1952); *Lien v. Northwestern Engineering Co.*, 54 N.W.2d 472, 476 (S.D. 1952); *Sittler v. Board of Control of Michigan College*, 333 Mich. 681, 53 N.W.2d 681, 684 (1952); *Bear River Sand & Gravel Corp. v. Placer County*, 258 P.2d 543, 546 (Cal. App. 1953); *Rogers v. County Comm. of New Haven County*, 141 Conn. 426, 106 A.2d 757 (1954); *Mason County Civic Research Council v. County of Mason*, 343 Mich. 313, 72 N.W.2d 292, 296 (1955); *Government of Virgin Islands v. Gordon*, 244 F.2d 818, 821 (3rd Cir. 1957); *Joseph A. Cicci, Inc. v. Allanson*, 187 N.Y.S.2d 911, 913 (1959); *Atlantic Co. v. Moseley*, 215 Ga. 530, 111 S.E.2d 239, 242 (1959); *Flavell v. Dept. of Welfare, City and County of Denver*, 355 P.2d 941, 943 (Colo. 1960); *City of Calhoun v. Holland*, 222 Ga. 817, 152 S.W.2d 752, 754 (1966); *Gray v. Johnson*, 395 F.2d 533, 537 (10th Cir. 1968); *Gammill v. Shackelford*, 480 P.2d 920, 922 (Okl. 1970);

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Baker v. Deschutes County, 498 P.2d 803, 805 (Or.App. 1972); City of Mercer Island v. Steinmann, 9 Wash. App. 479, 513 P.2d 80, 83 (1973); United States v. Gemmill, 535 F.2d 1145 (9th Cir. 1976); Lopez-Telles v. I.N.S., 564 F.2d 1302 (9th Cir. 1977); Bollow v. Federal Reserve Bank, 650 F.2d 1093, 1100 (9th Cir. 1981); Lavin v. Marsh, 644 F.2d 1378, 1383 (9th Cir. 1981); Smith v. Sorensen, 748 F.2d 427, 432 (8th Cir. 1984); and Watrel v. Commonwealth Dept. of Education, 488 A.2d 378, 381 (Pa. Comwlth. 1985). Acts of federal agents without delegated authority are void; see Cudahy Packing Co. v. Holland, 315 U.S. 357, 62 S.Ct. 651 (1942); United States v. Giordano, 416 U.S. 505, 94 S.Ct. 1820 (1974); United States v. Pees, 645 F. Supp. 687 (D. Col. 1986); United States v. Hovey, 674 F. Supp. 161 (D. Del. 1987); United States v. Spain, 825 F. 2d 1426 (10th Cir. 1987); United States v. Emerson, 846 F. 2d 541 (9th Cir. 1988); United States v. McLaughlin, 851 F. 2d 283 (9th Cir. 1988); and United States v. Widdowson, 916 F.2d 587, 589 (10th Cir. 1990). If a federal agent exceeds his delegated authority and commits a tort within a state, he may be sued in state court; see Johnston v. Earle, 245 F. 2d 793 (9th Cir. 1957); and Hunsucker v. Phinney, 497 F. 2d 29 (5th Cir. 1974).

The original § 7608 as it appeared in the Internal Revenue Code enacted in August, 1954, was nothing more than a cross reference section. In 1958, an act entitled the "Excise Tax Technical Changes Act of 1958," P.L. 85-859, 72 Stat. 1275, 1279, amended §7608 by inserting therein the following:

"Sec. 7608. AUTHORITY OF INTERNAL REVENUE ENFORCEMENT OFFICERS.

"Any investigator, agent, or other internal revenue officer by whatever term designated, whom the Secretary or his delegate charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of subtitle E or of any other law of the United States pertaining to the commodities subject to tax under such subtitle for the enforcement of which the Secretary or his delegate is responsible, may --

"(1) carry firearms;

"(2) execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

"(3) in respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and

"(4) in respect to the performance of such duty, make seizures of property subject to forfeiture to the United States."

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It was not until 1962 that subsection (b) of this section was added via P.L. 87-863, 76 Stat. 1141, 1143, which read as follows:

"(b) Enforcement of Laws Relating to Internal Revenue Other Than Subtitle E.--

"(1) Any criminal investigator of the Intelligence Division or of the Internal Security Division of the Internal Revenue Service whom the Secretary or his delegate charges with the duty of enforcing any of the criminal provisions of the internal revenue laws or any other criminal provisions of law relating to internal revenue for the enforcement of which the Secretary or his delegate is responsible is, in the performance of his duties, authorized to perform the functions described in paragraph (2).

"(2) The functions authorized under this subsection to be performed by an officer referred to in paragraph (1) are --

"(A) to execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

"(B) to make arrests without warrant for any offense against the United States relating to the internal revenue laws committed in his presence, or for any felony cognizable under such laws if he has reasonable grounds to believe that the person to be arrested has committed or is committing any such felony; and

"(C) to make seizures of property subject to forfeiture under the internal revenue laws."

The structure of §7608 has remained basically the same since 1962, although a subsection (c) was added via the "National Narcotics Leadership Act of 1988," P.L. 100-690, 102 Stat. 4181, 4504.[1] An interesting inquiry concerns precisely what are the taxes for which the Secretary or his delegate are responsible, such language appearing within this section.

For a period of time, published regulations implementing §7608 did exist. On October 21, 1959, Treasury Decision 6421, 24 Fed. Reg. 8644, 1959-2 C.B. 433, 440, was promulgated, thus creating 26 C.F.R., §301.7608-1, which read as follows:

§ 301.7608-1 AUTHORITY OF INTERNAL REVENUE ENFORCEMENT OFFICERS.--Any investigator, agent, or other internal revenue officer by whatever term designated, whom the Commissioner, Assistant Commissioner (Operations), Director, Alcohol and Tobacco Tax Division, regional commissioner, or assistant regional commissioner (alcohol and tobacco tax) charges with the duty of enforcing any of the

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criminal, seizure, or forfeiture provisions of subtitle E or of any other law of the United States pertaining to the commodities subject to tax under such subtitle for the enforcement of which such officers are responsible, may perform the functions provided in section 7608.

When subsection 7608(b) was added in 1962, no regulation was ever published to implement its provisions. The only published regulation issued under §7608, which is the one cited above, was finally repealed via Treasury Decision 7297, 38 Fed. Reg. 34803, 1974-1 C.B. 364, approved on December 13, 1973, shortly after the Bureau of Alcohol, Tobacco and Firearms was established. Currently and since 1973, there are no visible regulations which implement §7608, and in Mertens' Law of Federal Income Taxation, § 3.56, it is indicated that the absence of regulations means that the section is not intended to be implemented, the authority cited for the proposition being *United States v. Farrar*, 281 U.S. 624, 50 S.Ct. 425 (1930), and *Mintz v. Baldwin*, 289 U.S. 346, 53 S.Ct. 611 (1933).

In order to determine the flow of delegated authority under §7608, it will be essential hereafter to discuss in some detail all Treasury Department Orders (herein "TDO") and Commissioner's Delegation Orders (herein "CDO"). But, before doing so, perhaps an example will best suffice to show the course and direction of this memo. In the Code, the Secretary is authorized via §7121 to enter into closing agreements. Since the Secretary is primarily engaged in international activities and is thus too busy to tend to this detail personally, he has conveyed this authority to the Commissioner via the regulation at 26 C.F.R., §301.7121-1. But again, the Commissioner does not perform the task of making and entering closing agreements, and finds it necessary to delegate this responsibility to others. The appropriate CDO in question in this respect is CDO No. 97; the current version of this delegation order was made effective as of October 31, 1987, and it is not published in either the Federal Register or Cumulative Bulletin (C.B.), but is found in I.R.M. 1229, the Handbook of Delegation Orders. The lack of publication of such an order is telling.

From 1950 to the present, the Secretary of the Treasury has issued in excess of 100 published delegation orders relating to the duties and functions of the Commissioner and the I.R.S., and many of these have been abated or rescinded since they were originally issued. Sometime after 1982 or 1983, the Treasury compiled these TDOs and renumbered them, and the renumbered TDOs are always cited in the Handbook as authority for CDOs, even though the former have never been published in the Federal Register. In issuing CDO No. 97 (Rev. 27), the Commissioner cited as his authority the regulation at 301.7121-1(a), TDO No. 150-07, TDO No. 150-09 and TDO No. 150-17, "subject to the transfer of authority covered in TDO No. 120-01, as modified by TDO No. 150-27." In reality, TDO No. 150-07 is the former TDO No. 150-32, which simply authorized closing agreements under the '39 Code. TDO No. 150-09 is really the former TDO No. 150-36, which merely permitted functions performed for and under the authority of the '39 Code

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to be continued under the '54 Code. TDO No. 150-17 is the former TDO No. 150-83 (amended), which provides authority under tax treaties. TDO No. 120-01 is in reality TDO No. 221, which established the BATF in 1972. TDO No. 150-27 is TDO No. 221-3 (Rev. 2), which conveyed the authority to administer wagering taxes (Chapter 35 of the Code) to the Commissioner. If the regulation 301.7121-1(a) had been omitted from this unpublished CDO No. 97 (Rev. 27), the only authority which would have been delegated to lower echelon IRS agents would have been the authority to enter closing agreements for taxes under the '39 Code, those taxes subject to tax treaties, and those related to BATF taxes and wagering. Thus, the regulation under §7121 is of critical importance to this delegation order. The question to be asked concerns the effect of a Code section apparently having no regulations, and the extent and scope of delegation orders issued when there are no regulations.

A plain reading of §7608 reveals that the section itself conveys authority to nobody other than the Secretary; the Secretary, in turn, must authorize agents and this calls for the issuance of delegation orders. Under the repealed regulation 301.7608-1, it is obvious that some type of authority had been conveyed to the Commissioner, but here even he had to issue delegation orders appointing agents. Thus, to follow the flow of authority under §7608, it is essential to consult Treasury Department Orders and Commissioner's Delegation Orders.

In 1946, the Administrative Procedure Act was adopted and the same required federal agencies to publish in the Federal Register statements of their central and field organizational structures as well as the methods by which their functions were channeled (delegation orders); see 5 U.S.C., §552. It is acknowledged by both Treasury and I.R.S. that these items must be so published; see 31 C.F.R. §1.3(a), and 26 C.F.R., §601.702(a). In fact, it is acknowledged that anything concerning or affecting the American public must be published. In 1953, Revenue Ruling 2 (1953-1 CB 484) was issued and it required all divisions or units of the I.R.S. to publish in the Federal Register any item of concern to the public. This was more clearly expressed in Rev. Proc. 55-1 (1955-2 CB 897) as follows:

"It shall be the policy to publish for public information all statements of practice and procedure issued primarily for internal use, and, hence, appearing in internal management documents, which affect rights or duties of taxpayers or other members of the public under the Internal Revenue Code and related statutes."

That which is expressed above currently manifests itself within 26 C.F.R., §601.601(d)(2)(b), which reads as follows:

"A 'Revenue Procedure' is a statement of procedure that affects the rights or duties of taxpayers or other members of the public under the Code and

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related statutes or information that, although not necessarily affecting the rights and duties of the public, should be a matter of public knowledge."

Before commencing with a review of "modern" TDOs, it might perhaps be useful to examine older delegation orders and TDOs issued before and during the time of the '39 Code; by doing so, it may be seen how authority from the President and Secretary has been delegated. For example, Executive Order 6166, dated June 10, 1933, stated as follows:

"All functions now exercised by the Bureau of Prohibition of the Department of Justice with respect to the granting of permits under the national prohibition laws are transferred to the Division of Internal Revenue in the Treasury Department.

"The Bureaus of Internal Revenue and of Industrial Alcohol of the Treasury Department are consolidated in a Division of Internal Revenue, at the head of which shall be a Commissioner of Internal Revenue."

Executive Order No. 6639, dated March 10, 1934, stated as follows:

"1.(a) The Bureau of Industrial Alcohol and the Office of Commissioner of Industrial Alcohol are abolished, and the authority, rights, privileges, powers and duties conferred and imposed by law upon the Commissioner of Industrial Alcohol are transferred to and shall be held, exercised, and performed by the Commissioner of Internal Revenue and his assistants, agents, and inspectors, under the direction of the Secretary of the Treasury."

And TDO No. 143, dated December 6, 1951, provided as follows:

"By virtue of the authority vested in me as Secretary of the Treasury by Reorganization Plan No. 26 of 1950, there are hereby transferred to the Commissioner of Internal Revenue the functions and duties now performed by collectors of Internal Revenue in connection with tobacco and other taxes imposed under Chapter 15 of the Internal Revenue Code.

"The functions and duties herein transferred to the Commissioner of Internal Revenue may, at his discretion, be delegated to subordinates in the Bureau of Internal Revenue service in such manner as the Commissioner shall from time to time direct."

Thus each delegation order must be examined to determine the authority conveyed therein.

In 1949, Congress enacted a law authorizing the President to reorganize the executive departments; see 63 Stat. 203, chap. 226, codified at 5 U.S.C., §901, et seq. Pursuant to this authority, the President promulgated Reorganization Plan No. 26 of 1950 (15 Fed.

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Reg. 4935, 64 Stat. 1280), which restructured the entire Treasury Department via the following:

"[T]here are hereby transferred to the Secretary of the Treasury all functions of all other officers of the Department of the Treasury and all functions of all agencies and employees of such Department."

By this reorganization plan, all statutory and delegated authority of anyone in the Treasury Department was immediately divested and placed into the hands of the Secretary. Thereafter, Reorganization Plan No. 1 of 1952 (17 Fed. Reg. 2243, 66 Stat. 823) reorganized the Bureau of Internal Revenue, the name of which was changed to the Internal Revenue Service the following year; see T.D. 6038, 1953-2 CB 443.

Based upon the above reorganization plans, on March 15, 1952, the Secretary issued TDO No. 150, which authorized the continued performance of functions by Treasury officers and agents until changed by subsequent order. This order established a series of later orders, all of which deal with and concern administration of the internal revenue laws.

A separate file on this webpage lists the TDOs issued since the reorganization plan which are in 150 series; citation as to where each order is published is also provided. A review of these TDOs discloses that most of them concern only organizational changes made to the I.R.S. Insofar as authority granted pursuant to §7608 is concerned, of those which were published, only TDO No. 150-42 could possibly embody the criminal enforcement powers to which §7608 relates. It is also possible that one of the unpublished orders delegated this authority. Because the Commissioner and Secretary in the past promulgated regulation 301.7608-1, it is assumed for purposes of this memo that some type of delegation under §7608 was granted by the Secretary to the Commissioner.

Based upon the above assumption, the process of determining what agent has been delegated §7608 authority thus requires examination of all published CDOs issued by the Commissioner. A list enumerating every published CDO from 1954 to the present is contained in a separate file on this webpage; by review of these various CDOs, it is possible to trace the authority which is the subject of §7608.

The only possible CDOs which could delegate §7608 authority are numbered 31, 33 and 34. On April 30, 1956, CDO No. 31 was issued delegating to the Assistant Commissioner and the Director of the Alcohol and Tobacco Tax Division the authority to administer and enforce chapters 51, 52 and 53 of the Code (the "ATF" chapters), in addition to a few other functions. A few months later, CDOs No. 33 and 34 were issued and these orders also related to alcohol and tobacco taxes. Once these units of the I.R.S. had been delegated these enforcement responsibilities, Congress thereafter in 1958 created §7608, and the regulation at 301.7608-1 was promulgated in 1959. Below is a list containing the cites where these and subsequent revisions of these orders were published.

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CDO No. 31:

- (a) Original, 21 Fed. Reg. 3083, 1956-1 CB 1015.
- (b) Rev. 1, 34 Fed. Reg. 87, 1969-1 CB 379.
- (c) Rev. 2, 35 Fed. Reg. 16808, 1970-2 CB 487.
- (d) Rev. 3, 36 Fed. Reg. 18678, 1971-2 CB 524.
- (e) Rev. 4, 36 Fed. Reg. 22607, 1971-2 CB 525.

CDO No. 33:

- (a) Original, 21 Fed. Reg. 4415, 1956-2 CB 1375.

CDO No. 34:

- (a) Original, 21 Fed. Reg. 5851, 1956-2 CB 1375.
- (b) Revoked, 38 Fed. Reg. 33407, 1973-2 CB 462.

As can be seen from these orders, the same allowed for the seizure and forfeiture of property and the enforcement of the criminal laws. Logically, it is these orders which permitted the promulgation of the regulation at 301.7608-1.

The ATF Division of the I.R.S. was the unit which was responsible for the administration and enforcement of the laws which were the subject of CDOs No. 31, 33 and 34. This ended with the creation of the Bureau of Alcohol, Tobacco and Firearms via TDO No. 221 on June 6, 1972; see 37 Fed. Reg. 116696, 1972-1 CB 777. Among other administration and enforcement functions transferred to BATF via this order were the following:

"(a) Chapters 51, 52 and 53 of the Internal Revenue Code of 1954 and sections 7652 and 7653 of such Code insofar as they relate to the commodities subject to tax under such chapters;

"(b) Chapters 61 to 80, inclusive, of the Internal Revenue Code of 1954, insofar as they relate to the activities administered and enforced with respect to chapters 51, 52 and 53."

About 2 1/2 years later, the Secretary issued TDO No. 221-3 (40 Fed. Reg. 1084, 1975-1 CB 758) which delegated to the BATF the authority to administer and enforce "chapter 35 and chapter 40 and 61 through 80, inclusive, of the Internal Revenue Code of 1954 insofar as they relate to activities administered and enforced with respect to chapter 35." Chapter 35 deals with wagering taxes and chapter 40 concerns occupational taxes related to wagering. Some 1 1/2 years later, TDO No. 221-3 (Rev. 1) was issued. The only real,

detectable distinction between the former and latter orders was the inclusion of the following phrase in the latter:

"The Commissioner may call upon the Director for assistance when it is necessary to exercise any of the enforcement authority described in section 7608 of the Internal Revenue Code."

But, on January 14, 1977, the Secretary transferred back to the I.R.S. the enforcement duties relating to wagering via TDO No. 221-3 (Rev. 2). Thereafter, the authority of BATF encompassed chapters 40, 51, 52 and 53 of the 1954 Code in addition to the authority to enforce other non-Code laws. It is of great significance that the repeal of regulation 301.7608-1 occurred shortly after the creation of the BATF. The authority of BATF agents to exercise the functions under §7608 is today found in 27 C.F.R., §70.28.

In summary, §7608 requires delegations from the Secretary to enforcement agents. In reference to §7608(a), it has been shown above that this "ATF" authority has flowed through the ATF unit within I.R.S., ultimately to be passed onto the BATF. But, in the search for authority under §7608(b), a review of all published TDOs and CDOs reveals that there appears to have been no such delegation. Thus, if a Special Agent is conducting any investigation pursuant to the authority of §7608, that investigation encompasses violations only of the alcohol, tobacco and firearms tax laws, and there is no apparent authority to conduct any federal income tax investigation which is possessed by a Special Agent.

Special Note: This memo deals solely with items such as regulations and delegation orders mentioned above which have actually been published via the mandates of the APA. Undoubtedly, there are delegation orders which exist that have not been published, and those would be prevented from being published because of the operation of 1 CFR §5.4.

Footnotes:

FN 1: Federal drug laws implement the drug treaties.

"Landmines" *ADL*

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SECTION I INTRODUCTION

A. Purpose and Scope.

The purpose of this course is to prepare you for the duties and responsibilities necessary to do Combat Engineer Training. This is a hard-hitting course which emphasizes hands-on, performance-oriented training in the following subjects: Rigging, Demolitions, Mine/Countermine Operations, and Field Fortifications.

B. How to Use this Workbook.

This workbook should be used to assist you during training. It will tell you what to expect for each block of instruction and what to do to prepare for it. There is also ample space provided for notes for each block of instruction.

C. Homework.

Homework time will be used to prepare for the next phase of instruction. You will notice that it says on each advance sheet that you should either read or scan listed publications. The difference is as follows:

1. Read. The materials listed after "Read" should be read thoroughly as there is always the possibility of a quiz on the homework assignment.
2. Scan. The materials listed after "Scan" should be looked through basically as a refresher on the concepts covered in these chapters or paragraphs.

SECTION II
COURSE MAP

<u>LESSON</u>	<u>SUBJECT</u>	<u>HOURS</u>	<u>TYPE OF EVALUATION</u>
CETA1	Annex Orientation and Safety	1.0	N/A
CETA2	Install Pickets, Make Barbed Wire Ties, and Install Concertina	3.0	PERFORMANCE
CETA3	Install/Remove the M15 Antitank (AT) Mine	2.0	PERFORMANCE
CETA4	Install/Remove the M19 Antitank (AT) Mine	2.0	PERFORMANCE
CETA5	Install/Remove the M21 Antitank (AT) Mine	2.5	PERFORMANCE
CETA6	Install/Remove U.S. Antihandling Devices on Antitank (AT) Mines	3.0	PERFORMANCE
CETA7	Install/Remove the M16A1 Antipersonnel Mine	2.5	PERFORMANCE
CETA8	Install/Remove the M14 Antipersonnel (AP) Mine	2.0	PERFORMANCE
CETA9	Neutralize Mines	2.0	N/A
CETA10	Locate Mines Using the AN/PSS-11 Mine Detector	2.0	N/A
CETA11	Use and Maintain Demolition Equipment	2.0	N/A
CETA12	Tie Knots and Lashings/Prepare a Simple Tackle System	5.0	PERFORMANCE
CETA13	Construct a Nonelectric Initiating/Detonating Assembly and Prime Explosives Nonelectrically	3.0	PERFORMANCE
CETA14	Construct an Electric Demolition Initiating/Detonating System/Prime Explosives Electrically	3.0	PERFORMANCE
CETA15	Prime Explosives with Detonating Cord/Install Dual Firing System	4.0	N/A

SECTION III EVALUATION PROCEDURES

1. General.

You will be evaluated after receiving training and time to practice the task to prescribed standards listed in the applicable Soldiers' Training Publication (STP). As a rule, you will be evaluated at the end of each class; lessons not evaluated are outlined in Section II, Course Map. The evaluations will be performance oriented.

2. Testing.

The course will include the following methods of evaluation:

a. **End-of-Lesson Test:** An end-of-lesson test is provided for the majority of the lessons in this course. If you get a NO-GO on a lesson objective, you will be retrained (at a later time outside the academic day) on those portions of the objective you did not successfully complete. You will then be evaluated on the entire objective. You will be informed the day you receive a NO-GO as to when you will be retrained and evaluated. You should also study on your own until you are retrained and retested.

b. **End-of-Course Comprehensive Test (EOCCT):** An EOCCT is not a requirement for this course.

3. You are required to perform all course learning activities in a conscientious manner, study the student workbook, and complete training on all lessons. Also, you must ask for assistance as needed, pass all evaluations, work safely, and do your very best.

4. Recording of Performance.

Instructors have been provided with the necessary forms on which your progress (GO/NO-GO) will be registered. You may also keep track of your progress by filling out the Student Progress Control Record provided to you in Section IV of the booklet.

SECTION IV PROGRESS RECORD

In order for the student to keep track of his own progress, a Progress Record is provided.

STUDENT PROGRESS CONTROL RECORD MOS

STUDENT NAME/RANK _____

UNIT _____

TRAINING LOCATION _____

POI File (Lesson)	Go	No-Go	Retest Go	Date	Remarks
CETA1					
CETA2					
CETA3					
CETA4					
CETA5					
CETA6					
CETA7					
CETA8					
CETA9					
CETA10					
CETA11					
CETA12					
CETA13					
CETA14					
CETA15					

Instructions: *(All entries in ink)*

1. Students -- Fill out name, rank, unit, and training location.
2. Instructors -- Initial all other blanks as appropriate.

SECTION V
STUDENT ADVANCE SHEETS

**STUDENT ADVANCE SHEET
LESSON #CETA2**

1. Training objective:

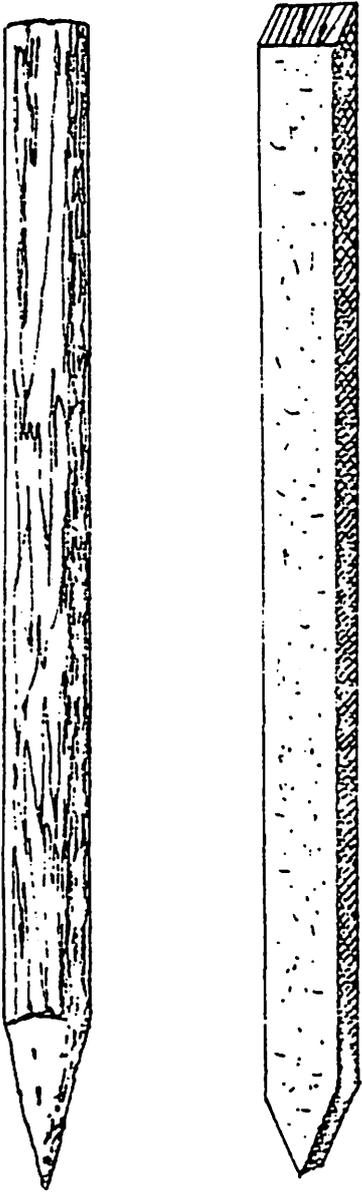
- a. TASK:** Install pickets, make barbed wire ties, and install concertina.
- b. CONDITION:** At a basic combat construction area, given barbed wire, concertina, ground staples, wooden or U-shaped pickets, a driving stake cap, wire cutters, sledge hammer, and wire gauntlets.
- c. STANDARD:** The soldier will correctly install the triple standard concertina wire fence, ensuring that the U-shaped pickets having the concave side are facing the enemy, with lower notch approximately four inches above the ground.

2. Preclass instructions:

Study STP 5-12B1-SM, Task 051-195-1004 and attached material.

3. Requirements for class:

- a. Safety goggles.**
- b. Wire gauntlets.**



Wooden Picket

WOODEN PICKETS:

There are two types of wooden pickets--round and square. Small, round trees 10 cm (4 in) in diameter are cut to standard picket lengths, sharpened on one end, and driven with a maul. The pickets are used without peeling the bark. Bark helps to prevent the wire from sliding on the picket and is not as noticeable as a freshly peeled pole. Longer pickets are required in loose or sandy soil, or when driving through a deep snow.

Driving wooden pickets is not as noisy as driving steel pickets, and the noise can be reduced further by fastening a section of tire over the face of the maul. For driving in hard earth, picket tops are wrapped with wire to prevent splitting. Wooden pickets are neither as sturdy nor as durable as steel pickets, but are used when no other pickets are available.

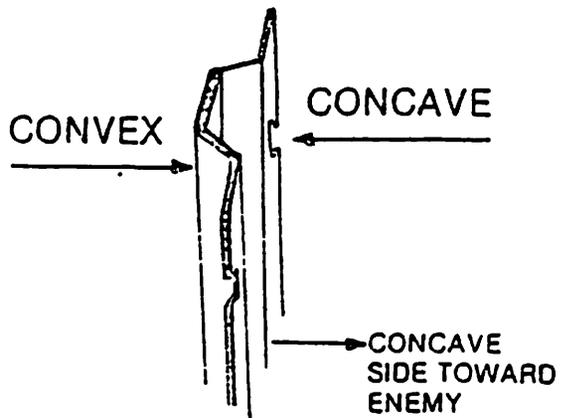
Dimension lumber ripped to a three-inch square cross section makes a good wood camouflage. Wood pickets made from lumber may be dipped in camouflage paint before being driven. When properly installed, the wood picket is driven into the ground about twelve inches (one foot).



U-Shaped Picket

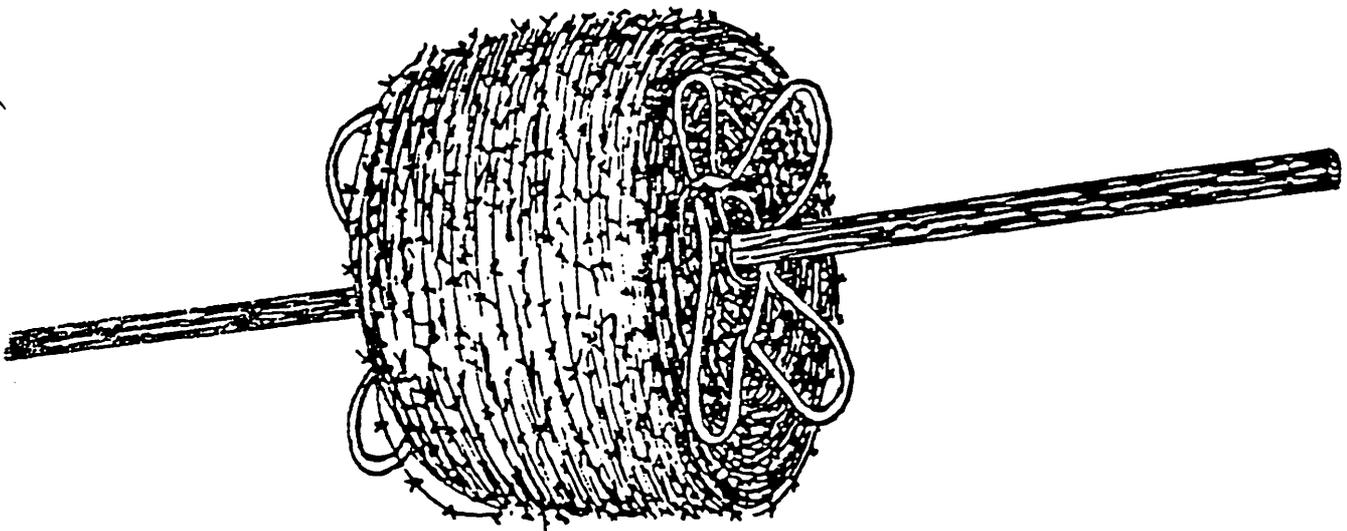
U-SHAPED PICKET:

The U-shaped picket is a cold-formed, steel picket with a U-shaped cross section, pointed at one end for easier driving. It is notched for wire ties and the pointed end has a punched hole for tying the pickets in bundles. U-shaped pickets are driven with a steel sledgehammer. A stake driving cap is used on top of the picket to prevent the picket from becoming deformed when it is driven. Driving steel pickets is noisier than installing screw pickets, however, the noise may be cut down by placing a piece of a rubber tire over the striking face of the sledge. Because these pickets are rigid and sturdy when properly installed, they are better than screw pickets and should be used anytime noise is not a disadvantage. The pickets are driven with the hollow surface or concave side (inside of 'U', see Figure 3A) facing enemy fire. When properly installed, the bottom notch is about four inches above the ground.



Close-up of U-Shaped Picket

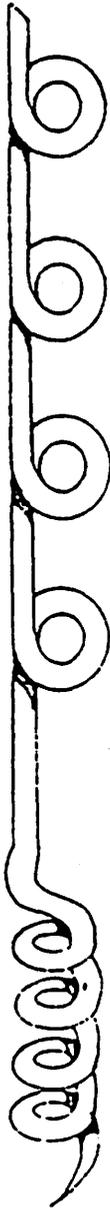
STANDARD BARBED WIRE: Standard barbed wire is two strands of twisted No. 12 steel wire with 4-point barbs at 10 cm (4 in) spacing. It is issued in reels containing 400 meters (1312 ft) of wire. The wire weighs 90 lbs, and the reel weighs 1/3 lb. A reel of wire is carried by two men. By placing a bar through the center of the reel, one man lifts each end of the bar and carries the reel to the construction site. When barbed wire is recovered, it is normally placed on a bobbin. Bobbins are made by nailing or wiring two cross pieces of wood to a third piece of wood. Because of its weight and difficulty in handling, about 30 meters (98 ft) of wire is all that is placed on a single bobbin. It takes several bobbins to hold the amount of wire that comes on a single reel of barbed wire.



- Barbed Wire Reel

SCREW PICKETS:

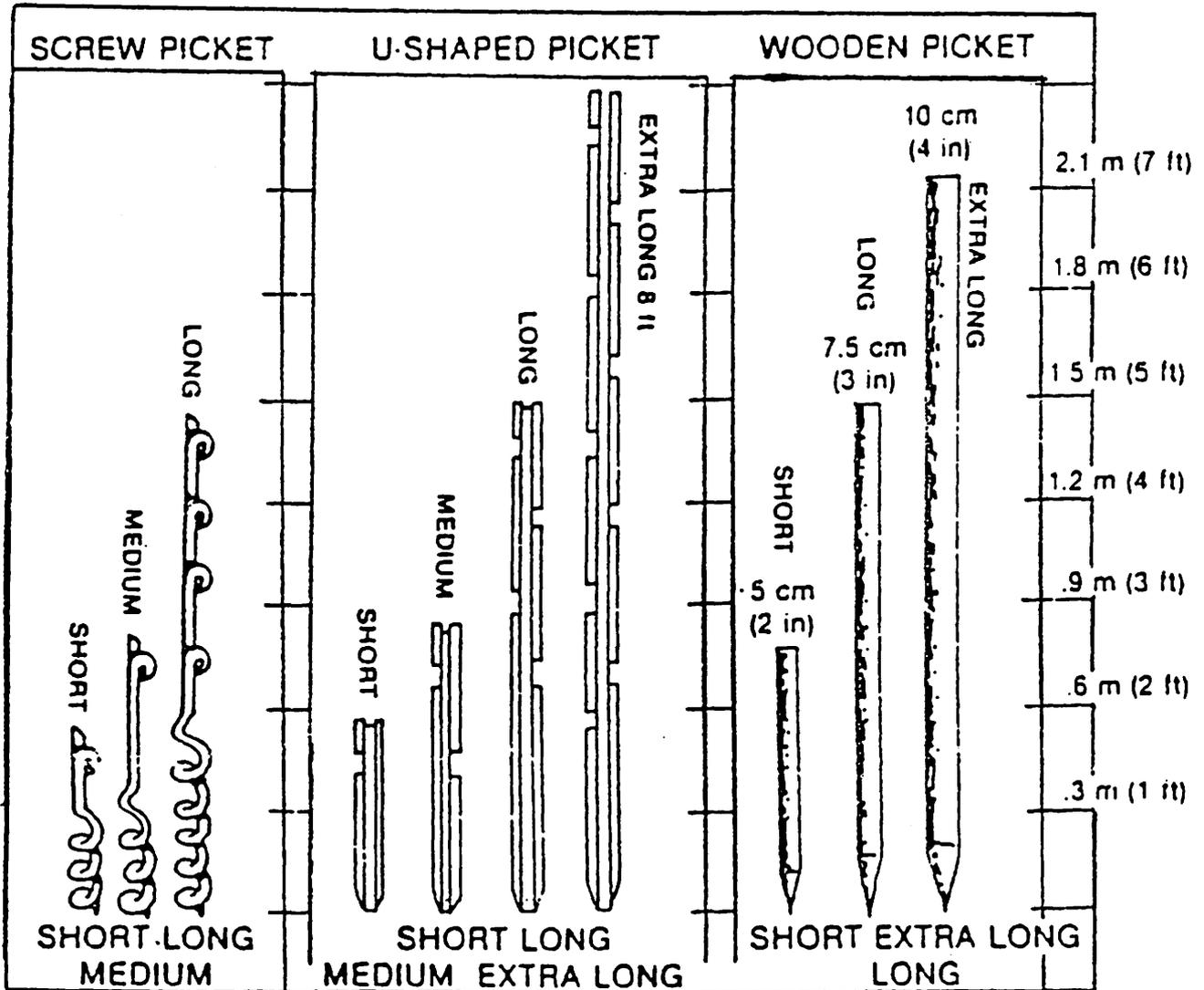
The screw picket is screwed into the ground by turning it in a clockwise direction using a driftpin, stick, or another picket inserted in the bottom eye of the picket for leverage. The bottom eye is used to avoid twisting the picket. Screw pickets are installed with the eye to the right of the picket, as seen from the friendly side, so that standard ties can be easily made. Screw pickets are less rigid than other types, but are desirable because they can be installed rapidly and silently. When silence is necessary, the tool used to install the pickets should be wrapped with cloth. When properly installed, the bottom eye of the picket is about four inches above the ground.



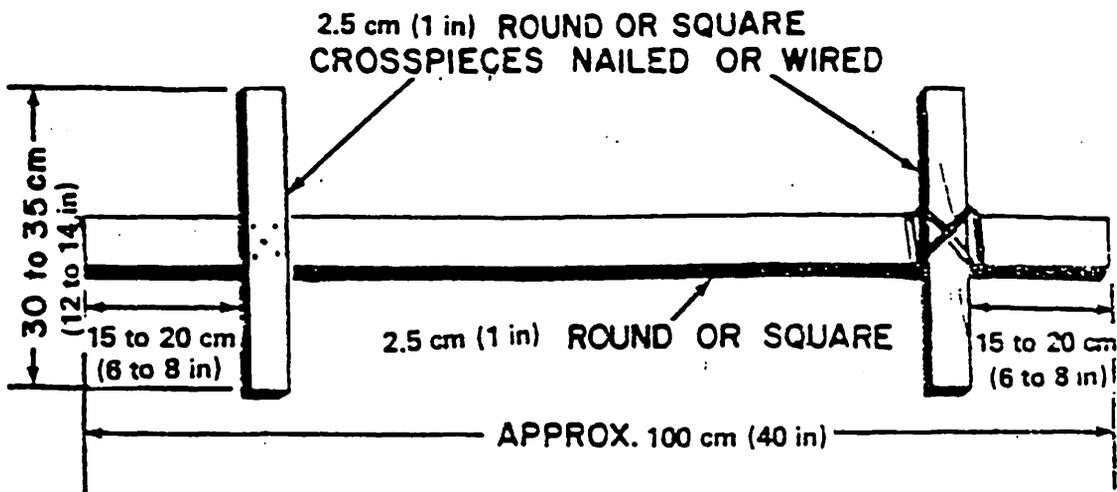
Screw Picket

PICKETS

Wire entanglements are supported by metal or wood pickets. There are two types of metal pickets--screw type and U-shaped. The standard picket lengths are short, medium, and long. The U-shaped picket also comes in an extra long length



Pickets for use with Barbed Wire

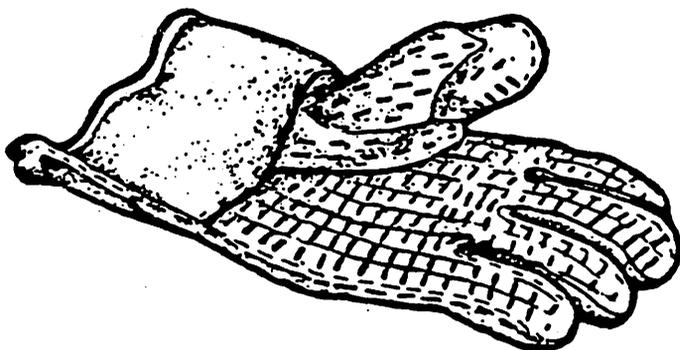


① METHOD OF MAKING BOBBIN

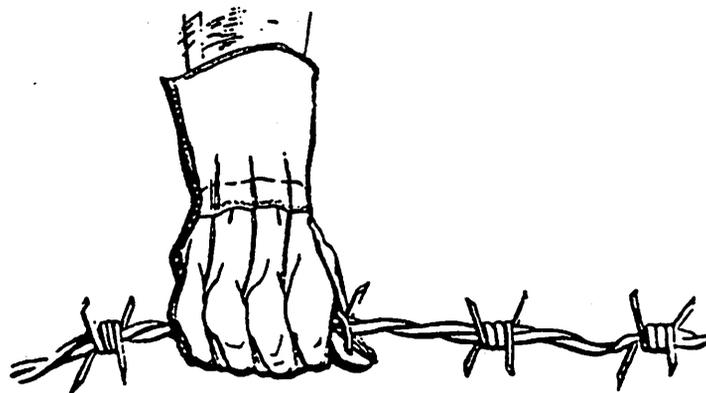


Barbed Wire Bobbin

Barbed wire gauntlets or heavy leather gloves should be used to handle barbed wire (See Figure 7). They will permit you to work faster and will prevent cuts and scratches. As an added safety precaution, the wire should be grasped with the palm down.



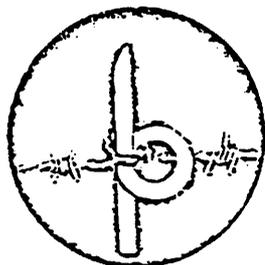
BARBED TAPE - WIRE GAUNTLETS



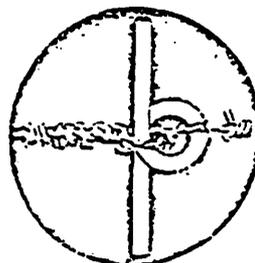
HANDLING BARBED WIRE WITH GAUNTLETS

Barbed Tape/Wire Gauntlets

WIRE TIES: Barbed wire is tied to pickets by men working from the friendly side of the wire. The four ties used in erecting barbed wire entanglements are shown in Figure 8. The procedure for making each tie is explained in the following paragraphs.



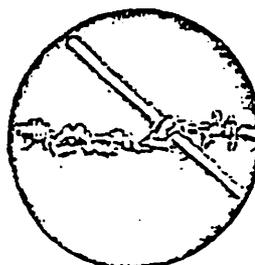
TOP EYE TIE



INTERMEDIATE EYE TIE



POST TIE



APRON TIE

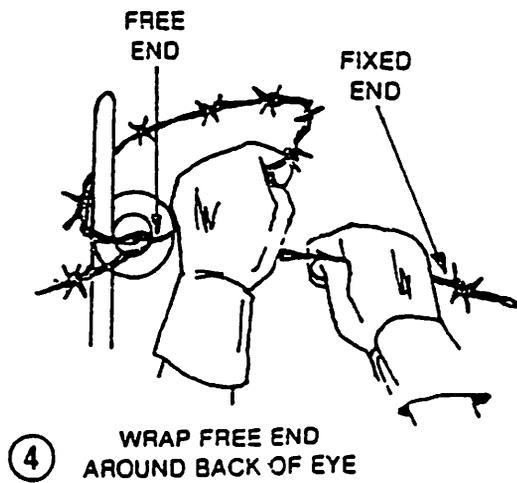
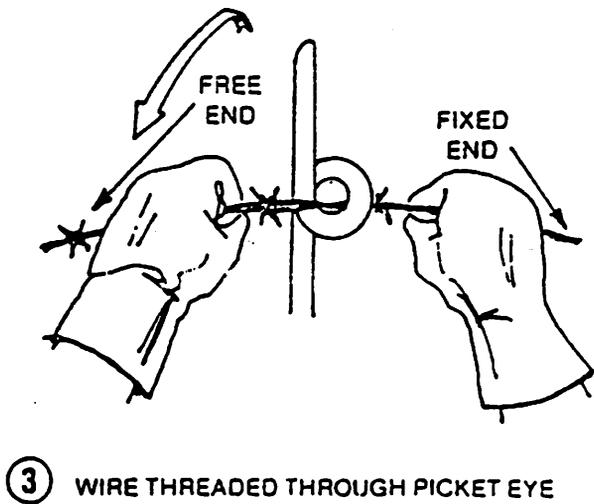
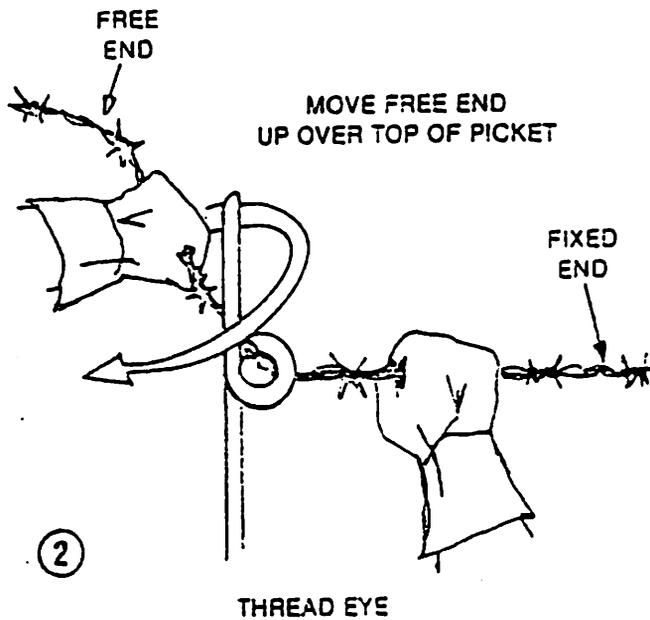
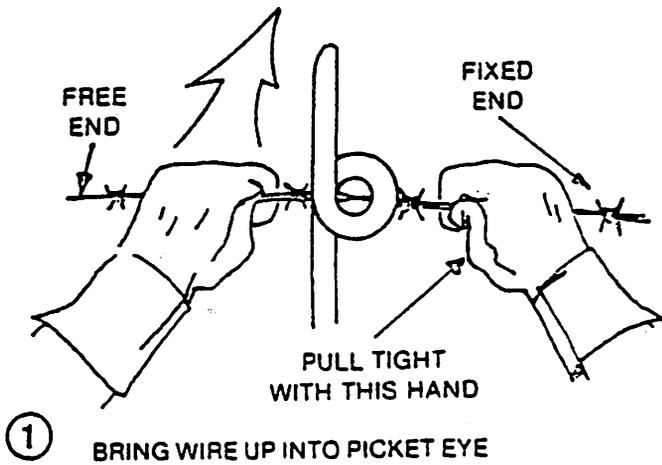
Ties for Erecting Entanglements as Seen from Friendly Side

Top-Eye Tie: The top eye tie is used to fasten standard barbed wire to the top eye of screw pickets. It is made in one continuous movement of the left hand (Figure 8) while the right hand keeps slack out of the fixed end of the wire. This is a secure tie; it is made quickly and uses only a small amount of wire.

Study steps 1 through 6

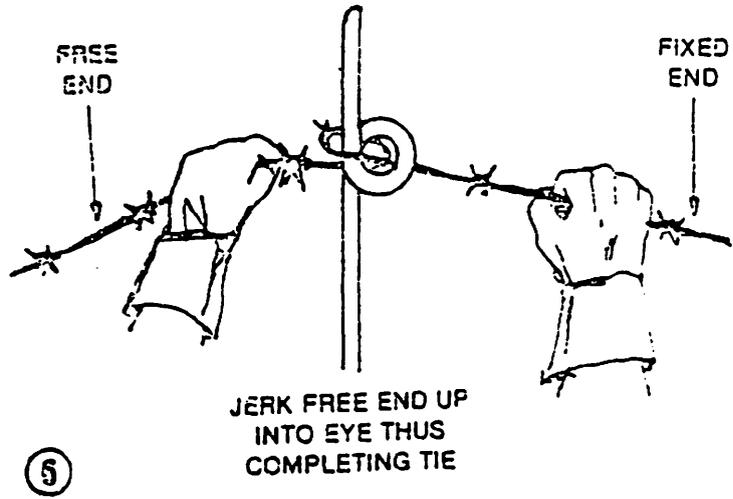
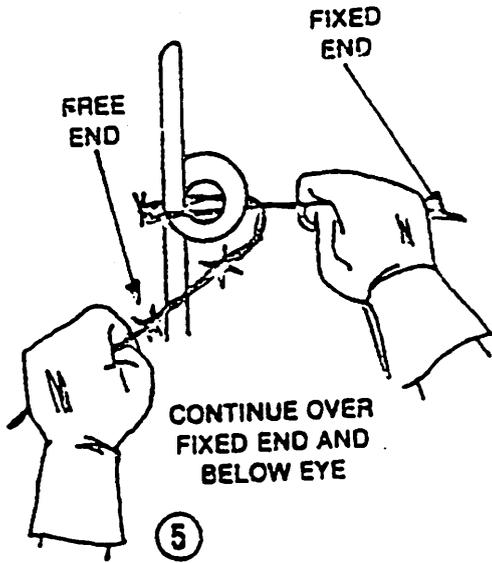
Practice tying the top eye tie until you are confident that you can tie the top eye tie within one minute. When you are sure you know how to tie the top eye tie, go to the intermediate eye tie.

TOP-EYE TIE



(Steps 1 through 4)

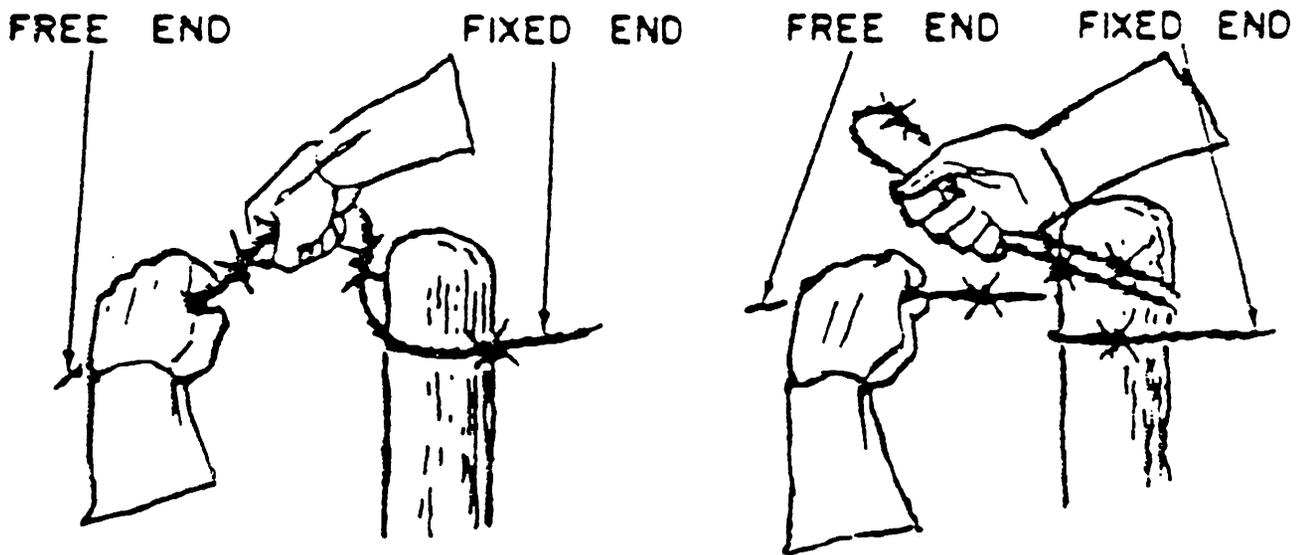
TOP-EYE TIE



(Steps 5 through 6)

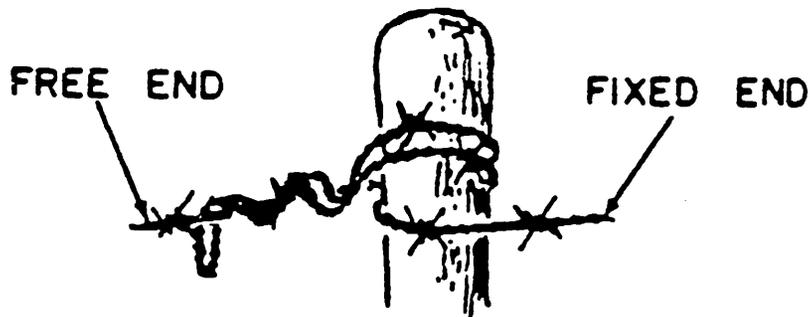
When you understand the steps in tying the intermediate eye tie, proceed to the post test. If you need help, ask the lesson manager.

Post Tie: Standard barbed wire is fastened to wooden pickets or to a steel U-shaped picket with the post tie shown. The wire should be wrapped tightly around the post to keep the barbs from sliding down. With the U-shaped picket, the wire wrapping is engaged in a notch in the picket. The method is essentially the same as that of the intermediate eye tie. Study Figure 10. When you understand the steps in tying the post tie, proceed to the apron tie. If you need help, ask the manager.



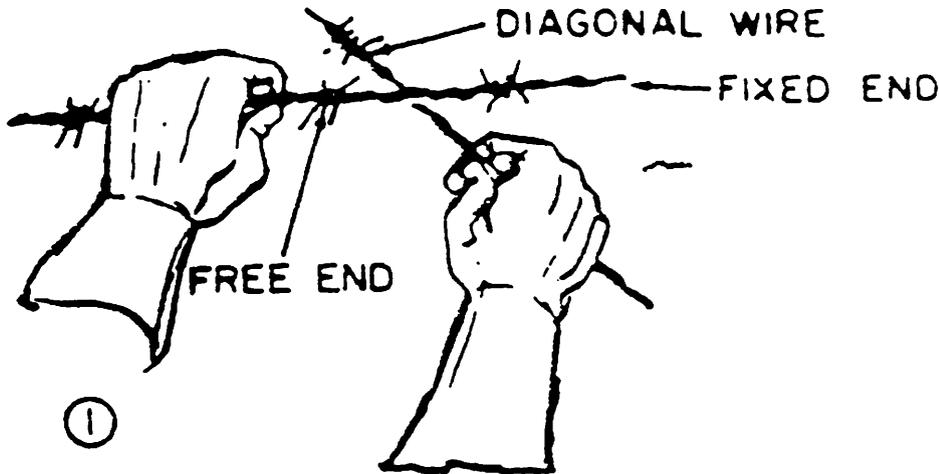
① WITH PALM DOWN REACH AROUND PICKET OR POST OVER FIXED END AND TAKE LOOP FROM FREE END

② WRAP LOOP AROUND POST ABOVE FIXED END

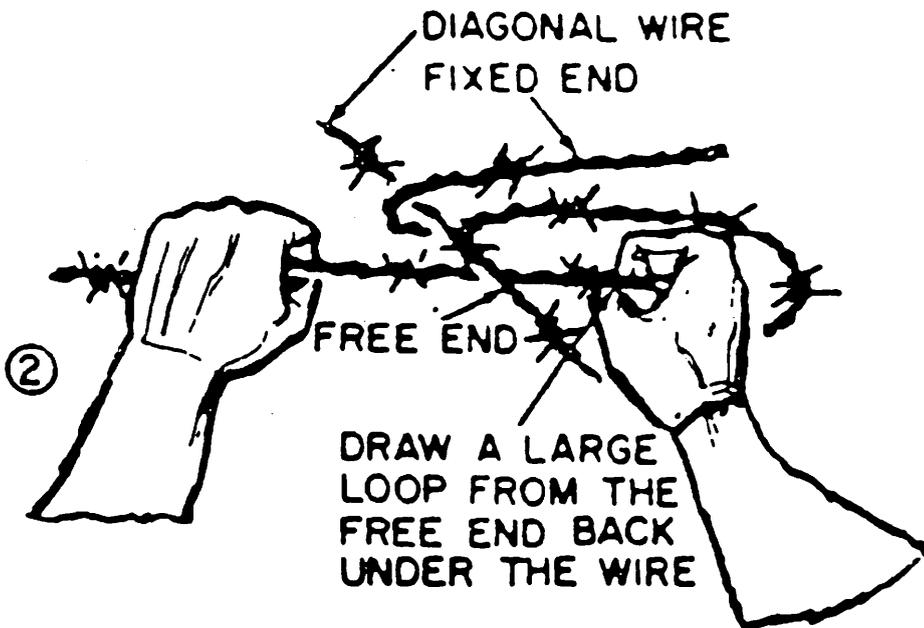


③ WRAP LOOP AROUND FREE END AT LEAST TWO TURNS TO COMPLETE TIE

Apron Tie: The apron tie is used whenever two wires that cross must be tied together. It is tied in the same manner as the post tie, except that a wire is substituted for the post.

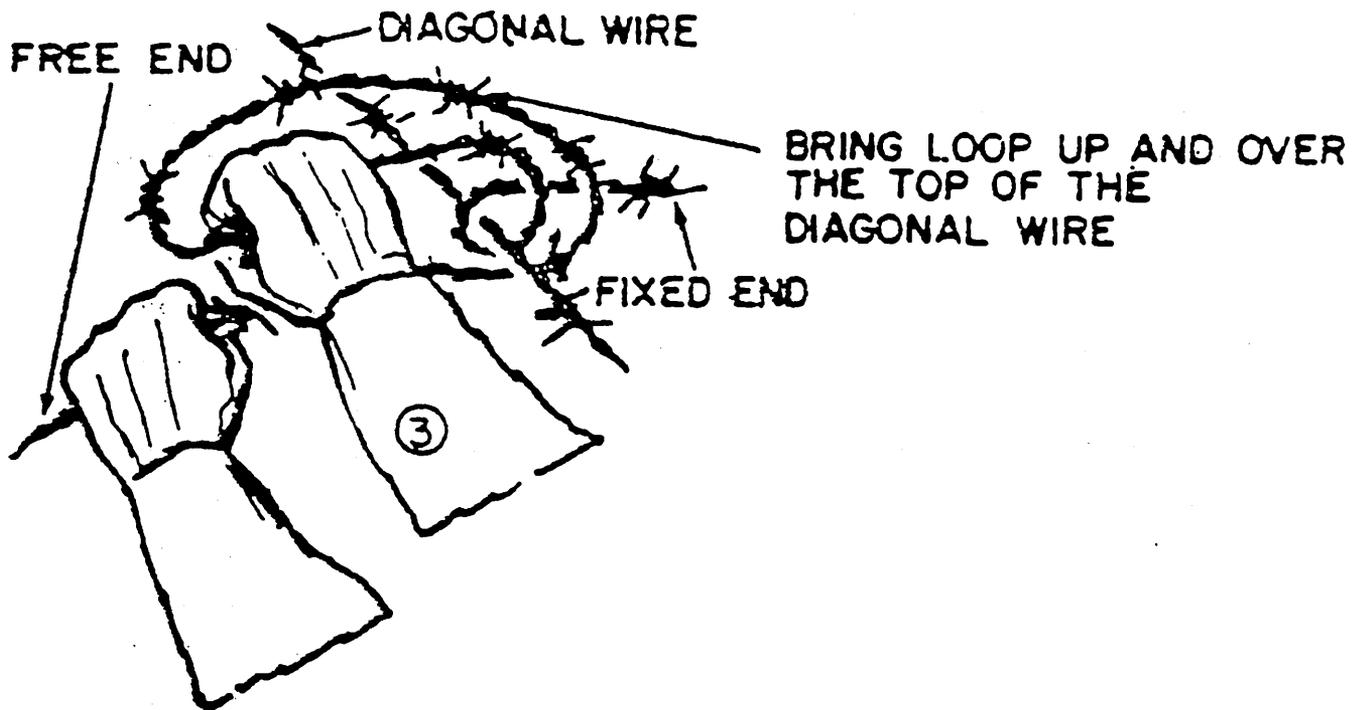


1. a. Hold the diagonal wire with the right hand.
- b. Pull the free end of the apron wire left with the left hand.
- c. Push the free end of the apron wire around behind the diagonal wire and below the fixed end of the apron wire.

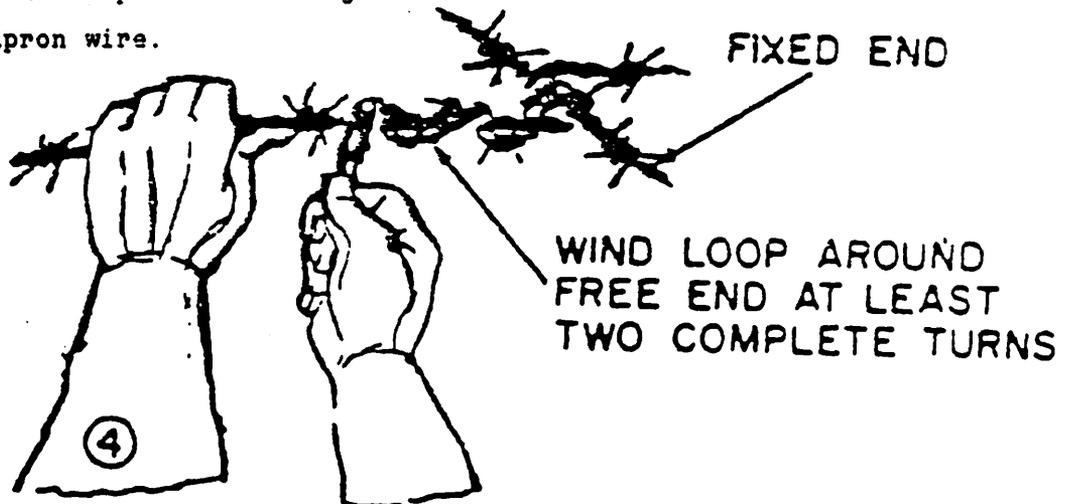


2. a. Release the diagonal wire and grasp the loop with the right hand, palm up.
- b. Release the loop with the left hand, and grasp the free end with the left hand.

Apron Tie (Steps 1 and 2)



- c. Pull the loop over the diagonal wire and then behind the free end of the apron wire.



- d. Complete the apron tie by winding the loop tightly around the free end of the apron wire two turns.

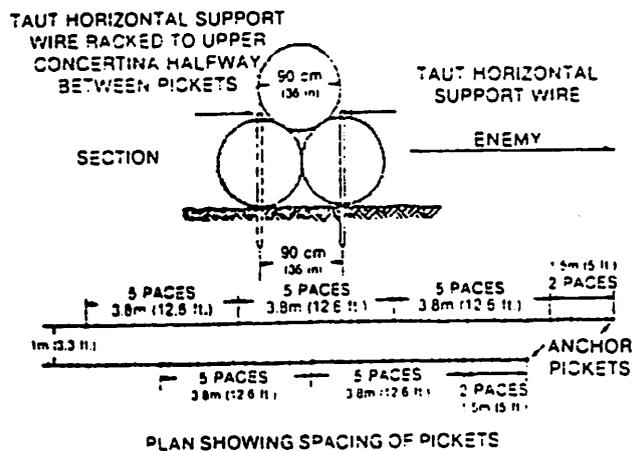
A. Free end B. Fixed end AB. Apron wire C. Diagonal wire

Standard Barbed Wire Apron Tie

When you understand the steps in tying the apron tie, the top eye tie, the intermediate eye tie, and the post tie, work the practice exercise on the next page. If you need help, ask the lesson manager.

You have been learning how to use the various materials required in the construction of barbed wire obstacles. Now you will use your newly acquired knowledge to learn a new skill, building a concertina obstacle.

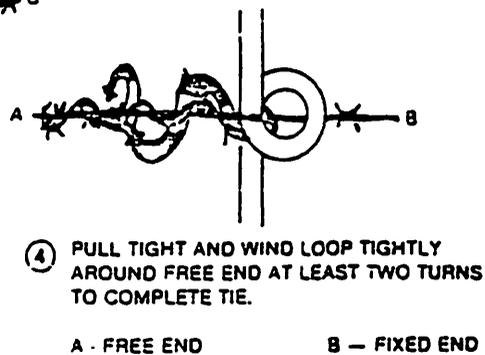
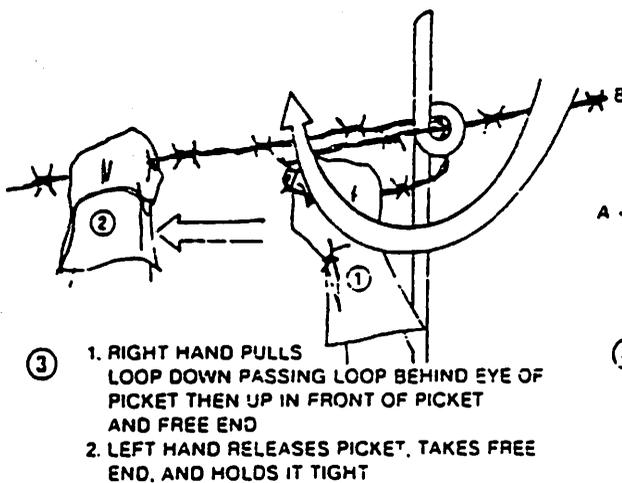
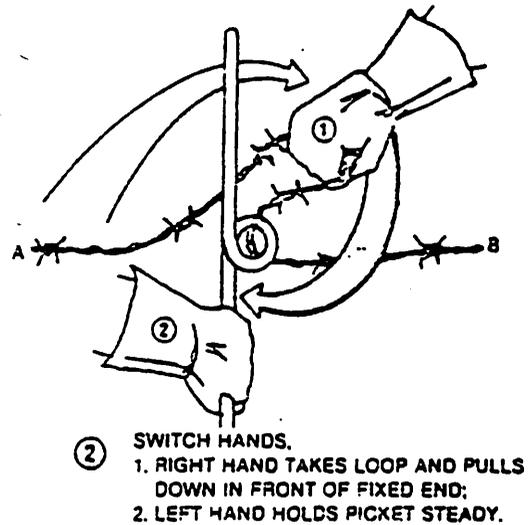
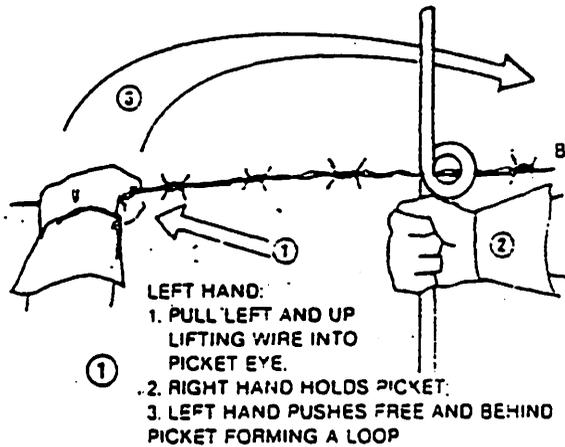
CONSTRUCTING A TRIPLE STANDARD CONCERTINA WIRE FENCE: The triple standard concertina fence consists of two lines of concertina rolls serving as a base with a third line resting on top, as shown in Figure 2. Rolls are installed with staggered joints. Each line is completed before the next is started so that a practically completed concertina entanglement presents some resistance to an advancing enemy. It may be erected quickly and is difficult to cross, cut, or crawl through. A 300-meter (984-ft) section of this fence is a platoon task, normally requiring less than an hour to construct. There are two operations: (1) carrying and laying out pickets and concertina rolls and installing pickets; and (2) opening and installing concertinas.



Triple Standard Concertina Fence

First Operation: For the first operation, the working party is divided into three groups of approximately equal size: one to lay out pickets, one to install pickets, and one to lay out concertina rolls.

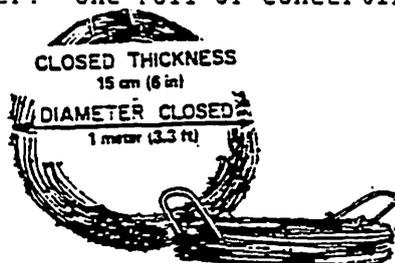
Intermediate Eye Tie: This tie is used to fasten standard barbed wire to all the eyes of the screw picket, except the top eye. It is made as shown



Intermediate Eye Tie

CONCERTINA FENCES

EXTENDING CONCERTAINA: Concertina comes in rolls (see Figure 1). Concertinas should never be extended longer than 15 meters (49.2 feet) and should not be used across openings less than 5 meters (16.4 feet). Normally, a minimum of two soldiers will extend concertina, although one soldier may extend concertina by following a prescribed method. The shorter the distance over which the coil is extended, the more difficult it is to crawl through because the coils are closer together. One roll of concertina weighs about 56 lbs.

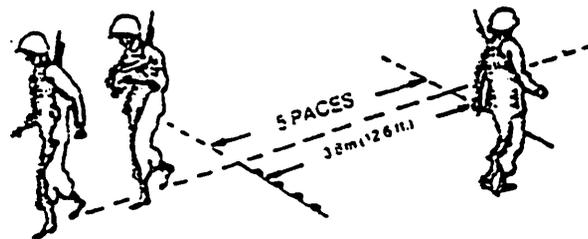


Roll of Concertina

HANDLING: The collapsed concertina is tied with four plain wire bindings equally spaced around the roll. In opening the concertina, these bindings are removed and twisted around the carrying handle for use in retying the concertina when it is again collapsed. Four men open a concertina and extend it to the desired length, with one man working at each end and the other two spaced along its length to ensure that it opens and extends evenly. When necessary, two men can open a concertina by bouncing it on the ground to prevent snagging as they open it. Do not attempt to open concertina wire by pulling on the ends. This procedure will result in the wire being stretched at the ends and remaining bunched at the middle. Bounce the wire, extending it as it releases from the roll.

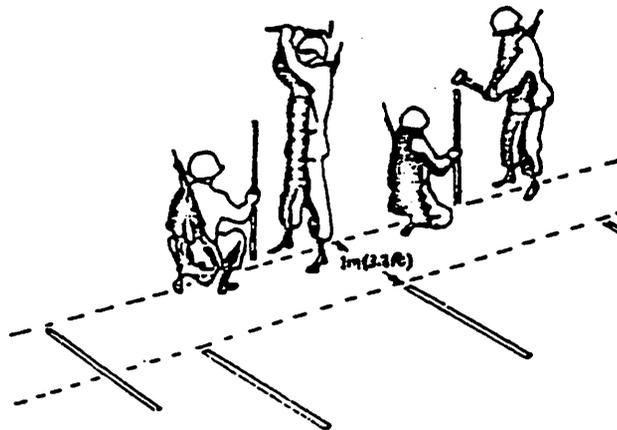
STAPLES: Improvised U-shaped staples approximately 45 cm (18 in) long and made of 1/2 inch (1.25 cm) steel or similar material are used to fasten the bottoms of extended concertina coils securely to the ground. Staples are normally used when a concertina fence is to remain in place for an extended period of time. Staples are not available through the supply system. They must be constructed from steel rods, drift pins, or other available material. Staples are normally placed over the bottom coil at each long picket and at a spacing of one meter along the fence.

The first group lays out front row long pickets at five pace intervals on the line of the fence (Figure 3). The pointed end of the pickets is placed on line and pointing toward the enemy. The rear row of long pickets are then laid out on a line 90 cm (three feet) to the rear of the first row and centered between the front row long pickets. An anchor picket is laid out at each end of each line one and a half meters (five feet) from the end long picket.

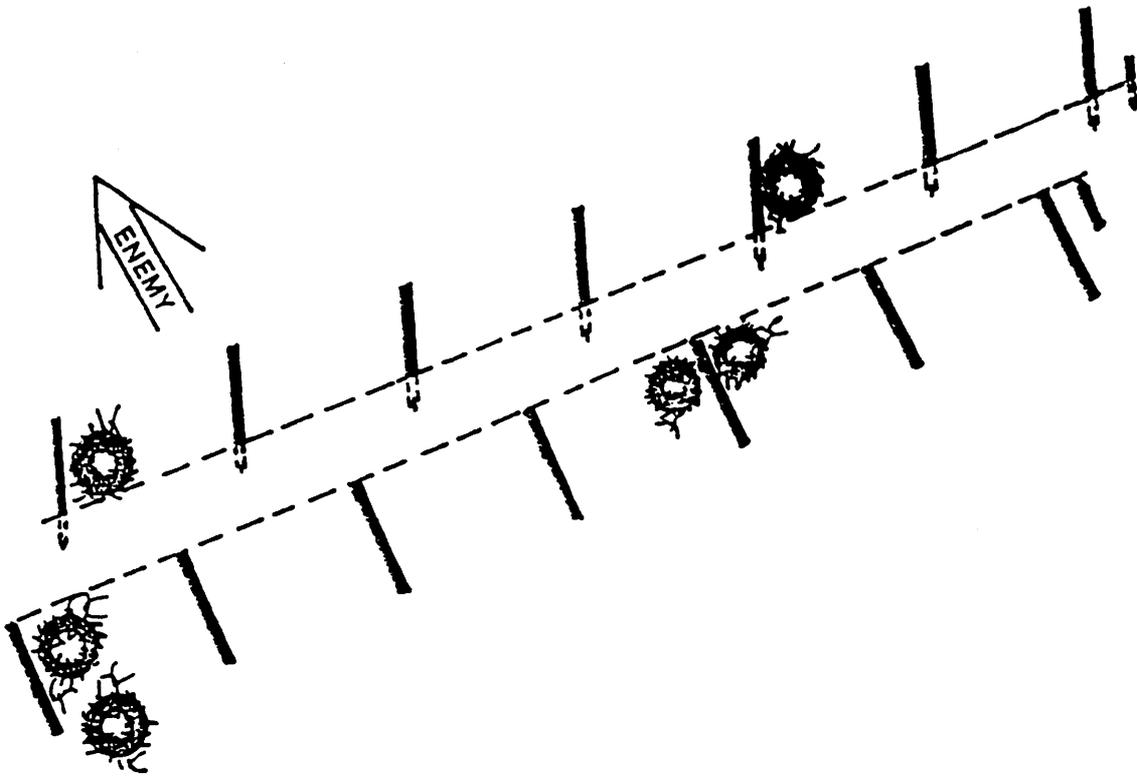


Laying out Long Pickets for Triple Concertina Fence

The second group installs pickets beginning with the front row. As in other fences, eyes of screw pickets are to the right. The concave side of U-shaped pickets are faced toward the enemy.



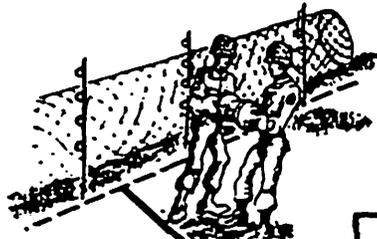
Installing Front Row Pickets for Triple Concertina Fence



Laying out Concertina

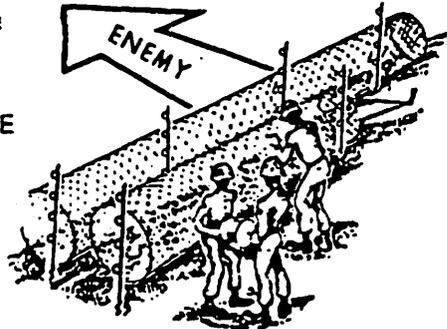
The third group lays out concertina rolls along the rows of pickets

In the front row, one roll is placed at the third picket and one at every fourth picket thereafter. Sixteen staples accompany each front row concertina. In the second row, two rolls are placed at the third picket and two at every fourth picket thereafter. As each roll is placed in position, its binding wires are unfastened and left attached to the handles at one end of the roll.



STEP 1

INSTALL FRONT ROW
AND HORIZONTAL WIRE



STEP 2

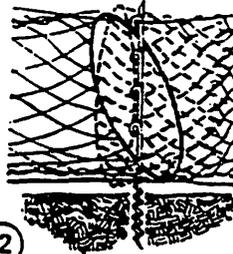
INSTALL TOP ROW
AND RACK TO WIRE



STEP 3

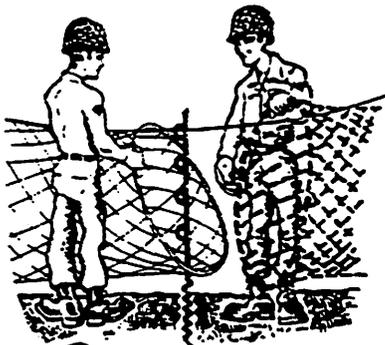
INSTALL TOP ROW
AND RACK TO REAR
HORIZONTAL WIRE

Installing Concertina



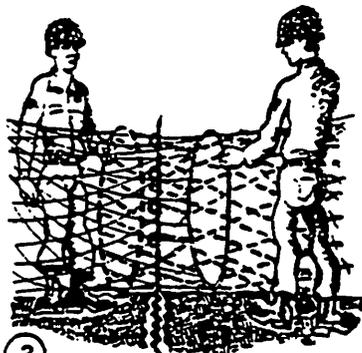
②

PLACE BOTH BOTTOM
AND TOP PORTION
OF SECOND COIL
OVER PICKET



①

PLACE BOTTOM PORTION
OF FIRST COIL OVER
PICKET



③

PLACE TOP PORTION OF
FIRST COIL OVER PICKET

Joining Concertina

SECOND OPERATION: As they complete the first operation, all men are organized in four-man parties (Figure 6) to open and install concertina rolls beginning at the right end of the fence. The sequence shown is as follows:

1. Open the front row of concertinas on the enemy side of the pickets.
2. Lift each front row concertina in turn and drop it over the long pickets, then join concertina ends as shown
3. Fasten the bottom of the concertina to the ground by driving a staple over the bottom of a coil at one meter intervals. Securing the front concertina to the ground is essential and must be done before installing another concertina behind it.

4. Stretch a barbed wire strand along the top of the front row and fasten it to the tops of the long pickets. Use a top eye tie for screw type pickets and a post tie for U-shaped pickets. These wires are stretched as tightly as possible to improve the resistance of the fence against crushing.
5. Open the back row of concertinas on the friendly side and install them as described above for the front row concertina
6. Install the concertina in the top row by stretching it out then lifting it over the back row, fastening the end coils with plain steel wire ties. Begin this row at a point between the ends of the front and rear lower rows, thus staggering all splices.
7. Tie the top concertina to the rear horizontal wire at points halfway between the long pickets. If there is safe access to the enemy side of the fence, similarly tie the top concertina to the horizontal wire on the front row.
8. Continue this operation until you have completed construction of the 50 meter fence.

FENCE RECOVERY PROCEDURES:

As previously stated, concertina wire is made of high-strength, spring-steel wire. This wire is very durable and will withstand repeated placement and recovery without losing its effectiveness. The next nine steps explain how to recover concertina wire from a triple standard concertina wire fence.

1. Remove ties holding the top row of concertina wire to the rear horizontal barbed wire.

2. Lift the top row of concertina wire off the two bottom rows. Collapse the concertina wire, returning it to a roll. Two men can collapse a concertina in the following manner: Remove all kinks in coils and tighten loose clips or replace them with plain wire. To close the concertina, one man stands at each end of it and places a foot on the bottom of the coil and an arm under the top of the coil. The two men walk toward each other, closing the concertina by feeding the wire over their arms and against their feet. When closed, the concertina is laid flat and compressed with the feet, then tied with plain wire bindings. One man can carry the collapsed concertina by stepping into it and picking it up by the wire handles.
3. Remove the rear strand of barbed wire and roll it for future use. Barbed wire may be rolled in a large roll or it may be placed on a wire bobbin.
4. Recover and collapse the rear row of concertinas.
5. Remove the front strand of the barbed wire and roll it for future use.
6. Remove staples from the front row of concertinas.
7. Remove and collapse the front row of concertinas.
8. Remove pickets:
 - a. Remove screw pickets by placing a drift pin or other suitable object in the bottom eye of the picket and turning counterclockwise.
 - b. Remove U-shaped pickets by shaking the picket from side to side and from front to back until the picket becomes loose enough to lift from the ground.
9. Store all items in accordance with the manager's instructions.

**STUDENT ADVANCE SHEET
LESSON #CETA3**

1. Training objective:

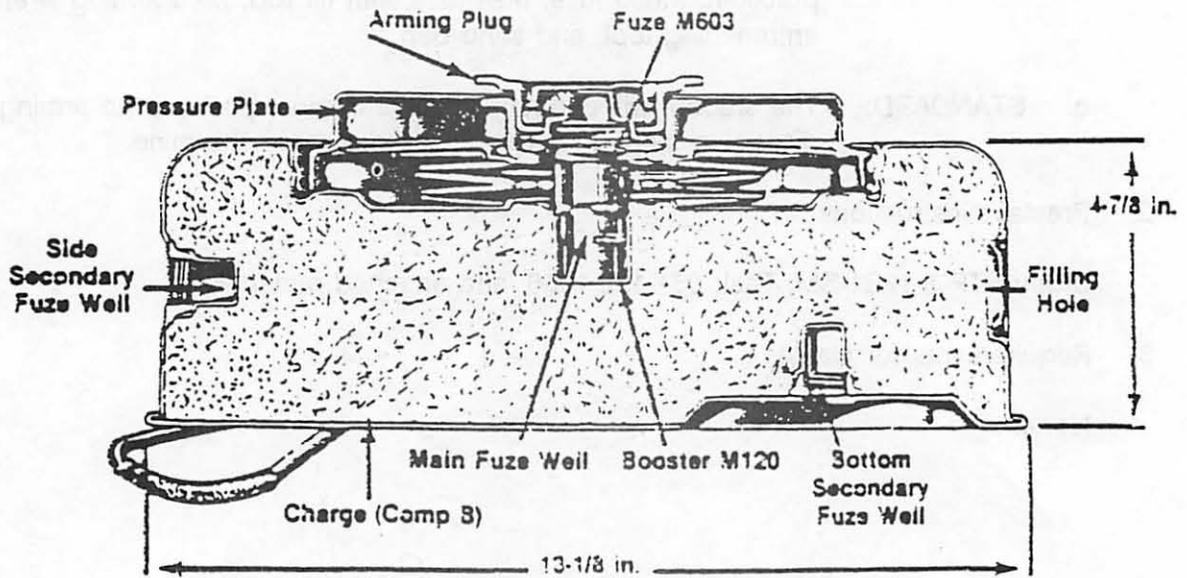
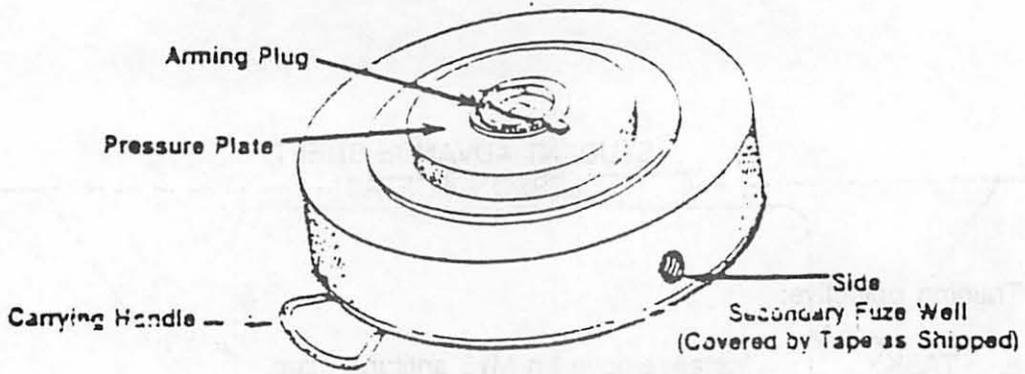
- a. **TASK:** Install/remove an M15 antitank mine.
- b. **CONDITION:** At a designated training area, given an M15 antitank mine (M20 practice), M603 fuze, M24 fuze with tilt rod, M20 arming wrench, entrenching tool, and sand bag.
- c. **STANDARD:** The student will correctly install the mine, perform the arming and disarming steps in sequence, and remove the mine.

2. Preclass instructions:

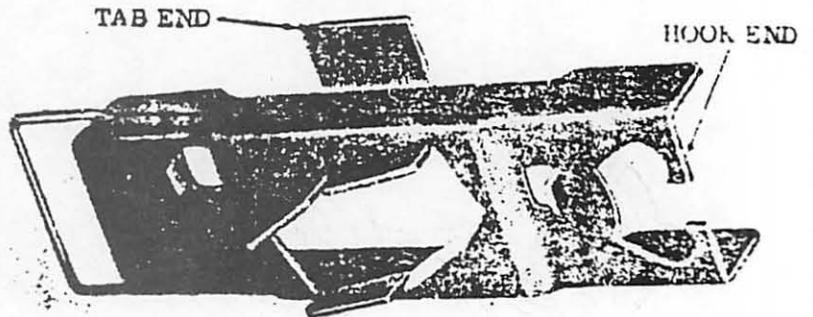
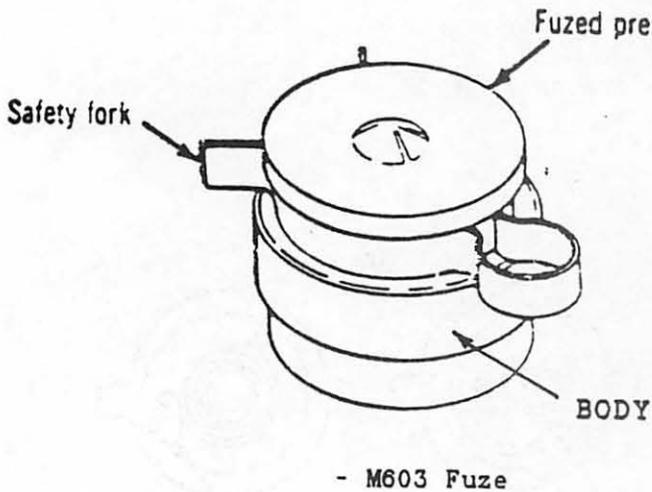
Study STP 5-12B1-SM, Task 051-192-1006, and attached materials.

3. Requirements for class:

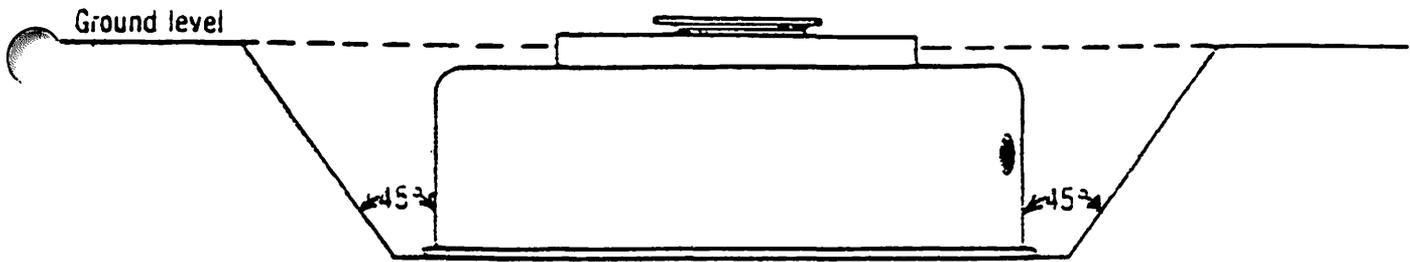
None.



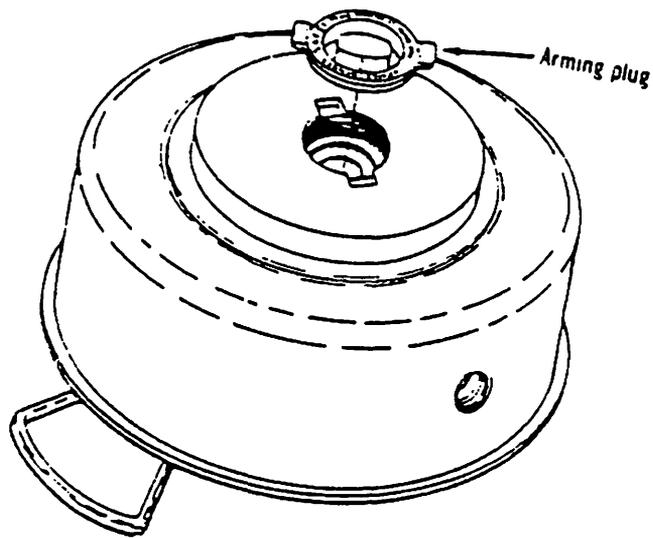
M-15 Antitank Mine



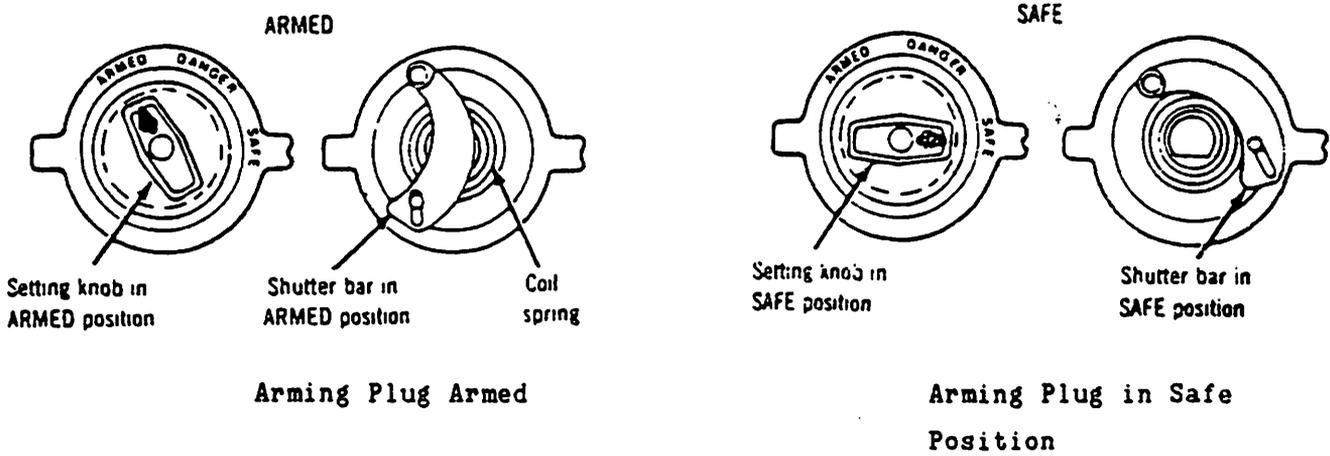
M-20 Arming Wrench

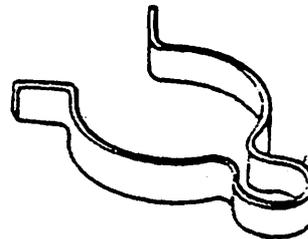
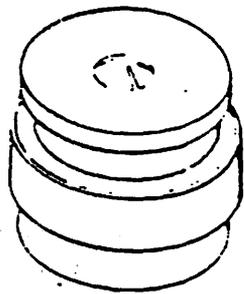


Hole Preparation

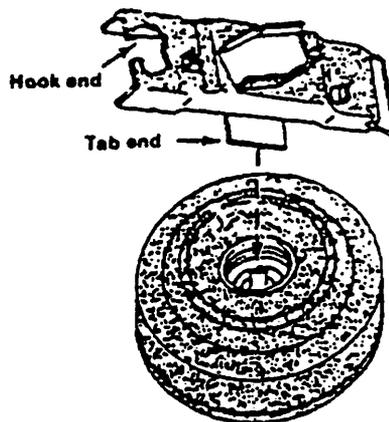


Removing the Arming Plug

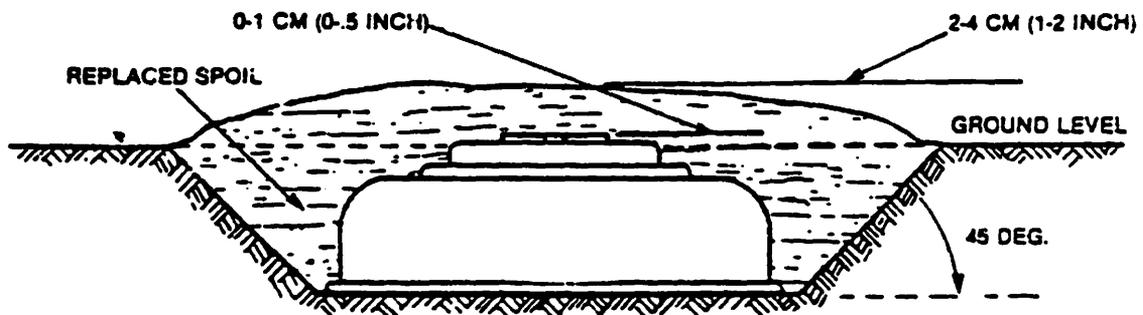




Safety Fork Removed



Checking Fuze Clearance



- M-15 Antitank Mine Buried

**STUDENT ADVANCE SHEET
LESSON #CETA4**

1. Training objective:

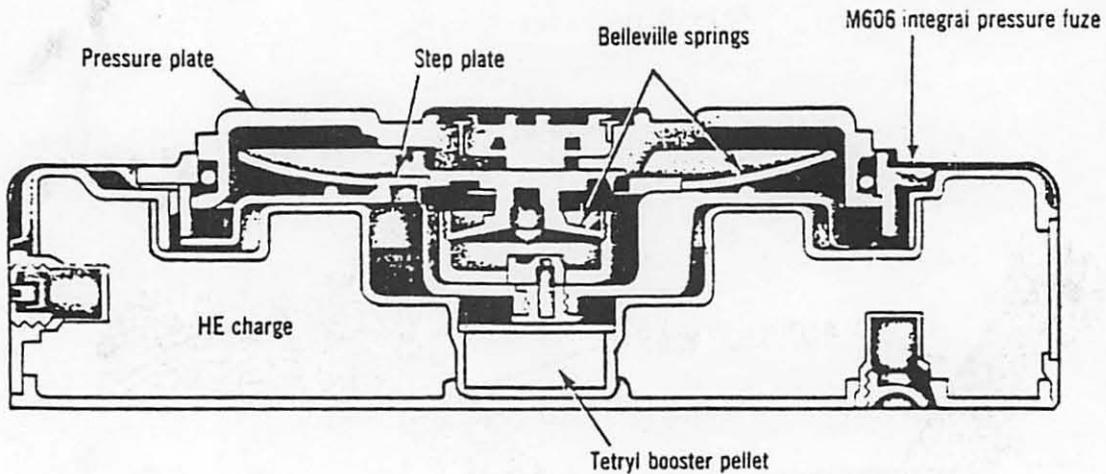
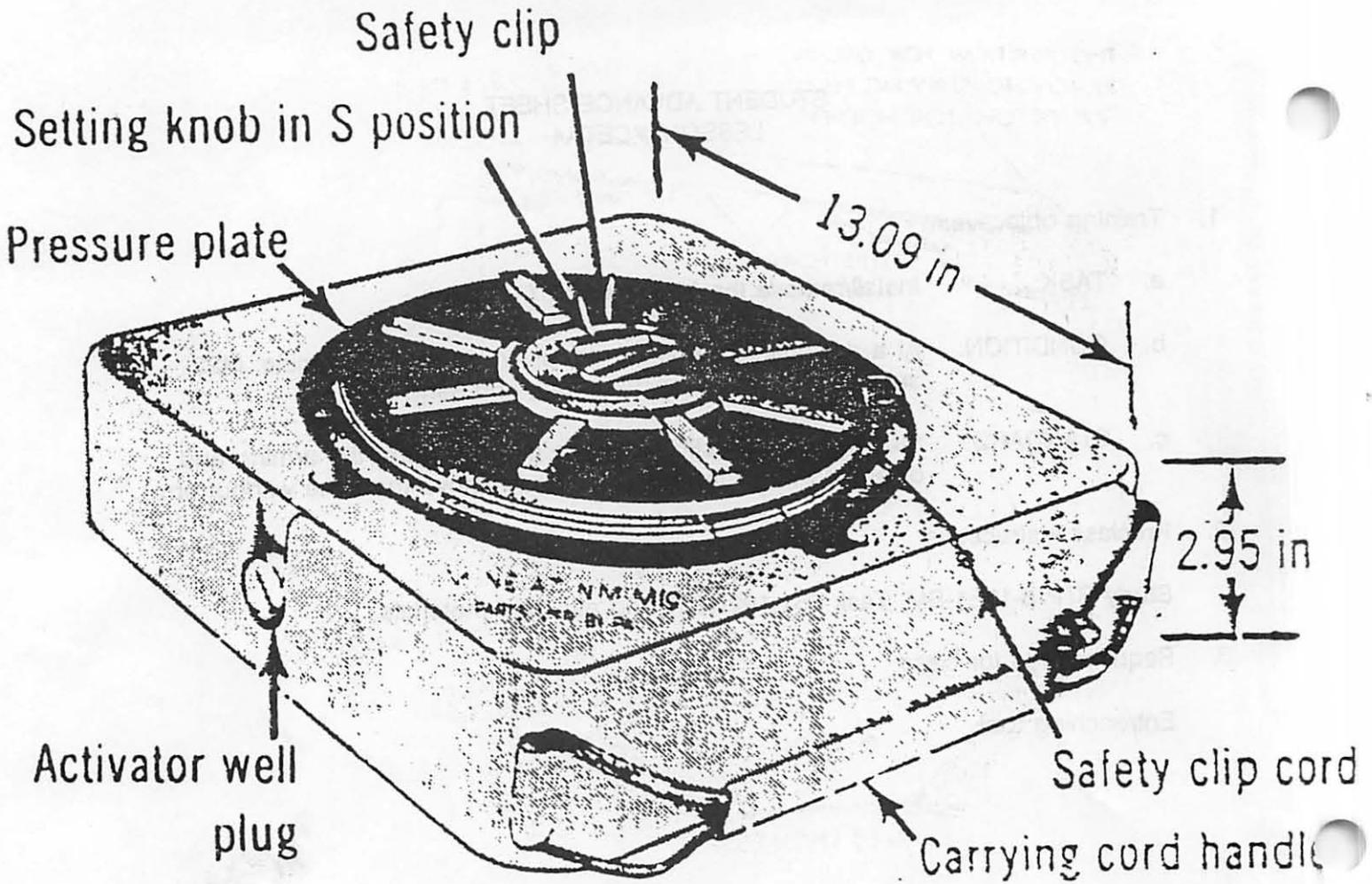
- a. **TASK:** Install/remove the M19 antitank (AT) mine.
- b. **CONDITION:** At a designated training area, given an inert M19 mine, M22 arming wrench, entrenching tool, and sand bag.
- c. **STANDARD:** Student will correctly install the mine, perform the arming and disarming steps in sequence, and remove the mine without error.

2. Preclass instructions:

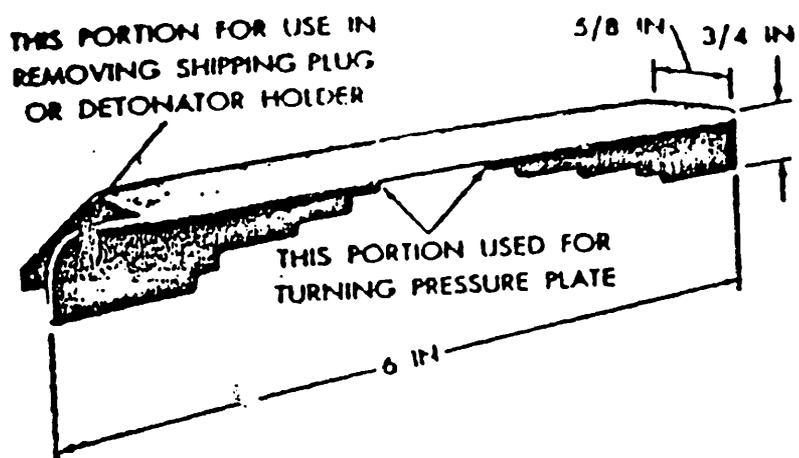
Study STP 5-12B1-SM, Task 051-192-1007 and attached materials.

3. Requirements for class:

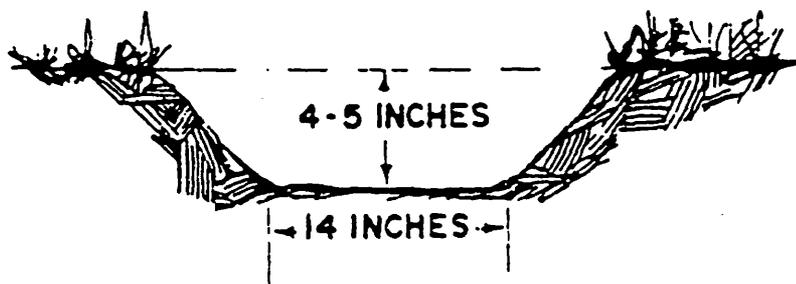
Entrenching tool.



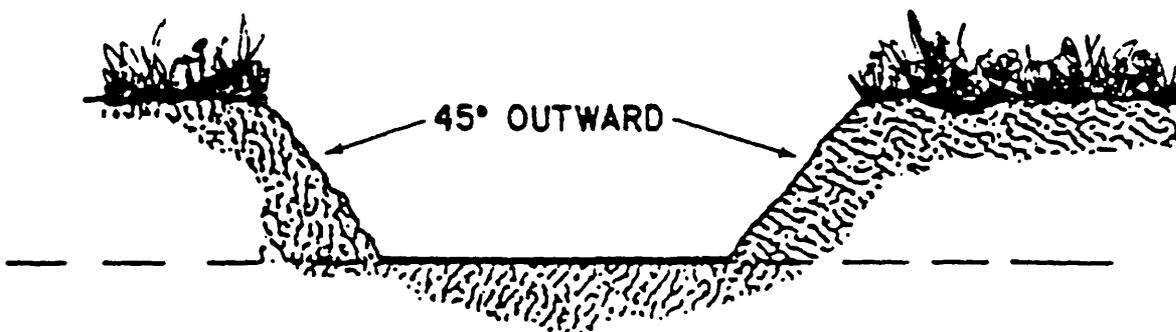
M-19 Antitank Mine



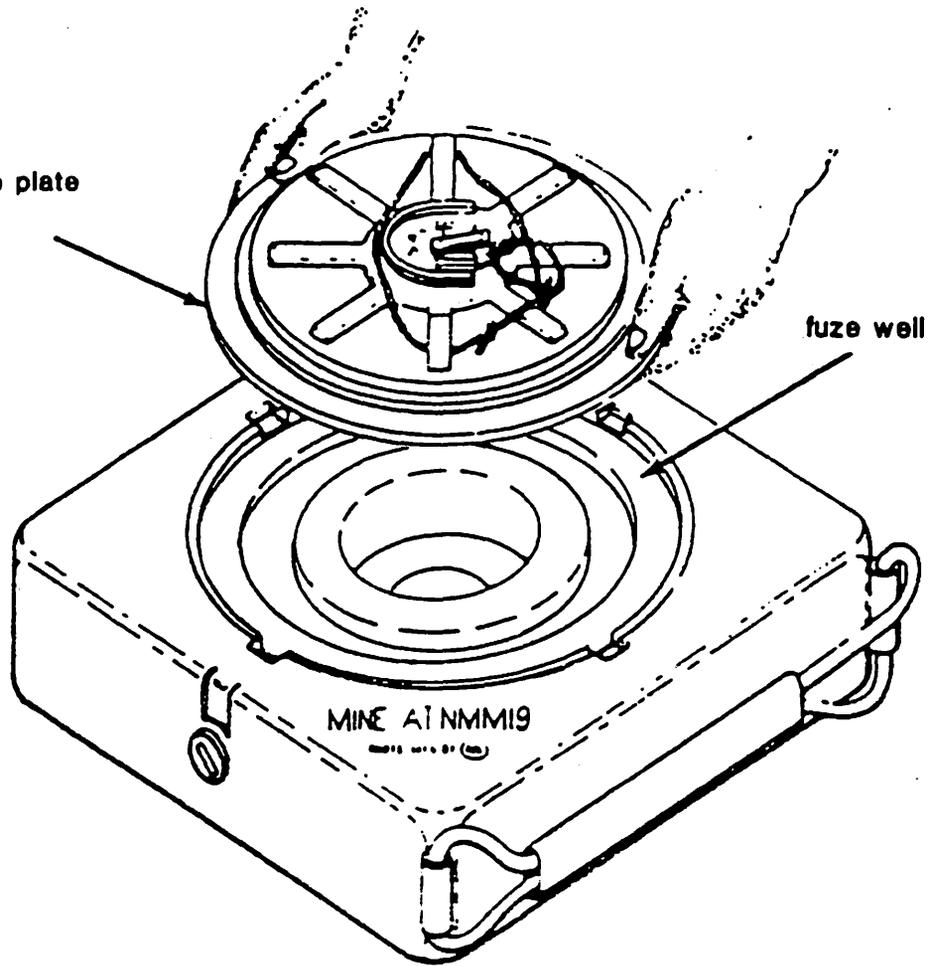
- M-22 Wrench



Hole Dimensions

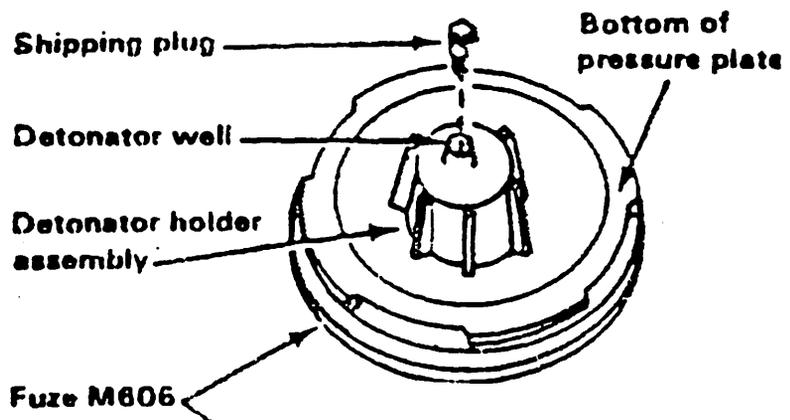


M606 fuze pressure plate



fuze well

Removing Pressure Plate



Shipping plug

Bottom of pressure plate

Detonator well

Detonator holder assembly

Fuze M606

Removing Shipping Plug

**STUDENT ADVANCE SHEET
LESSON #CETA5**

1. Training objective:

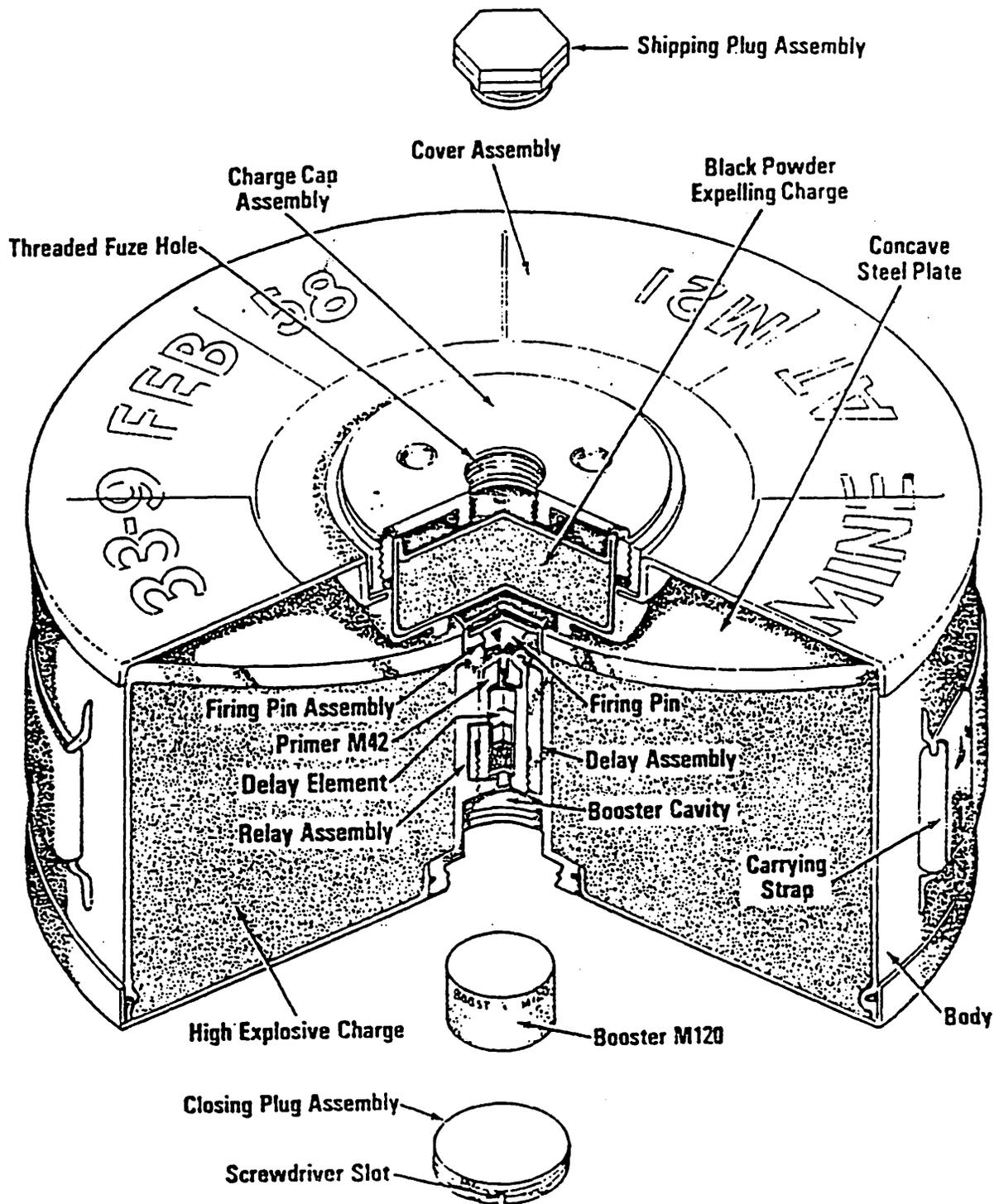
- a. **TASK:** Install/remove an M21 antitank mine.
- b. **CONDITION:** At a designated training area, given an inert M21 antitank (AT) mine, M607 fuze, M120 booster, extension rod, M26 arming wrench, entrenching tool and sand bag.
- c. **STANDARD:** Student will correctly install the mine, perform the arming and disarming sequence, and remove the mine.

2. Preclass instructions:

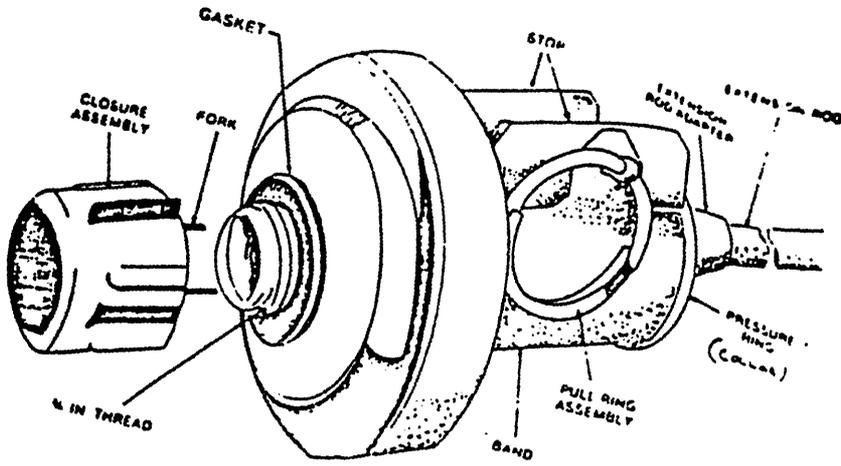
Study STP 5-12B1-SM, Task 051-192-1008, and attached material.

3. Requirements for class:

Entrenching tool.



Mine, Antitank, HE, Heavy, M-21



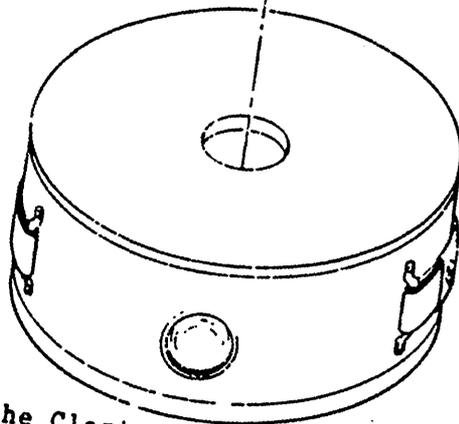
M607 Fuze



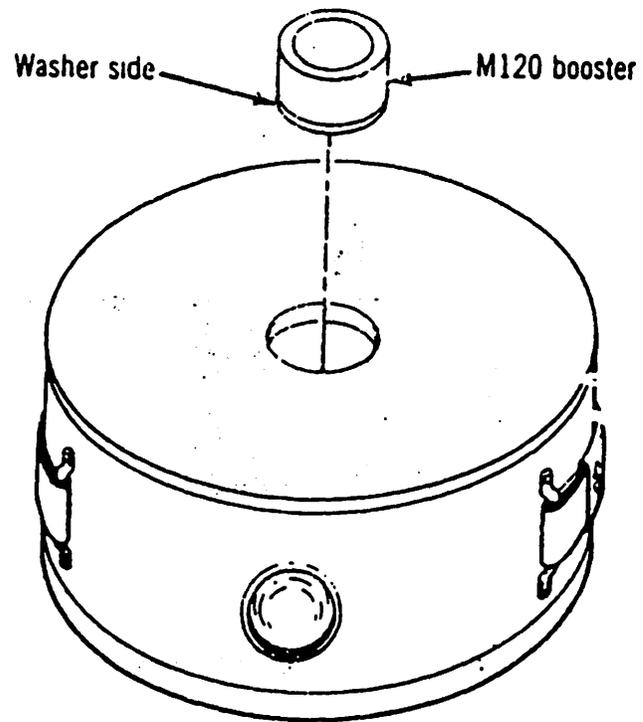
M26 Arming Wrench

Screwdriver slot

Closing plug assembly

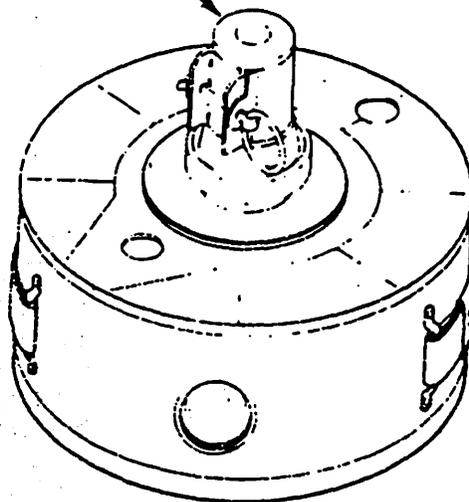


Removing the Closing Plug Assembly

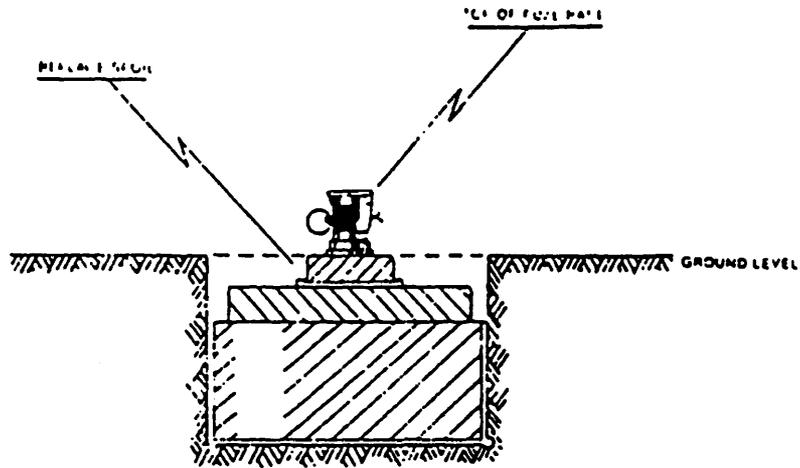


Installing the M120 Booster

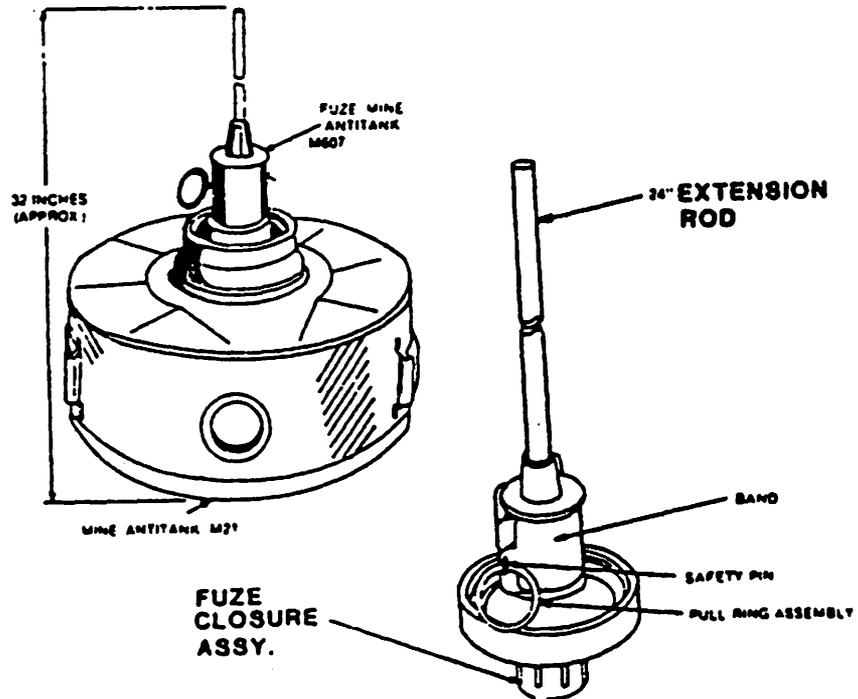
M607 fuze without tilt rod
attached to M21 mine



M21 AT Mine Fuzed

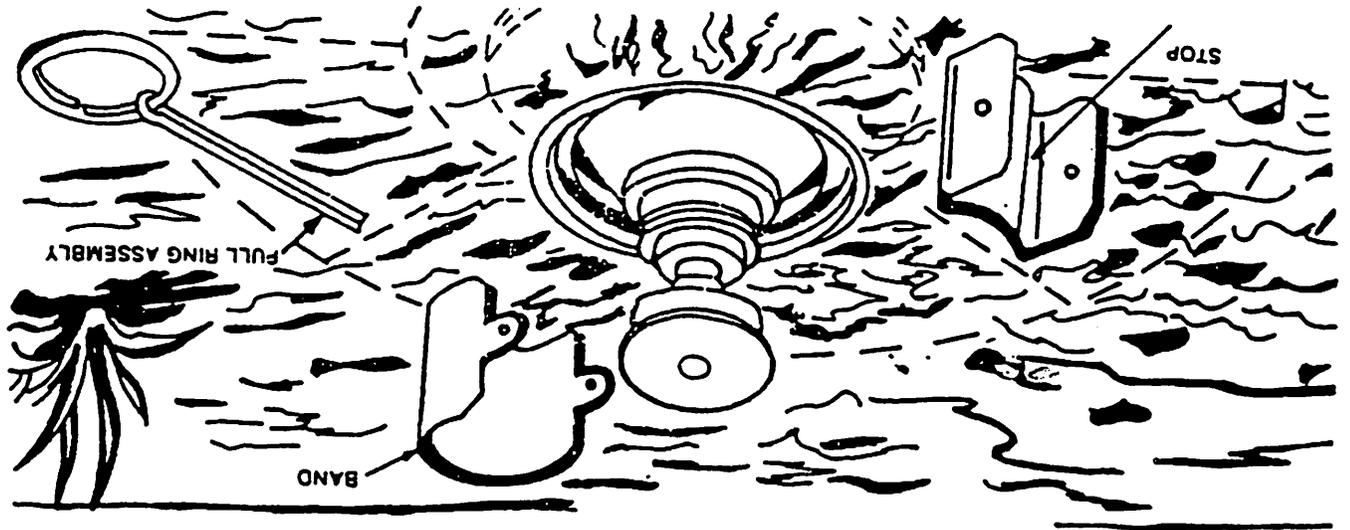


Buried M21 Mine

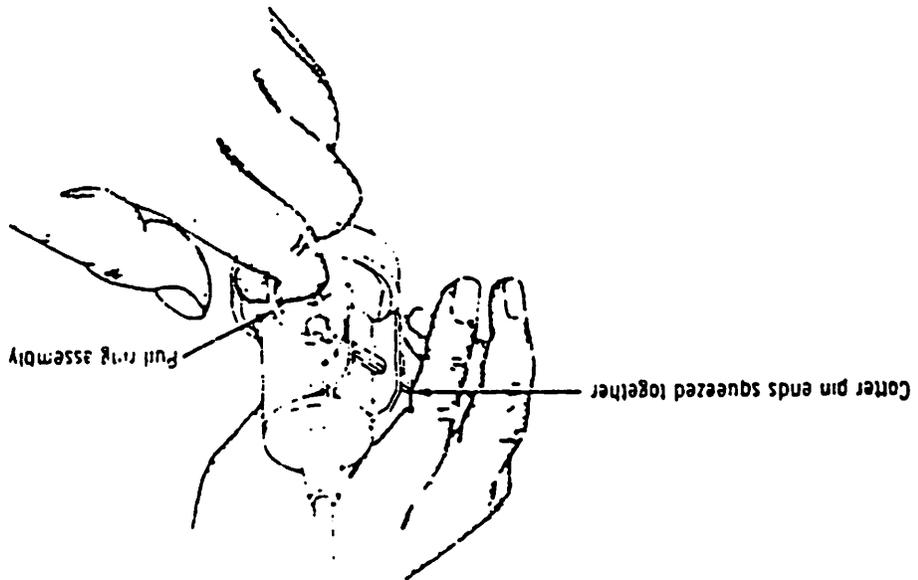


M21 Mine with Extension Rod

M21 Mine Armed



Arming the Mine



**STUDENT ADVANCE SHEET
LESSON #CETA6**

1. Training objective:

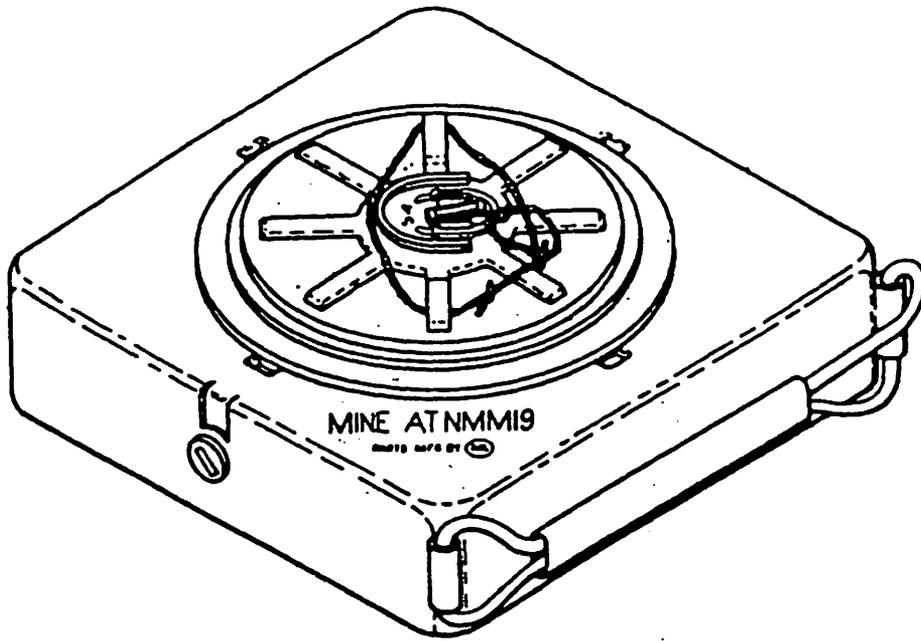
- a. **TASK:** Install/remove U.S. antihandling devices on antitank (AT) mines.
- b. **CONDITION:** At a designated training area, given an M15 antitank (AT) mine (M20 practice), or an inert M19 AT mine, and M5 pressure release firing device (FD), or M142 FD; stakes; an M1/M2 mine activator; 18- and 10-guage wire; an entrenching tool; and sandbag.
- c. **STANDARD:** Student will correctly install the firing devices without causing detonation, while performing all steps in sequence.

2. Preclass instructions:

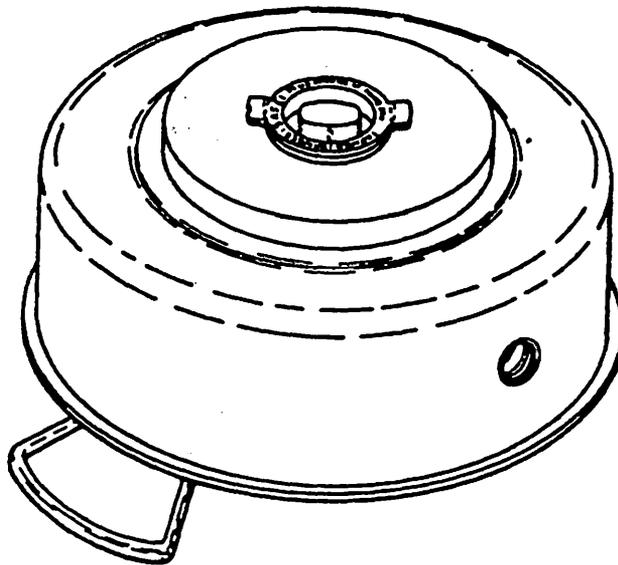
Study STP 5-12B1-SM, Task 051-192-1014, and attached materials.

3. Requirements for class:

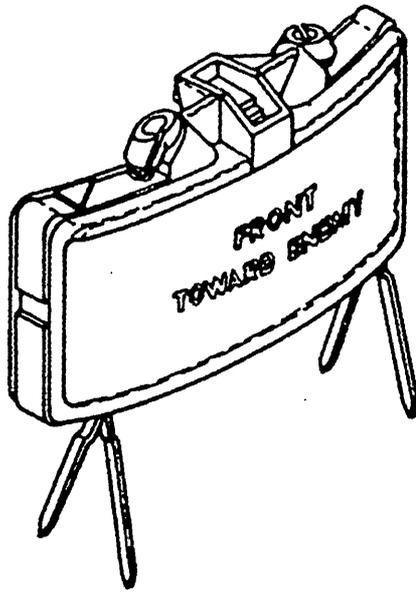
Entrenching tool.



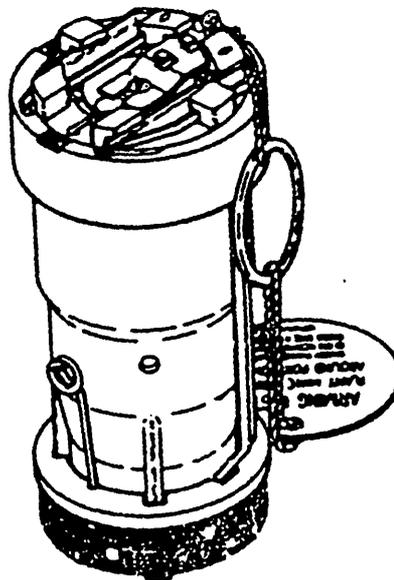
Mine, Antitank: HE, Nonmetallic, M19 (US)



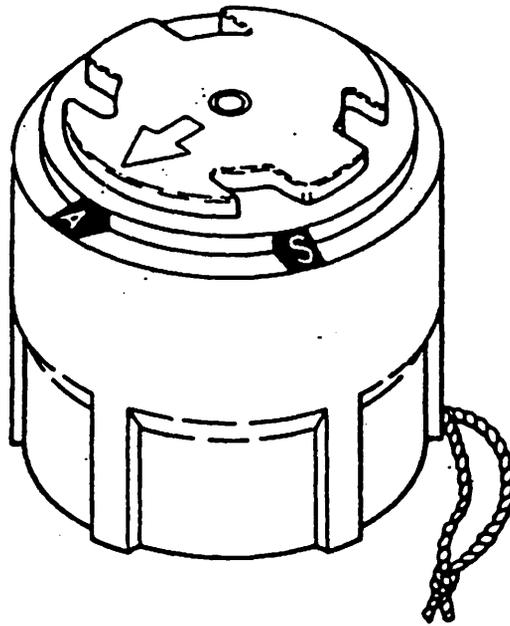
Mine, Antitank: HE, Heavy, M15 (US)



Mine, Antipersonnel, M18A1 (US)



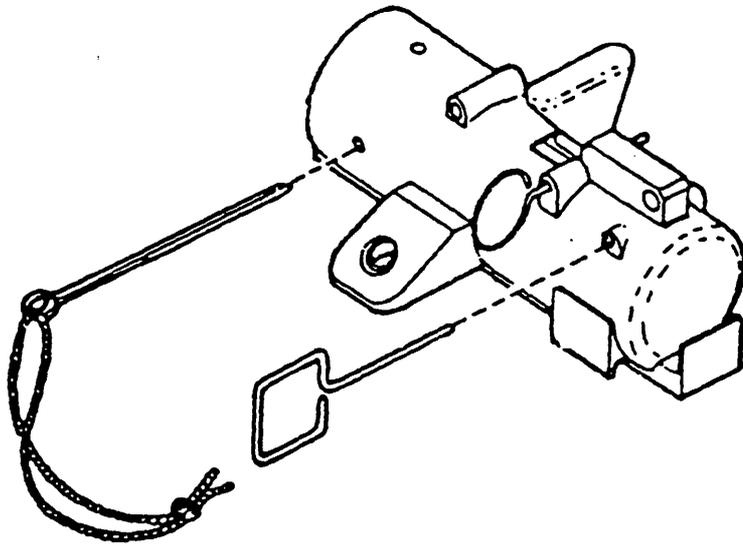
Mine, Antipersonnel, M26 (US)



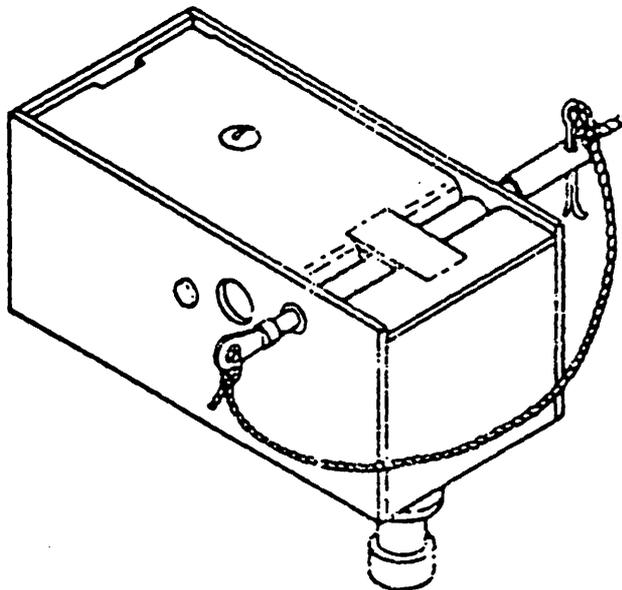
Mine, Antipersonnel, Nonmetallic M14 (US)



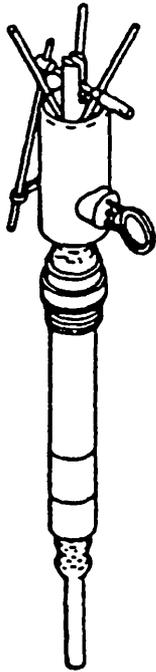
M16A1, Mine without Fuze (US)



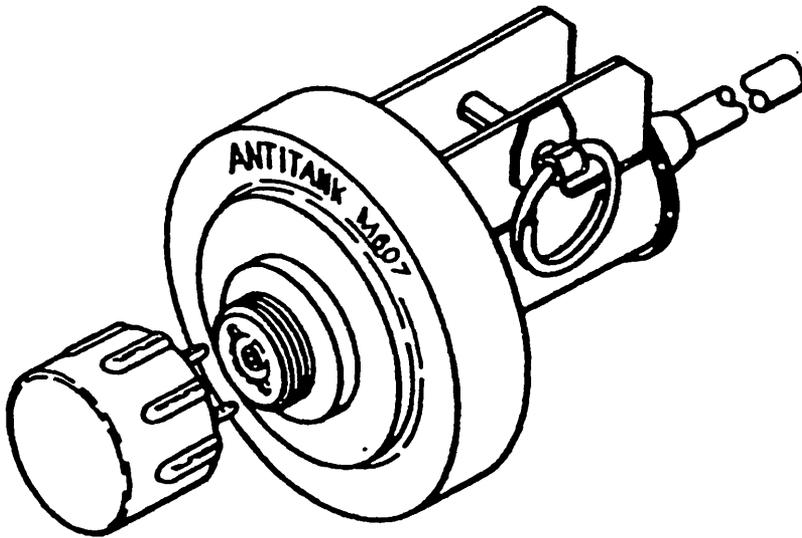
M142 Multipurpose Firing Device (US)



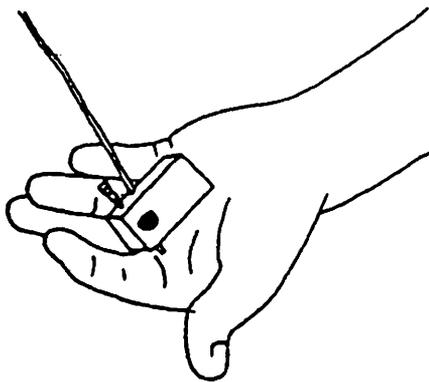
M5 Pressure Firing Device (US)



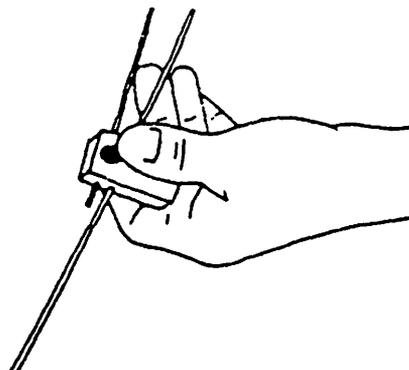
M605 Fuze (US)



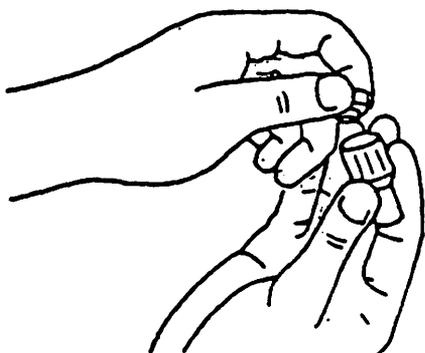
Fuze, Mine, Antitank, M607 (US)



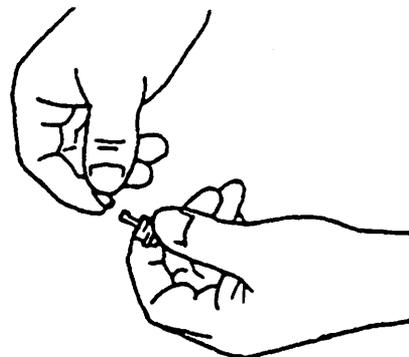
(A) Inserting 10 Gage Wire



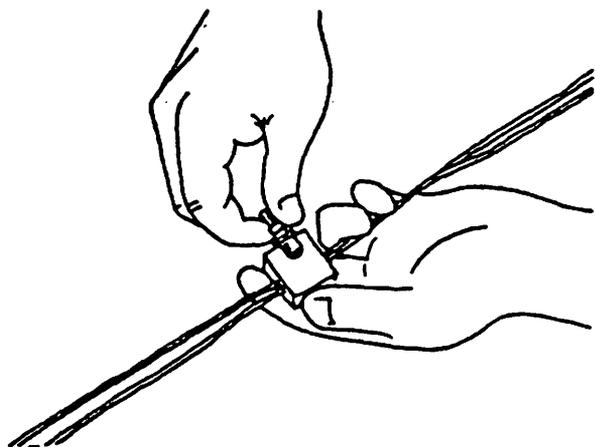
(B) Inserting 18 Gage Wire



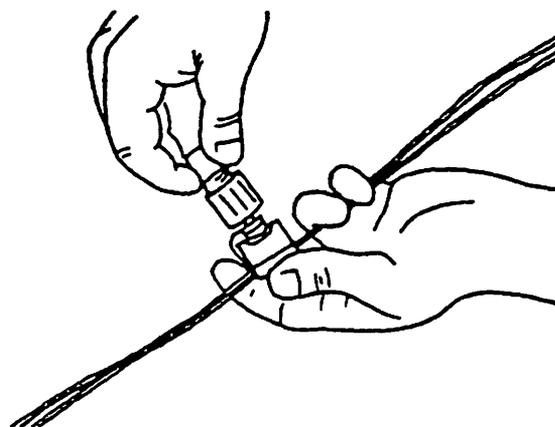
**(C) Removing M1 Activator
Protective Cap**



**(D) Removing Cap from Standard
Base**

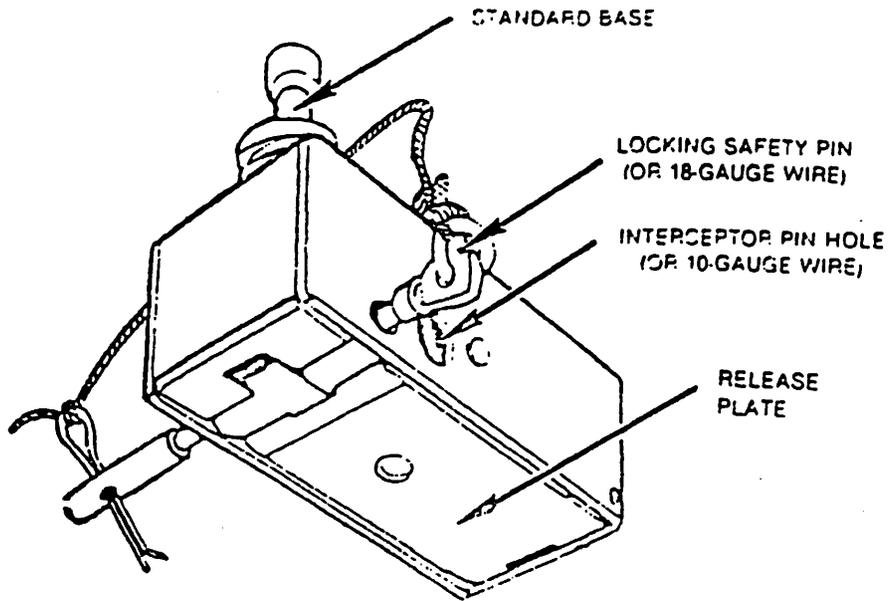


**(E) Attaching Standard Base
to M5**

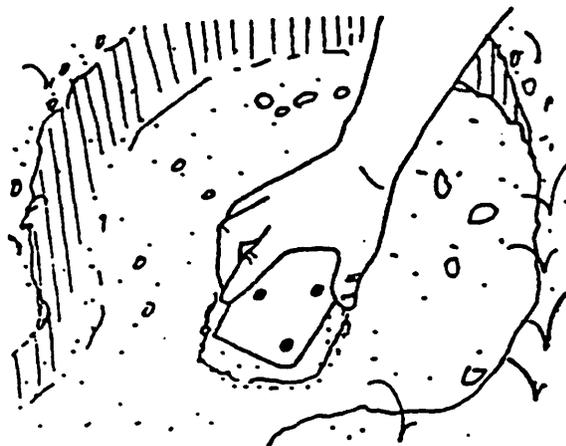
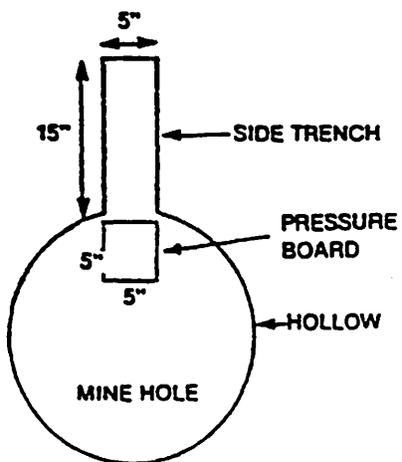


**(F) Attaching Activator to
Standard Base**

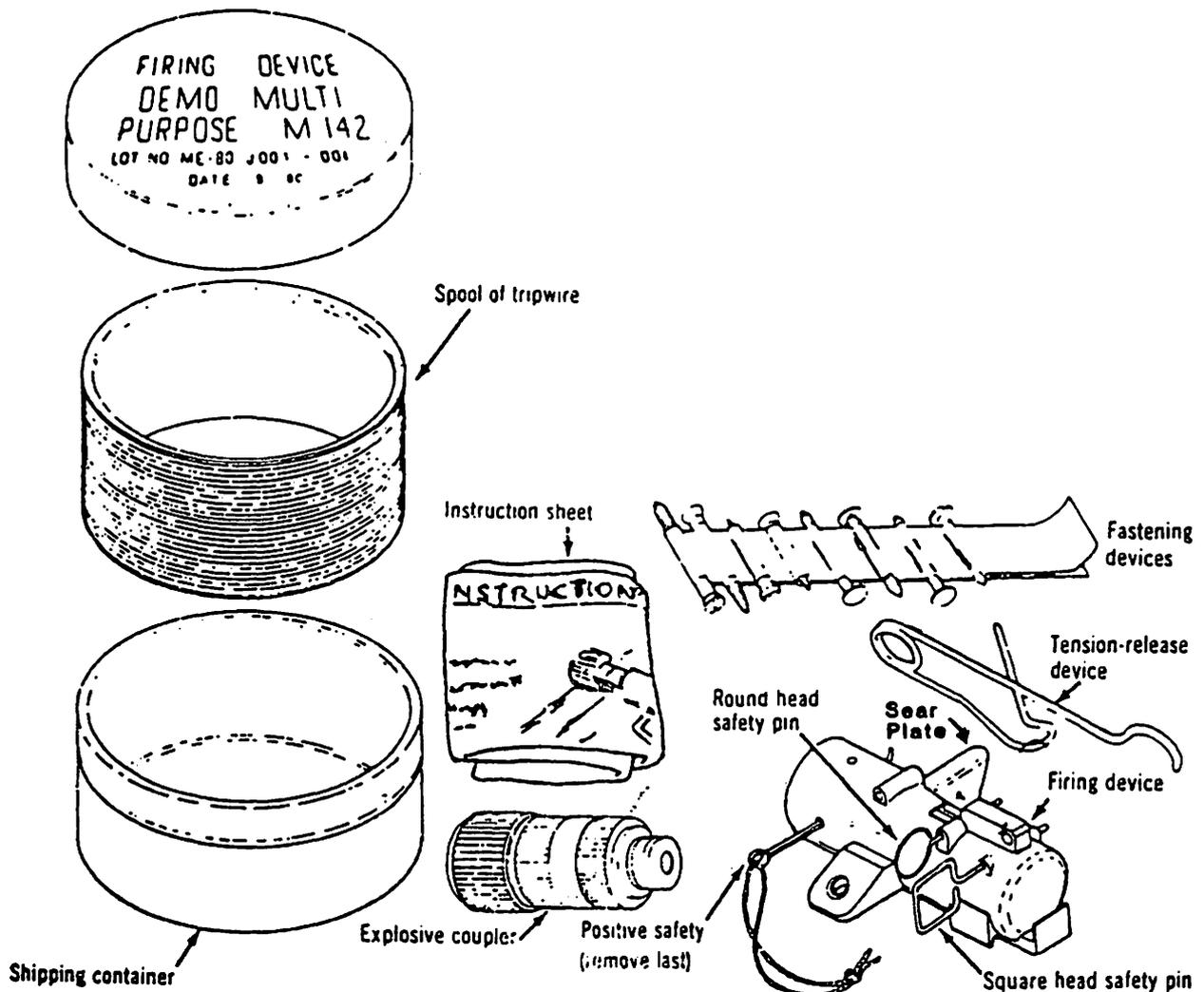
Preparing an M5 FD



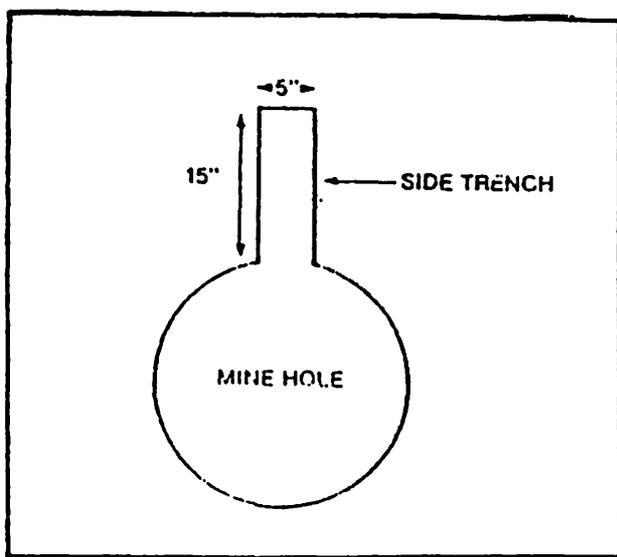
M5 Pressure Release Firing Device (FD)



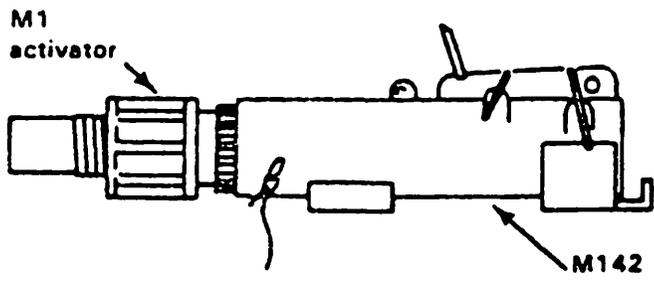
Preparing the Site



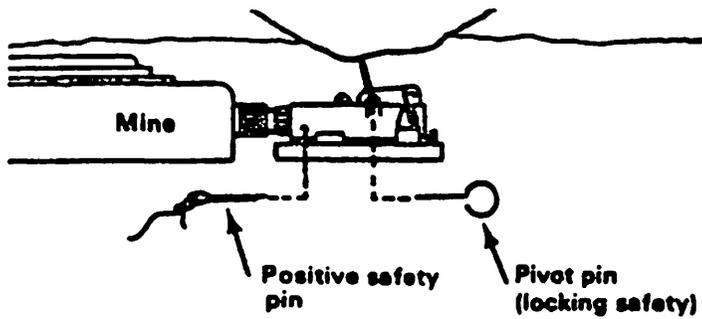
M142 Multipurpose Firing Device



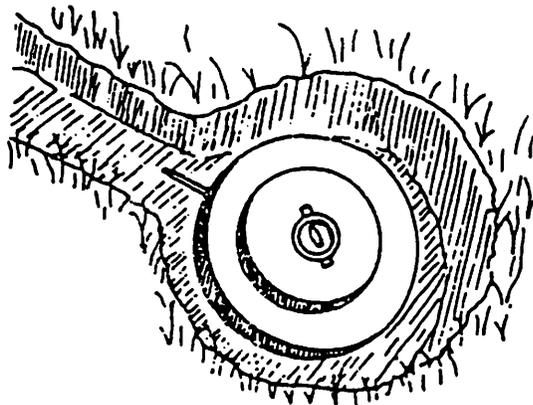
Preparing the Site



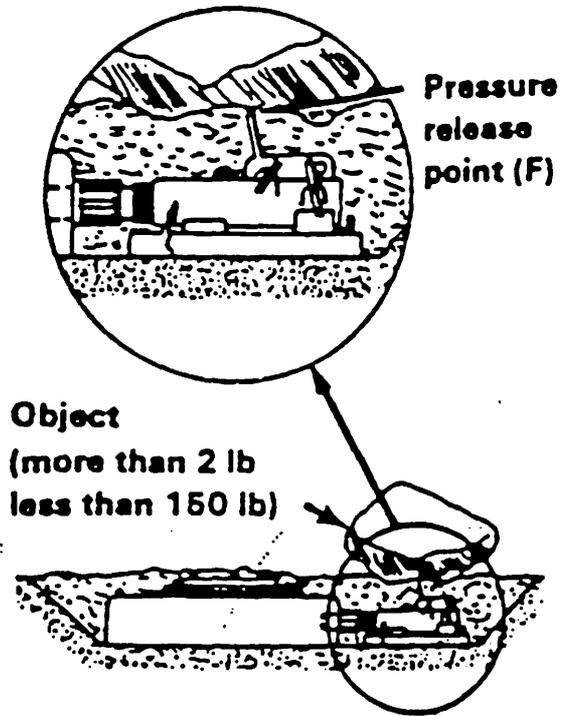
M142 with Activator Attached



M142 Attached to Mine



Mine and Firing Device



- Pressure Applied to Firing Device

**STUDENT ADVANCE SHEET
LESSON #CETA7**

1. Training objective:

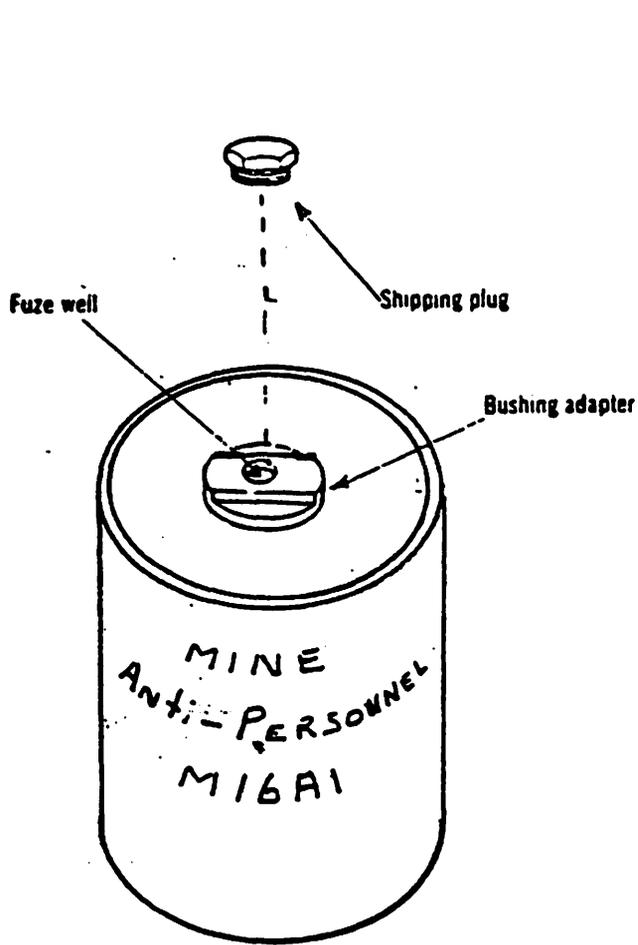
- a. **TASK:** Install/remove an M16A1 antipersonnel (AP) mine.
- b. **CONDITION:** At a training area, given an M16A1 inert mine, M605 fuze, M25 arming wrench, entrenching tool, tripwire, sandbag, stakes, and wire cutters.
- c. **STANDARD:** Student will correctly install the mine, perform the arming and disarming steps in sequence, and remove the mine without causing the mine to detonate.

2. Preclass instructions:

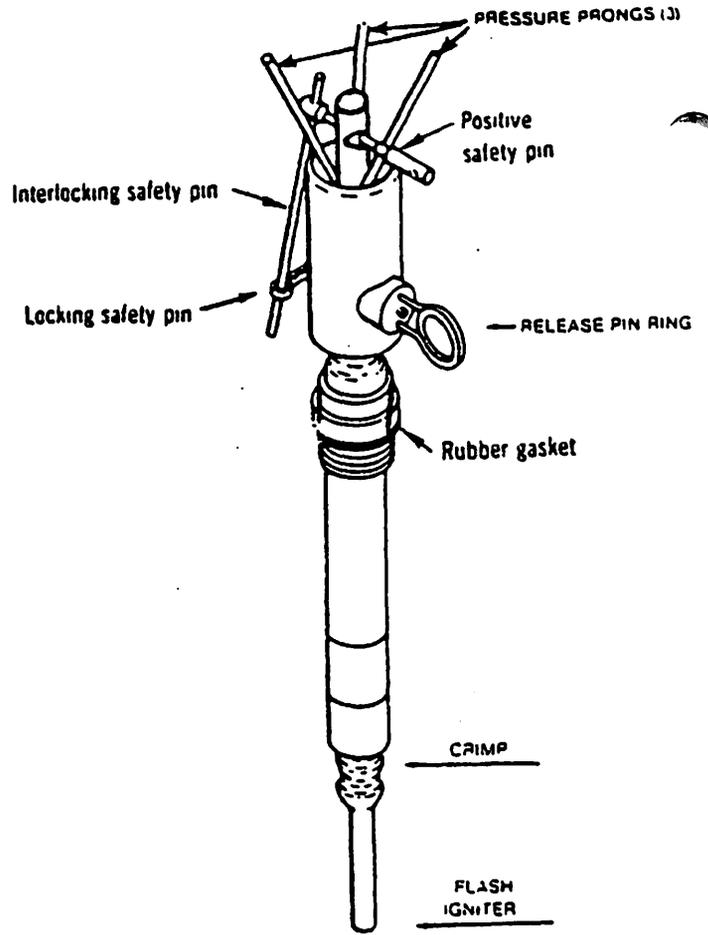
Study STP 5-12B1-SM, Task 051-192-1002, and attached materials.

3. Requirements for class:

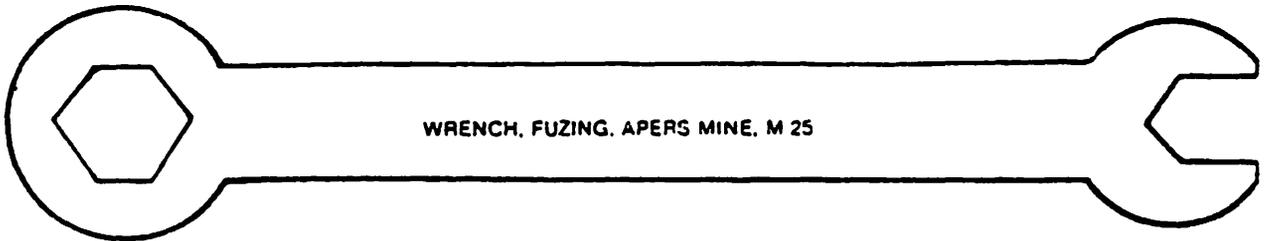
Entrenching tool.



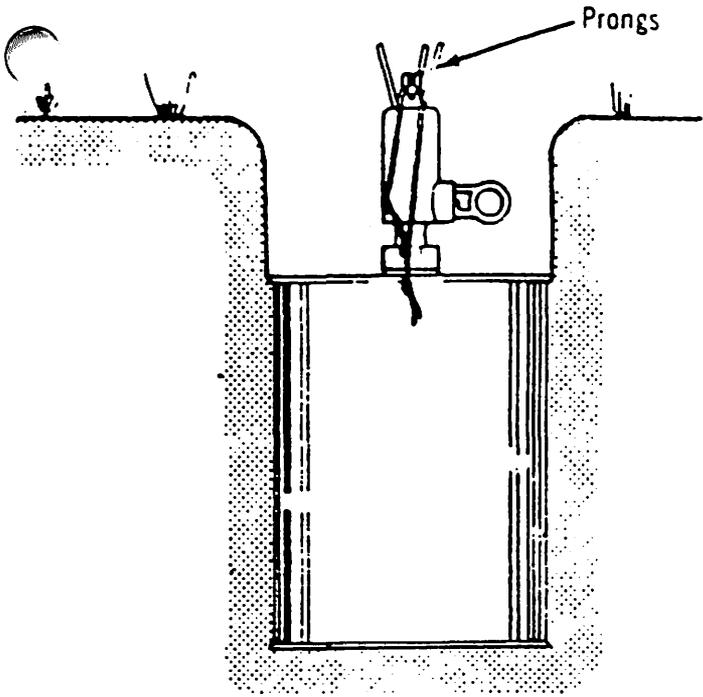
M16A1, Mine, AP



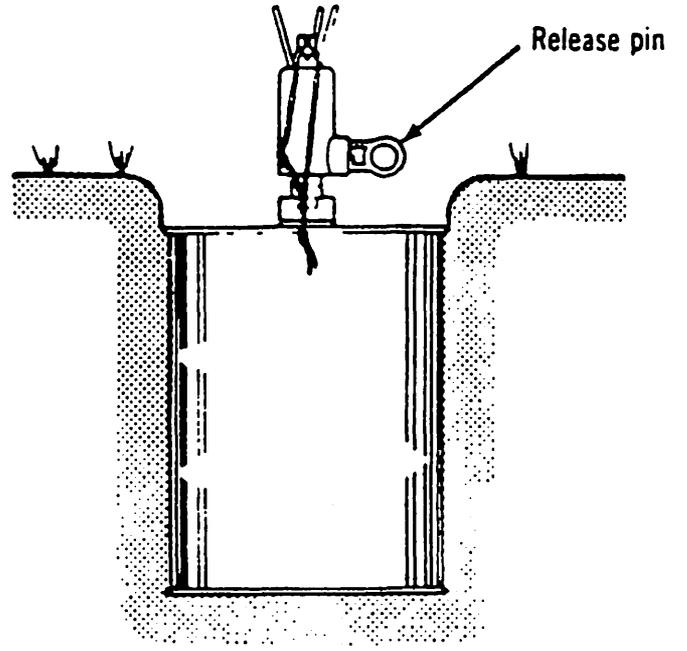
M605 Fuze



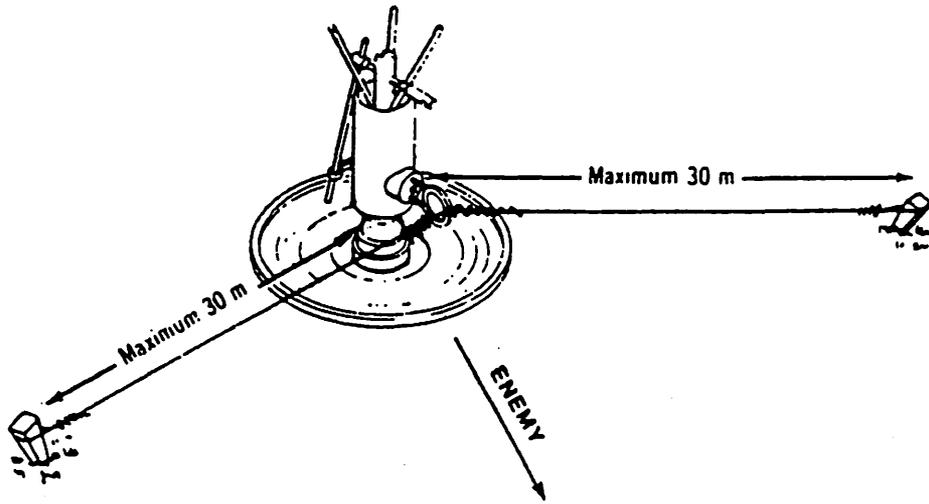
Wrench, Fuzing, APERS Mine, M-25



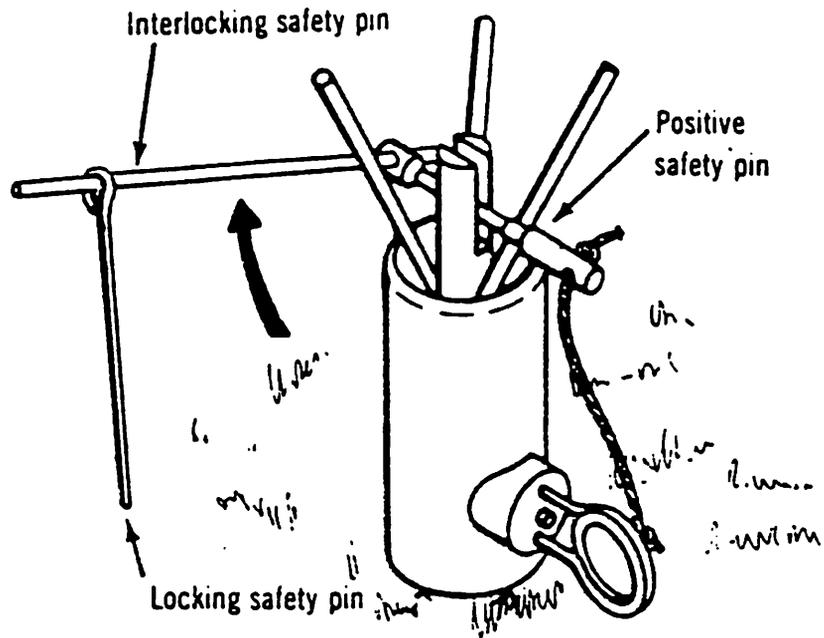
Pressure Actuation



- Tripwire Actuation



Tripwires Installed



Locking Safety Pin Removed



Positive Safety Pin Removed

**STUDENT ADVANCE SHEET
LESSON #CETA8**

1. Training objective:

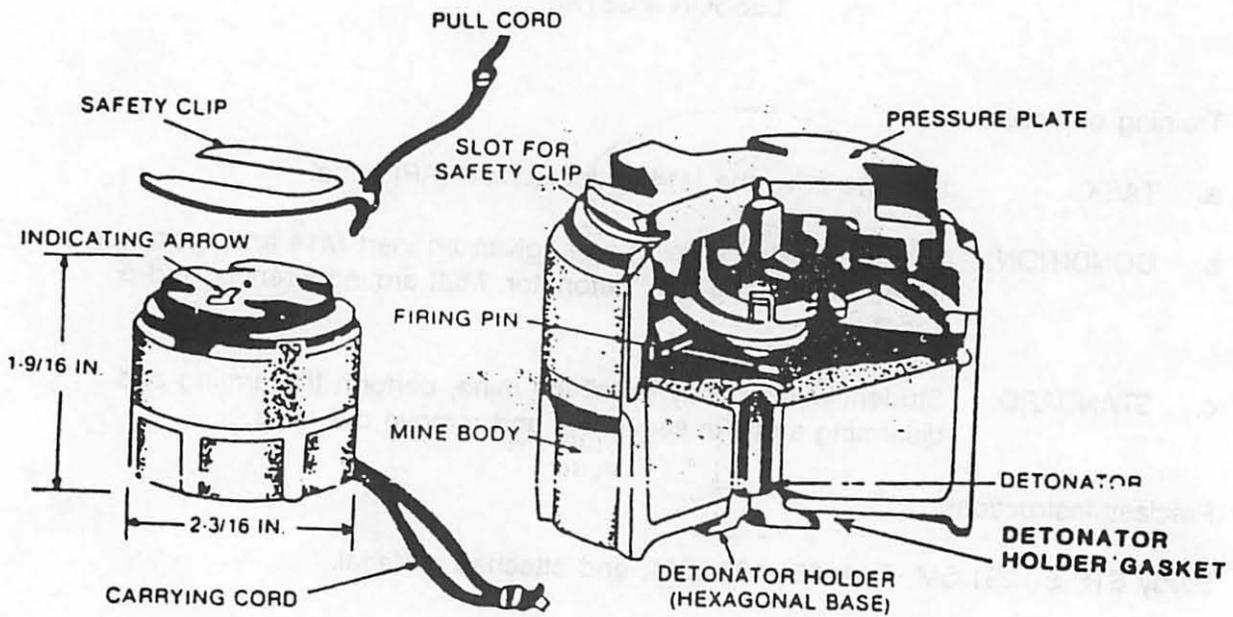
- a. **TASK:** Install/remove the M14 antipersonnel (AP) mine.
- b. **CONDITION:** At a designated training area, given an inert M14 antipersonnel mine, entrenching tool, detonator, M22 arming wrench, and a sandbag.
- c. **STANDARD:** Student will correctly install the mine, perform the arming and disarming steps in sequence, and remove the mine.

2. Preclass instructions:

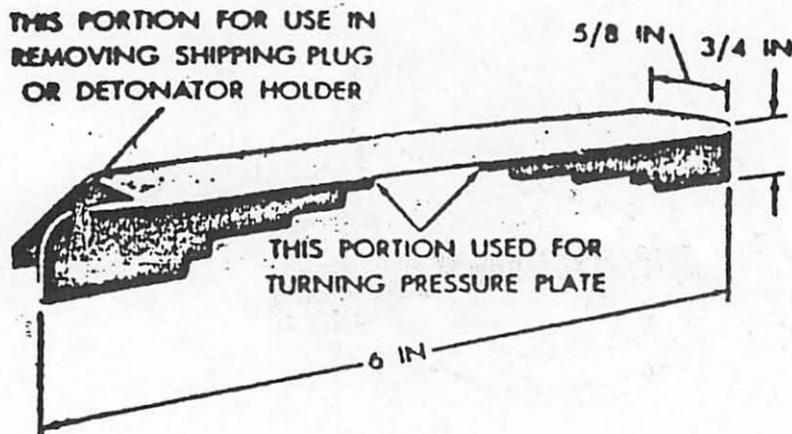
Study STP 5-12B1-SM, Task 051-192-1001, and attached material.

3. Requirements for class:

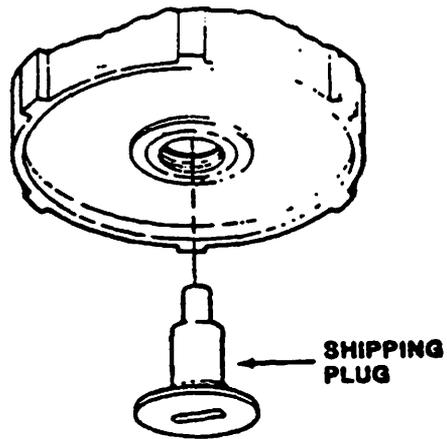
Entrenching tool.



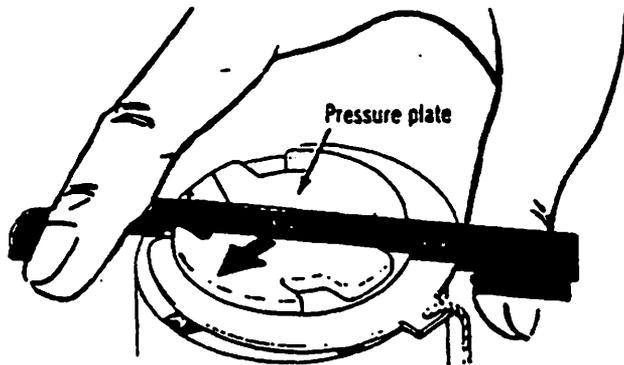
Mine, Antipersonnel, Nonmetallic, M-14



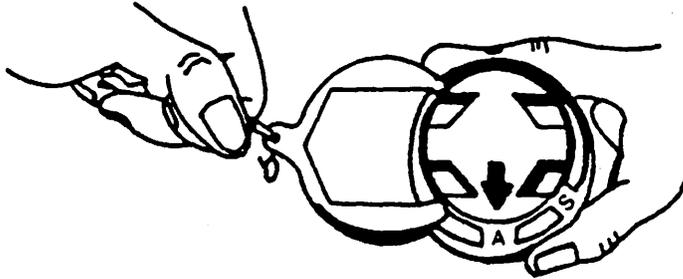
M-22 Arming Wrench



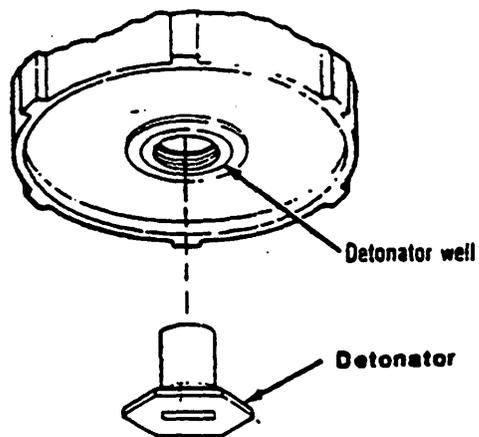
Removing the Shipping Plug



Turning the Pressure Plate



Removing the Safety Clip



Installing the Detonator

**STUDENT ADVANCE SHEET
LESSON #CETA9**

1. Training objective:

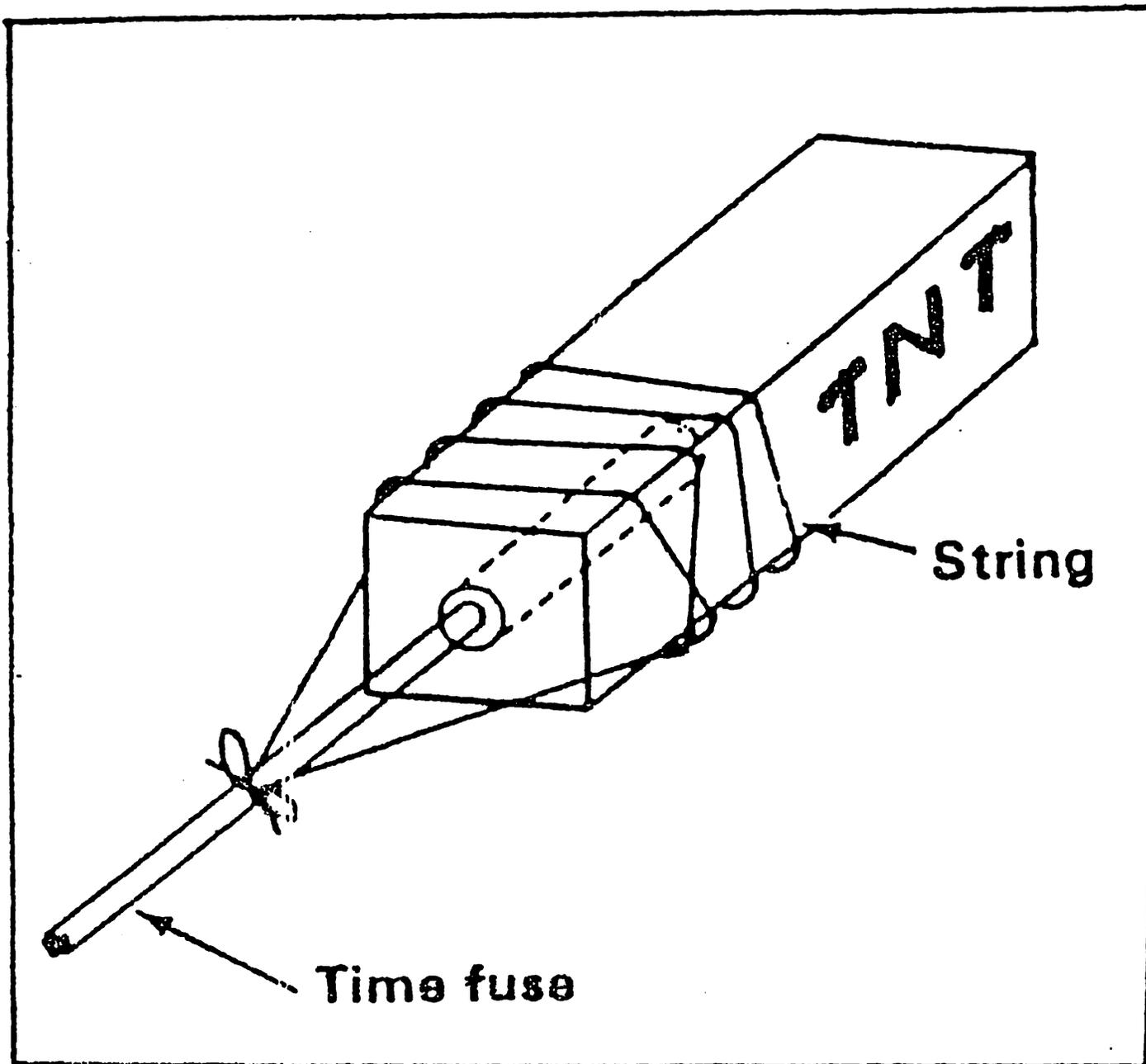
- a. **TASK:** Neutralize mines.
- b. **CONDITION:** At an area where friendly or enemy mines have been located, the soldier will be given demolition equipment, including two inert 1-lb blocks of TNT, five feet of time fuze, two M60 fuze igniters, two inert nonelectric blasting caps, material for a tripod (or A-frame), 50 meters of rope (or wire) with a grapnel hook, and the method of neutralization to be used.
- c. **STANDARD:** The soldier will be taught how to remove or destroy all miens in place without causing injury to personnel.

2. Preclass instructions:

Study STP 5-12B1-SM, Task 051-193-1025, and attached material.

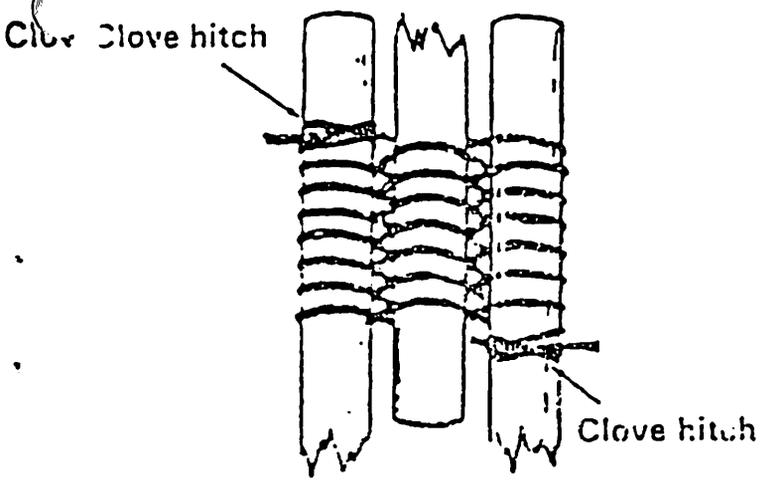
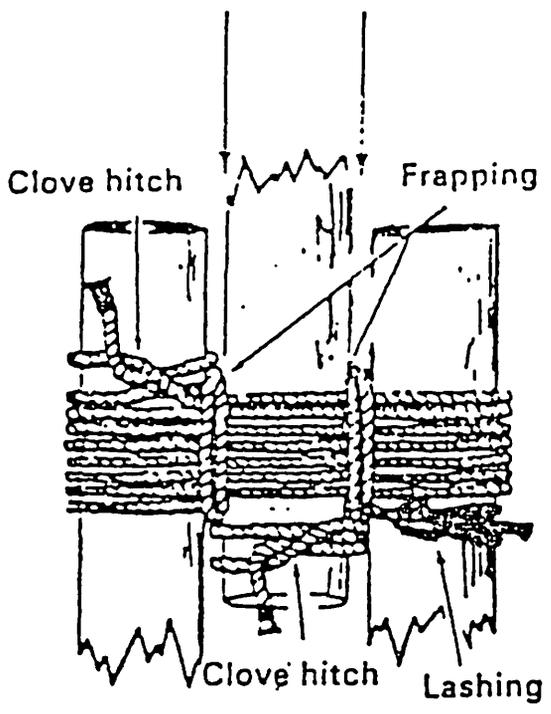
3. Requirements for class:

None.

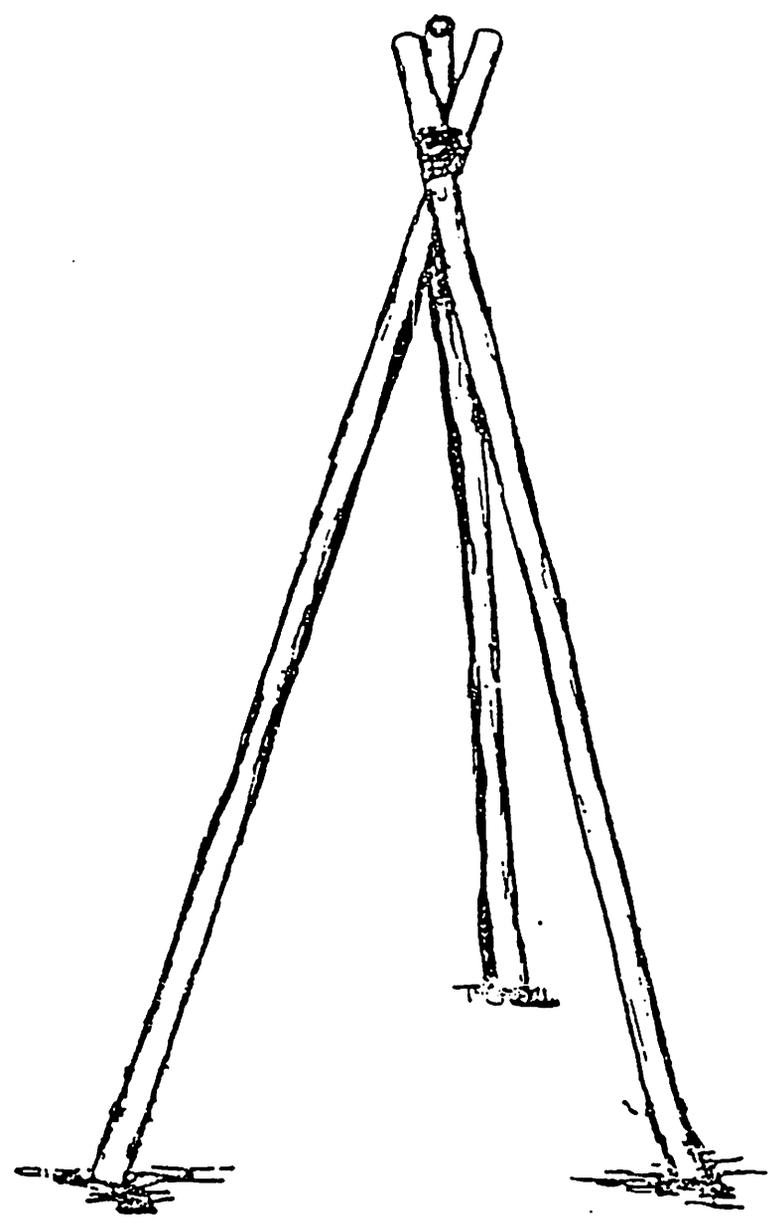




Spacing between spars should be about one half the diameter of the spars

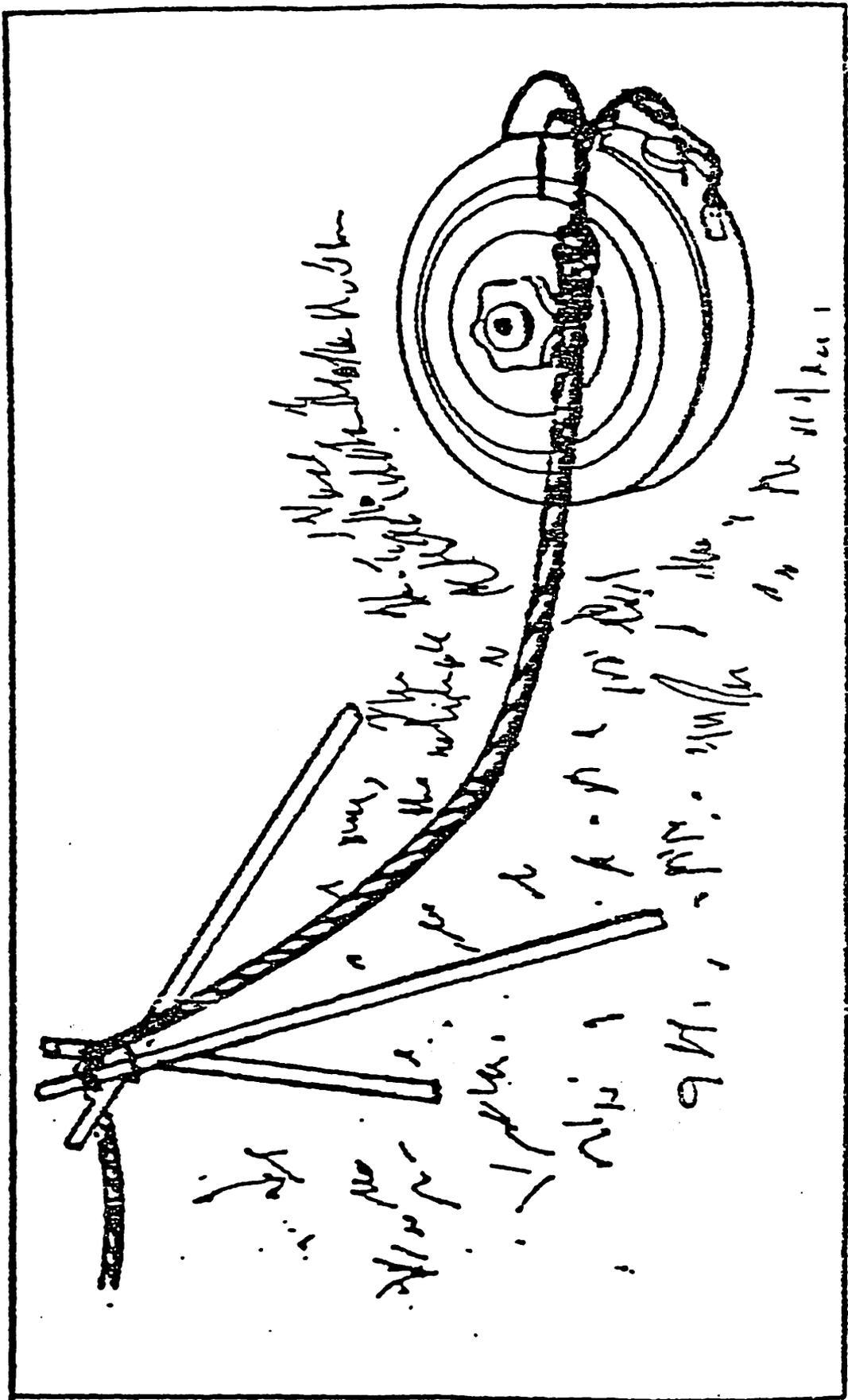


A. Lashing for a tripod

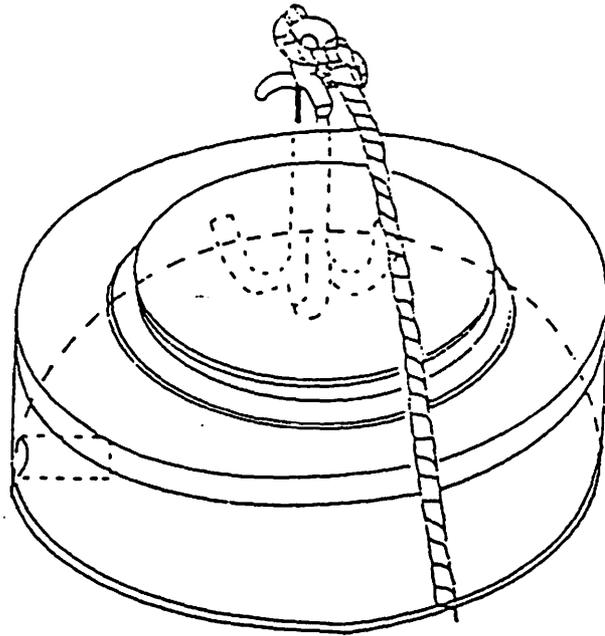


B. Tripod assembled for use

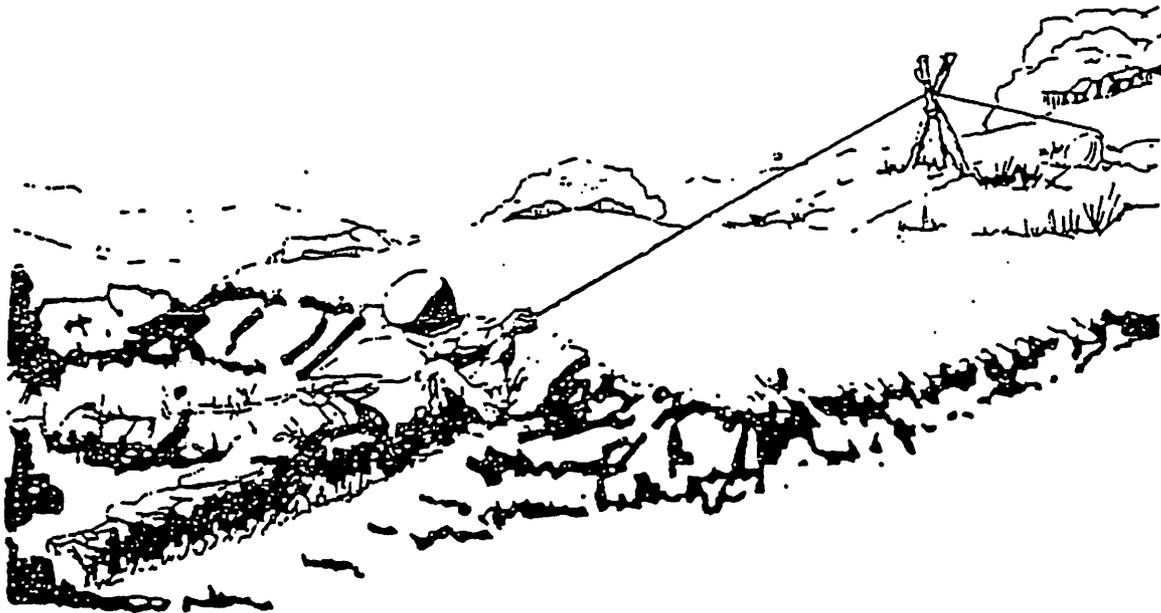




Tripod



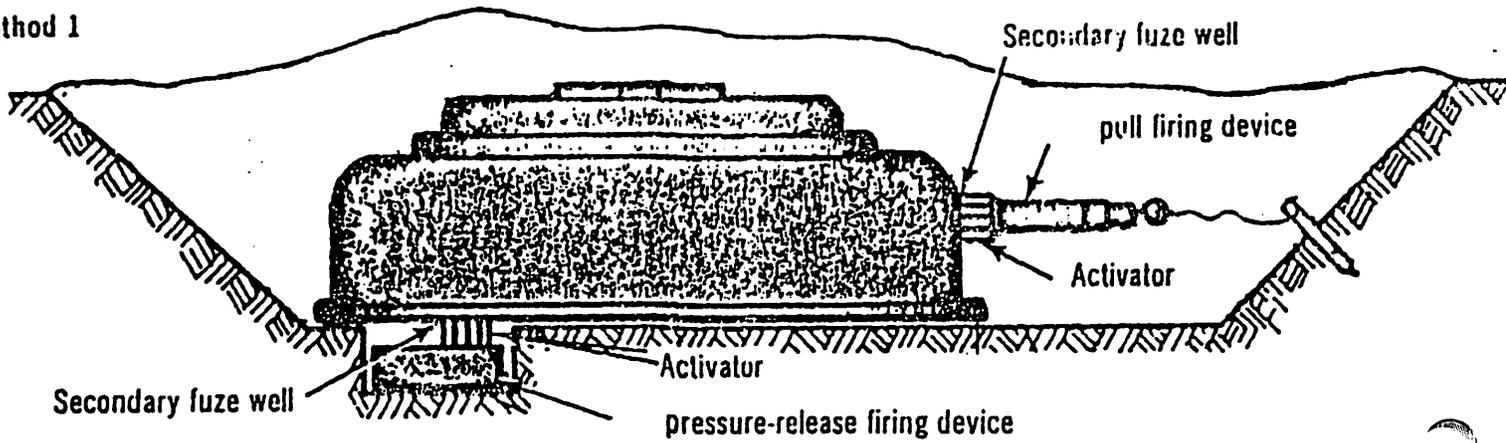
Rope and Grapnel Hook Attached to Mine



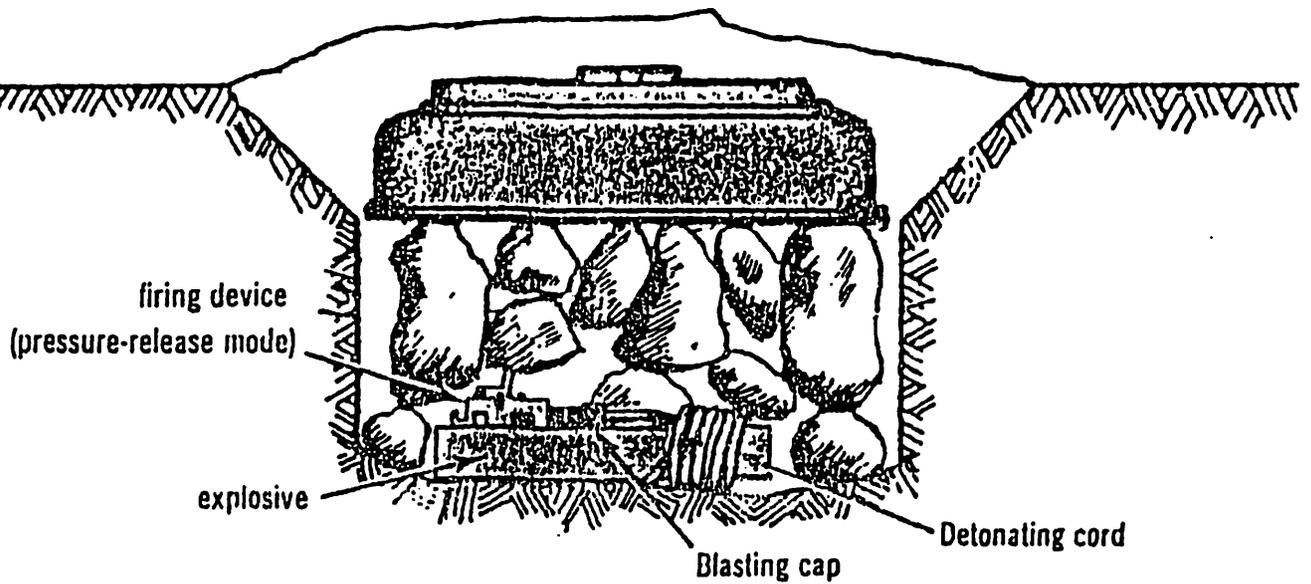
Tripod

Antihandling Devices

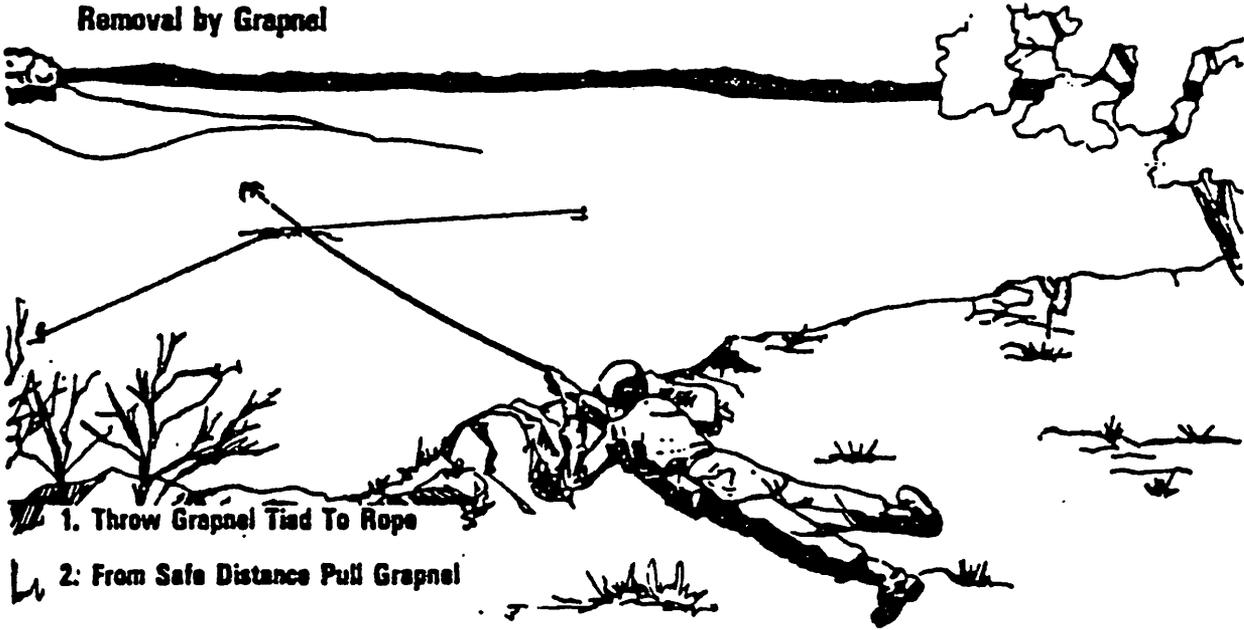
Method 1



Method 2



Removal by Grapnel



**STUDENT ADVANCE SHEET
LESSON #CETA10**

1. Training objective:

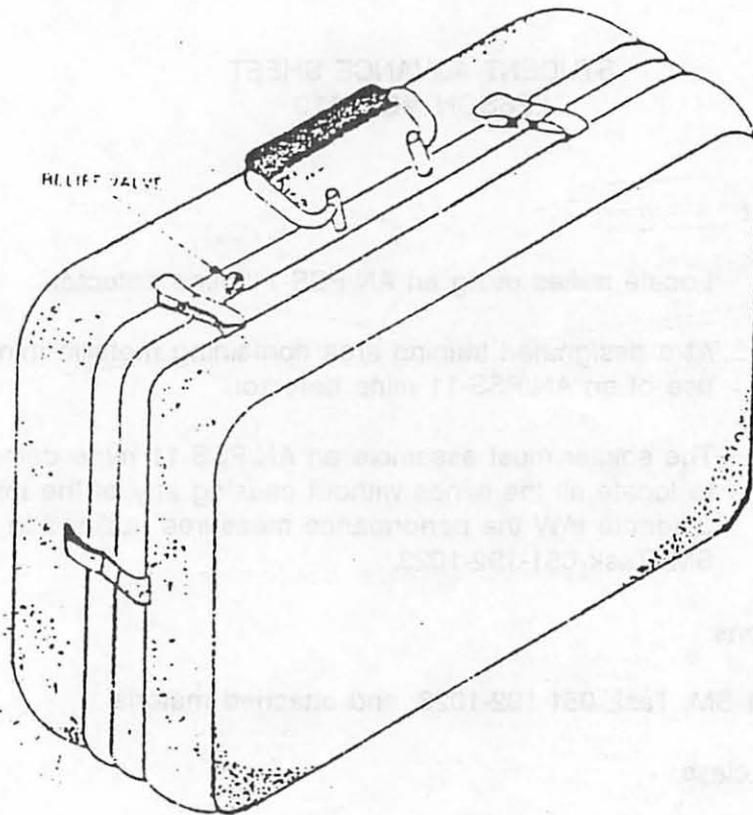
- a. **TASK:** Locate mines using an AN/PSS-11 mine detector.
- b. **CONDITION:** At a designated training area containing metallic mines, given the use of an AN/PSS-11 mine detector.
- c. **STANDARD:** The soldier must assemble an AN/PSS-11 mine detector and use it to locate all the mines without causing any of the mines to detonate IAW the performance measures outlined in STP 5-12B1-SM, Task 051-192-1023.

2. Preclass instructions:

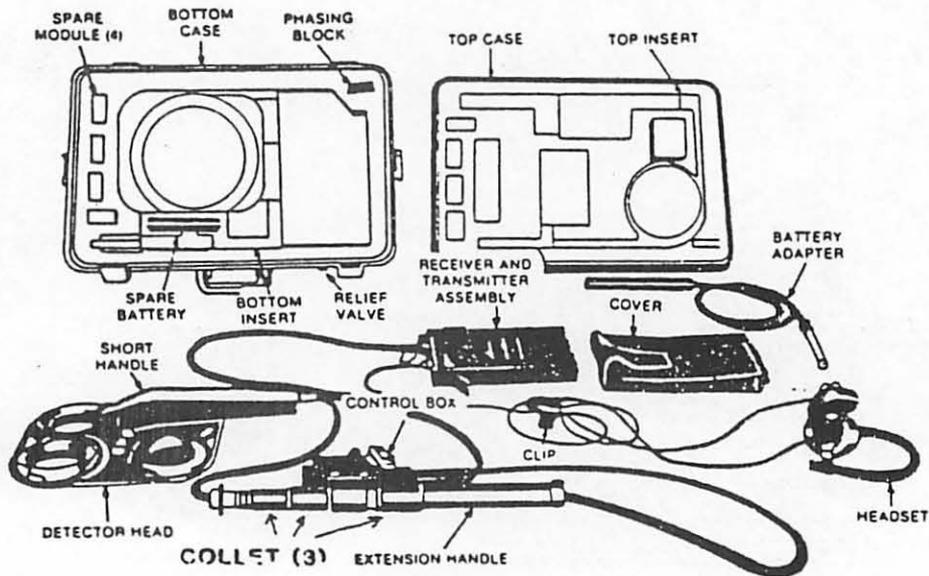
Study STP 5-12B1-SM, Task 051-192-1023, and attached material.

3. Requirements for class:

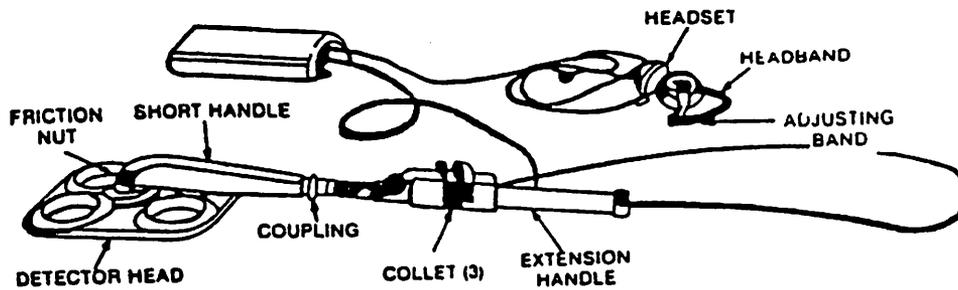
None.



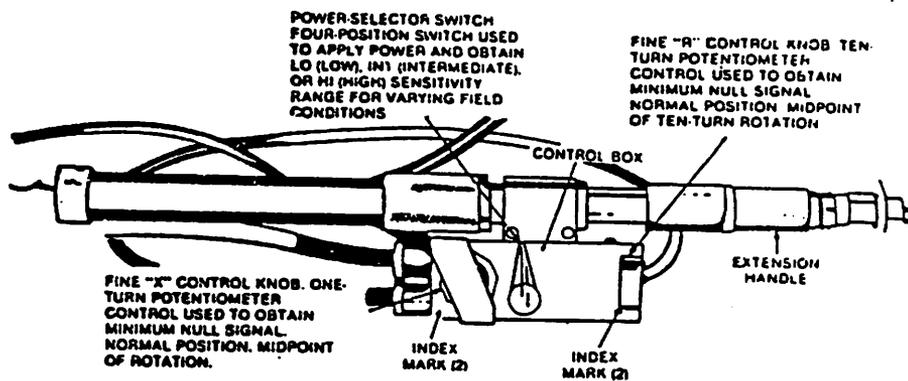
Mine Detector Case



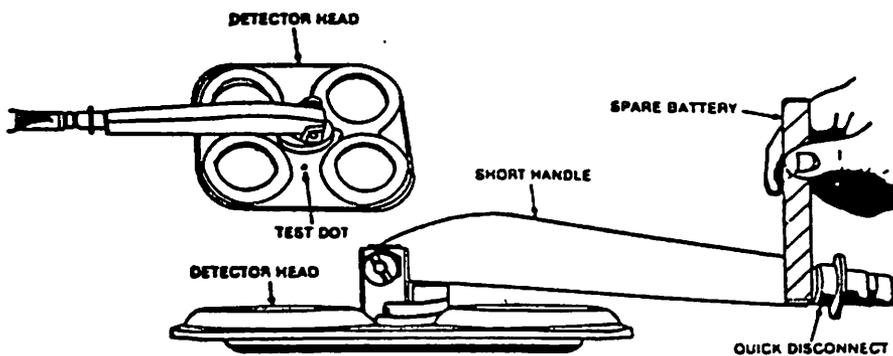
Mine Detector Set



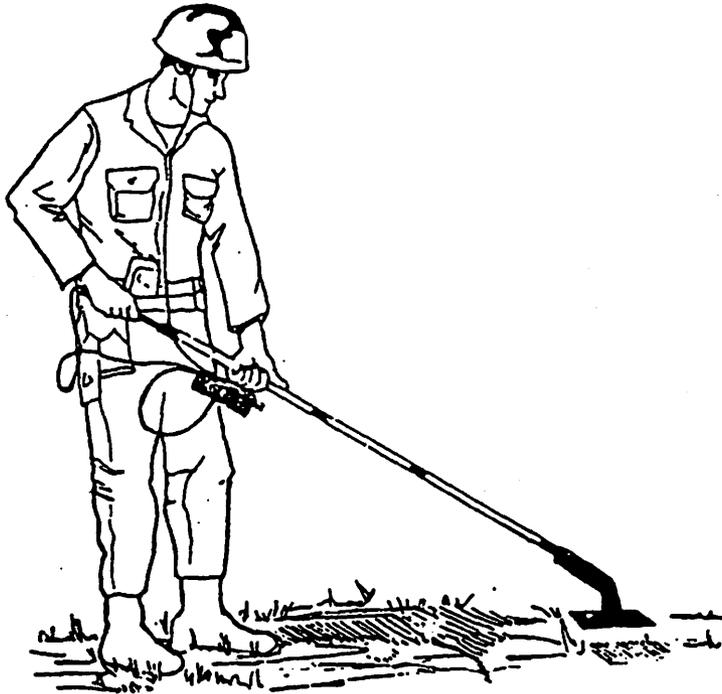
Assembling Mine Dectector



Controls



Phasing Check



Detector Set Operation (Standing Position)



Detector Set Operation (Prone Position)

**STUDENT ADVANCE SHEET
LESSON #CETA11**

1. Training objective:

- a. TASK:** Learn how to properly use and maintain demolition equipment. Using GTA 5-10-28, determine the minimum safe distance for the weight of explosives to be detonated.
- b. CONDITION:** Soldier will be provided demolition equipment and GTA 5-10-28. Soldier will be able to use and maintain this equipment for immediate use. Also know how to compute safe distances when using explosives.
- c. STANDARD:** Soldiers will learn how to maintain and properly use demolition equipment, select proper equipment to complete assigned task, determine safe distances for personnel from explosives using GTA 5-10-28.

2. Preclass instructions:

Study STP 5-12B1-SM, Task 051-193-1001, and attached material.

3. Requirements for class:

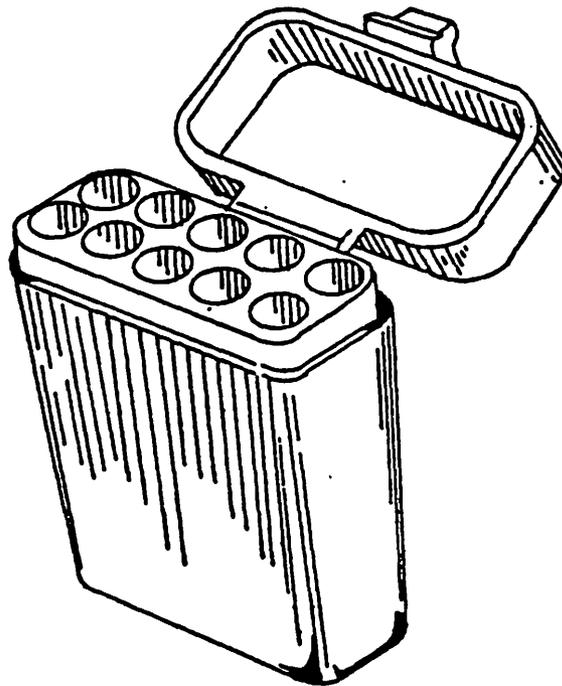
None.

DEMOLITION EQUIPMENT

1. **INTRODUCTION:** Welcome to the lesson on demolition equipment. Demolition equipment consists of the tools and accessories used to prepare explosives for detonation. Most of the items covered in this lesson are contained in the electric and non-electric explosive initiating demolition equipment set. The items not contained in the set are the 30 and 100 cap blasting machines.

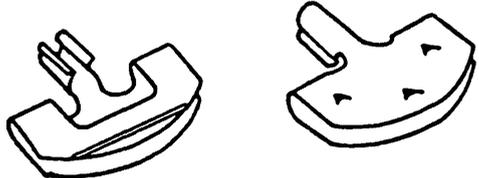
2. **ACCESSORY EQUIPMENT:** The following demolition accessories support a demolition mission and help make the job easy.
 - a. **Cap Box (Figure 1):** Cap boxes are used to store non-electric blasting caps when they are being transported. Ten non-electric caps can be stored in each box.

Maintenance: Keep boxes clean and free of foreign matter. Store empty boxes in the demolition equipment set. DO NOT STORE BLASTING CAPS IN THE DEMOLITION SET.



Cap Box

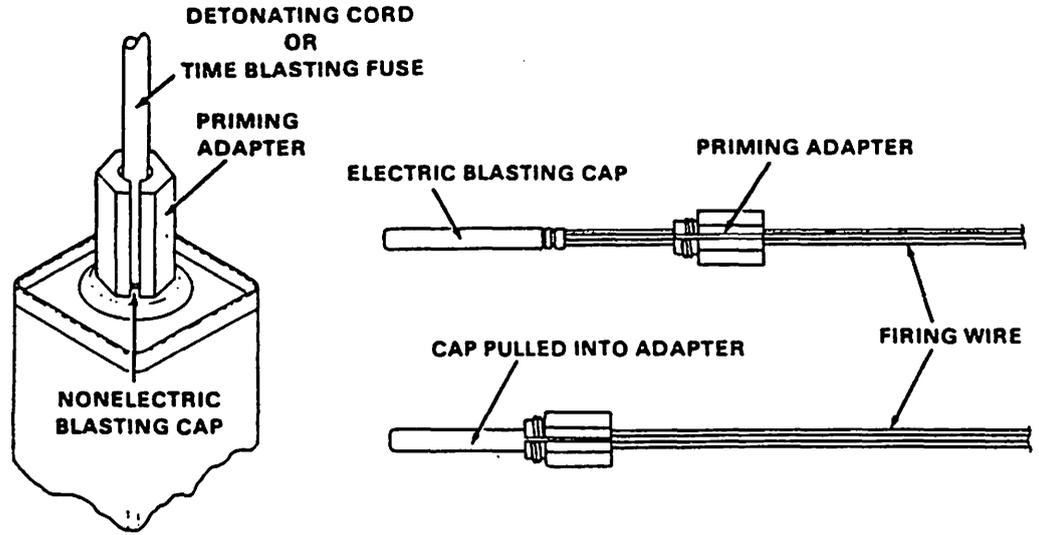
- b. **M8 Blasting Cap Holders** These holders are used to attach and hold blasting caps to sheet explosives. They are supplied with sheet demolition charges and roll demolition charges. They are also supplied as a separate item.



M8 Blasting Cap Holders

- c. **Priming Adapter M1A4** A small plastic device used to secure blasting caps in a threaded fuse well. The priming adapter is used when priming explosives either electrically or non-electrically.

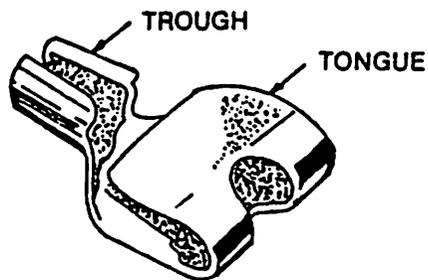
Maintenance: Priming adapters must be kept clean and free of dirt. Store them in the demolition set. When using the priming adapter, be sure the adapter is screwed straight into the cap well.



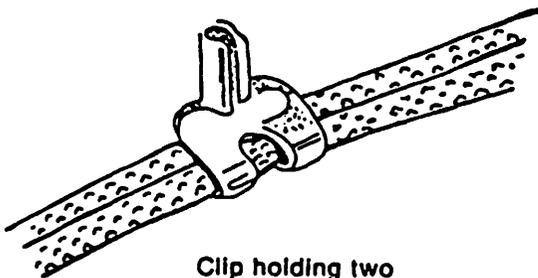
Priming Adapter M1A4

- d. **M1 Detonating Cord Clips:** These small metal clips are designed to hold two strands of detonation cord together; either parallel or at right angles to each other

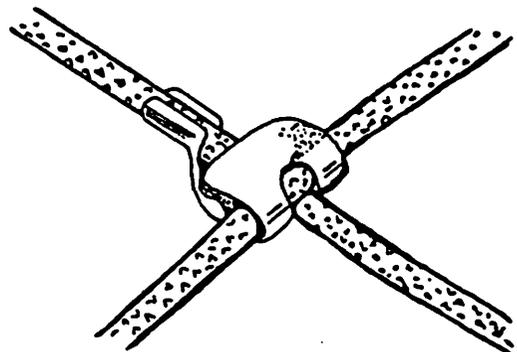
Maintenance: Keep the clips clean and free of mud and rust. Store in the demolition set.



**DETONATING CORD CLIP
BEFORE BENDING**



**Clip holding two
parallel cords**



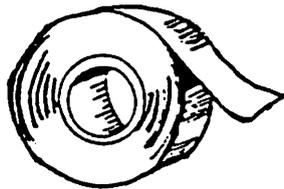
**Clip holding two cords
at right angles**

M1 Detonating Cord Clips

e. **Pressure Sensitive Tape:** Pressure sensitive tape comes in a roll two inches wide and 72 yards long. This tape is used to tape demolition charges to dry, clean wood, steel, or concrete; to connect caps to detonating cord; or to hold caps in blocks, etc.

NOTE: *This tape will not stick to dirty, wet, or oily surfaces or to surfaces which have a temperature that is below freezing.*

Maintenance: Keep tape clean, dry, and away from extreme heat or cold. Store in the demolition set.



Pressure Sensitive Tape

f. **Adhesive Paste** This is a sticky, putty-like substance used to attach demolition charges to vertical (walls) or overhead flat surfaces. Adhesive paste is useful in holding charges in place until they can be tied or taped.

NOTE: *Adhesive paste will not stick to dirty, dusty, wet, or oily surfaces. It will not stick in temperatures below zero, and it becomes useless if wet.*

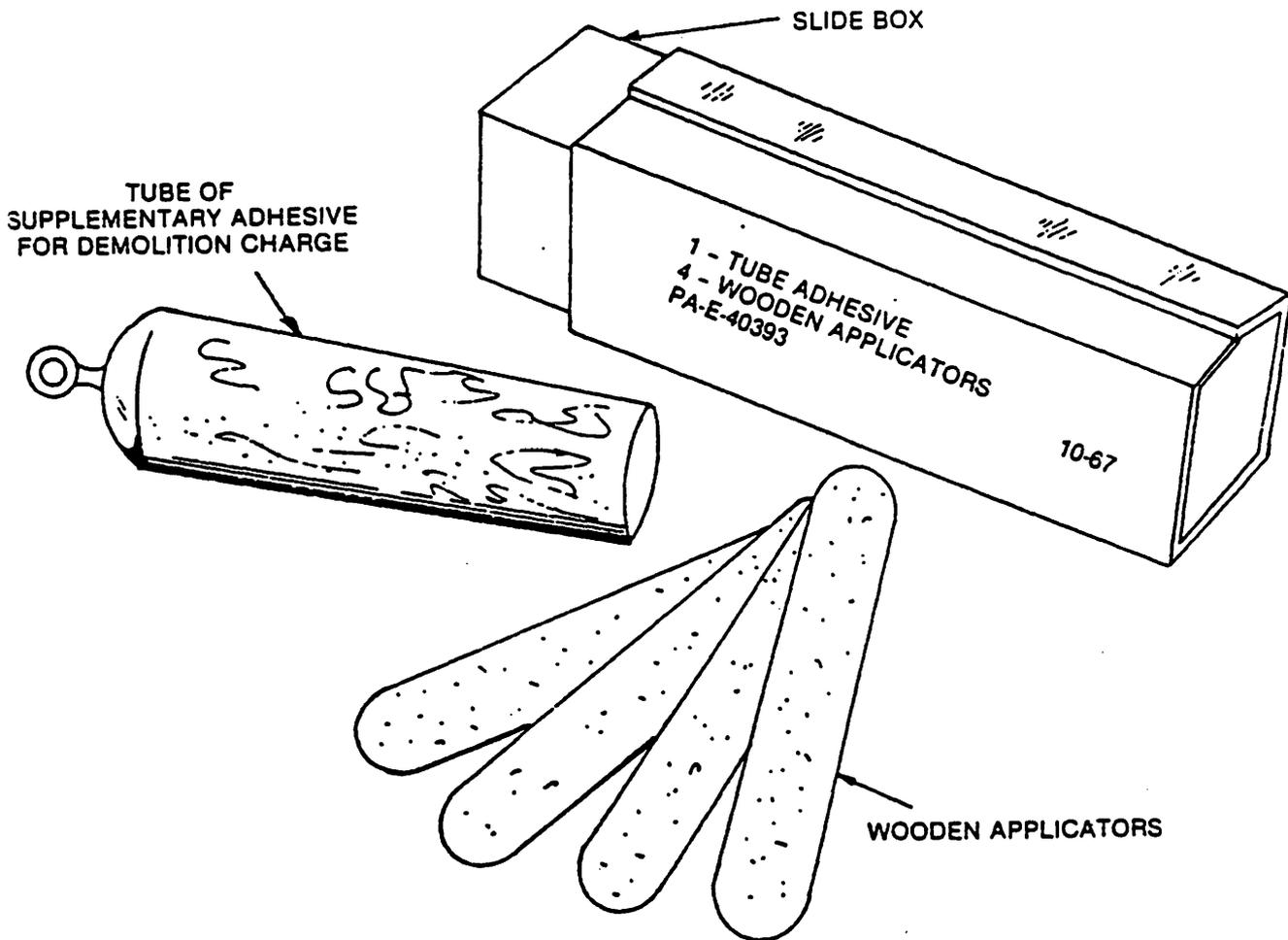
Maintenance: Keep the paste container closed and free of dirt and other foreign matter. Keep the paste dry, and store it in the demolition set.



Adhesive Paste

g. **Supplementary Adhesive** Supplementary adhesive is used to hold charges when the surface is below freezing, wet, or underwater. It is issued in a boxed tube with wooden applicators.

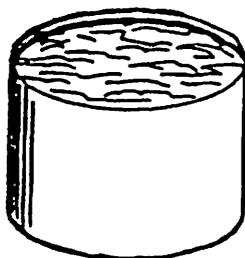
Maintenance: Keep the adhesive container closed and free of dirt and other foreign matter. Keep it dry, and store it in the demolition set.



Supplementary Adhesive

- h. Waterproof Sealing Compound** **Waterproof sealing compound** is used on time fuse and non-electric blasting caps. It is used to moisture-proof the fuse and cap and is placed on the joint where the time fuse and blasting cap meet. It does not make a permanent seal and must not be placed underwater unless the charge is to be fired immediately.

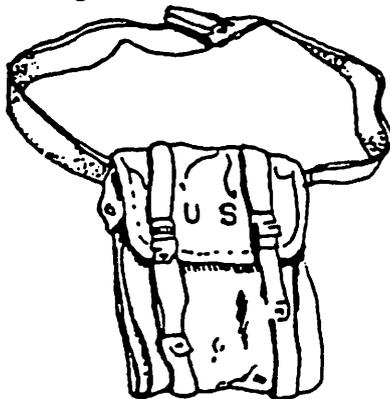
Maintenance: Keep the container closed and free of dirt and other foreign matter. Keep the compound dry, and store it in the demolition set.



Waterproof Sealing Compound

- 1. Carrying Bag** The bag is used to carry small amounts of explosives to the job site. Also, small equipment items such as the adhesive tape, blasting cap holders, and detonating cord clips can be carried in the bag.

Maintenance: Keep the bag clean. To clean the bag, brush it with a stiff brush. Store the bag in the demolitions set.

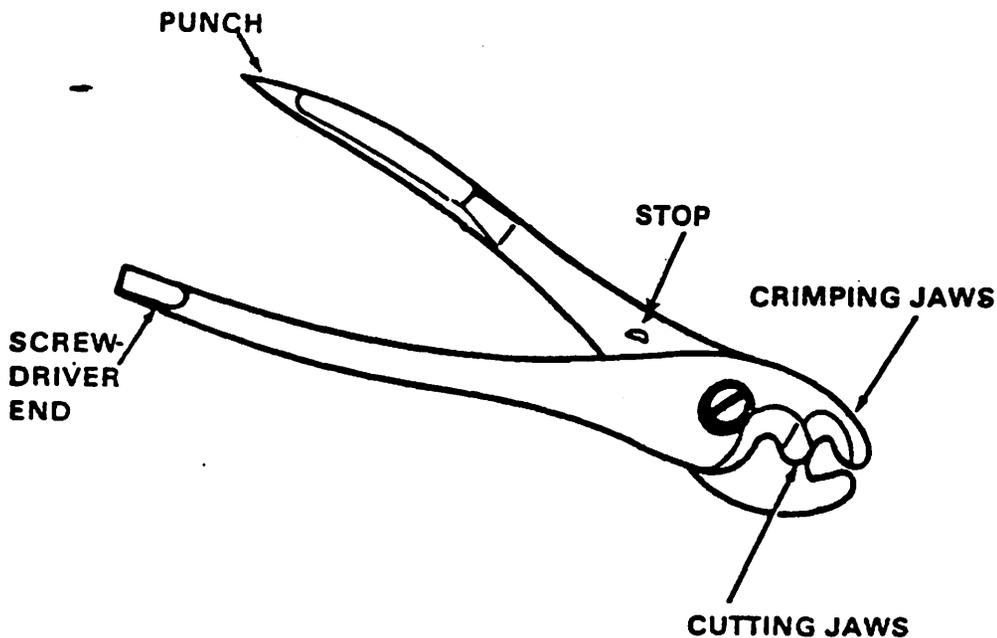


Carrying Bag

3. **TOOLS AND EQUIPMENT:** To prime explosives means to make them ready to detonate (explode). The tools and equipment explained in this part of the lesson are used to assist in priming explosives.

a. **M2 Cap Crimpers:** Cap crimpers have two legs for handles. One leg of the handle is pointed for punching cap wells in explosives, and the other leg has a screwdriver at the end. The cap crimper is made of soft, non-sparking metal which will conduct electricity. Cap crimpers are used to crimp (attach) a non-electric blasting cap to a time fuse or detonating cord and to attach non-electric caps to the standard base of US firing devices. (You will learn about US standard firing devices in a later lesson.) Crimpers are also used to cut time fuse and detonating cord. (Note the crimper and cutter jaws

Maintenance: Keep cap crimpers clean and store them in the demolition set.



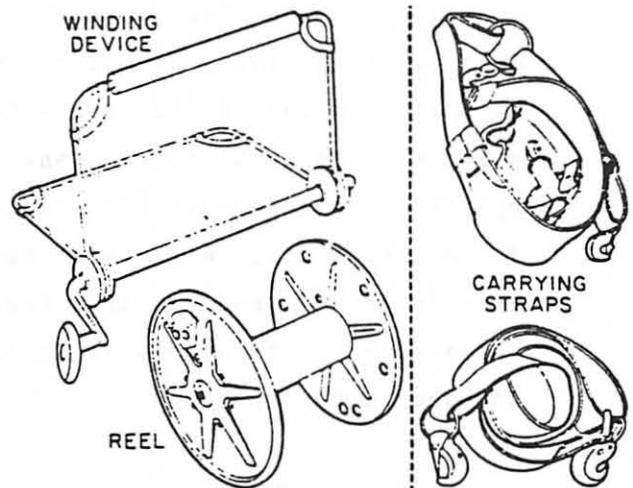
M2 Cap Crimpers

b. **Firing Wire** Firing wire is connected between the blasting cap and the blasting machine. It carries the electrical current from the blasting machine to the electric blasting cap. Firing wire is a two-conductor plastic or rubber-coated wire that looks like a household extension cord. The copper used in firing wire is of good quality and offers very little resistance to electric current. Firing wire is normally issued in 500-foot reels shows a firing wire reel and its parts. (Note: More than one reel may be required, depending on the distance away from the explosives you must be to safely fire the charge.)

Maintenance: Wipe the firing wire clean of all dirt with a clean, dry rag. Make sure the firing wire is evenly distributed over the entire reel and is free of knots and kinks. When wire is being recovered, check it thoroughly for cuts and tears in the insulation. Store the wire in the demolition set.



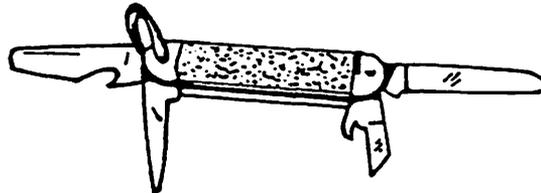
Firing Wire



Firing Wire Reel Parts

- c. **Pocket Knife** The pocket knife has various uses such as cutting explosives, tape, twine, and other items.

Maintenance: Keep the metal clean and free of dirt and rust. Store the knife in the demolition set and keep the blades sharp.

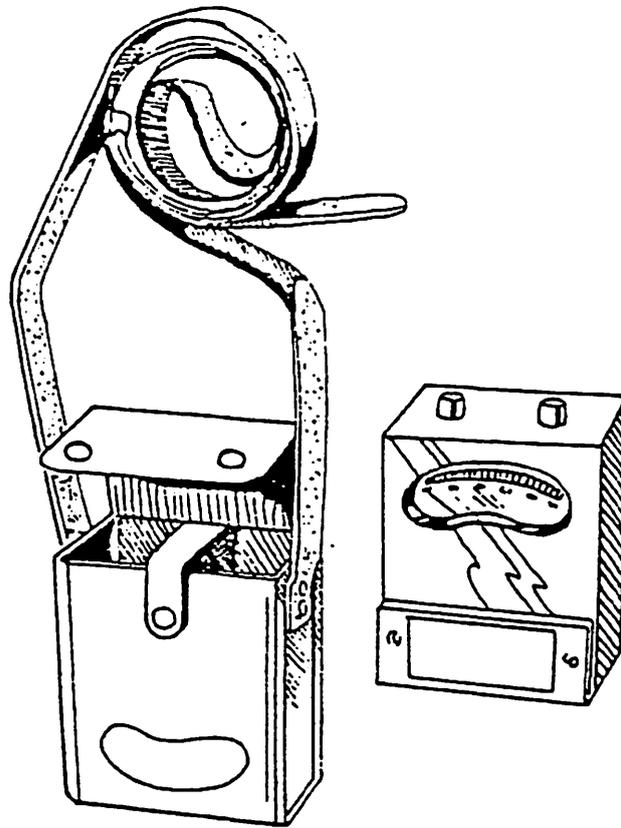


POCKET KNIFE

Now let's study the tools used to test electrical firing circuits and to detonate explosives. Testing electrical circuits reduces the chance of misfires, saves time, and increases job safety.

- d. **Blasting Galvanometer** The galvanometer is used to test an electric firing system for continuity, for completeness of the circuit, and for shorts. This test includes the blasting cap, firing wire, wire connections, and any places where the wires may have been spliced. This reduces the chance of misfires. To test the galvanometer, hold a piece of metal across both its terminals; a cap crimper can be used for this test. If this test does not cause a wide deflection of the needle (from 23 to 25 units), the battery is weak and should be replaced.

Maintenance: The galvanometer should be kept clean, handled carefully, and stored in a dry place. Because of their tendency to corrode, the batteries should be removed when the galvanometer is to be stored for a long time. The galvanometer is stored in the demolition set.



Blasting Galvanometer

NOTE: Two types of batteries are authorized for use with this galvanometer. They are:

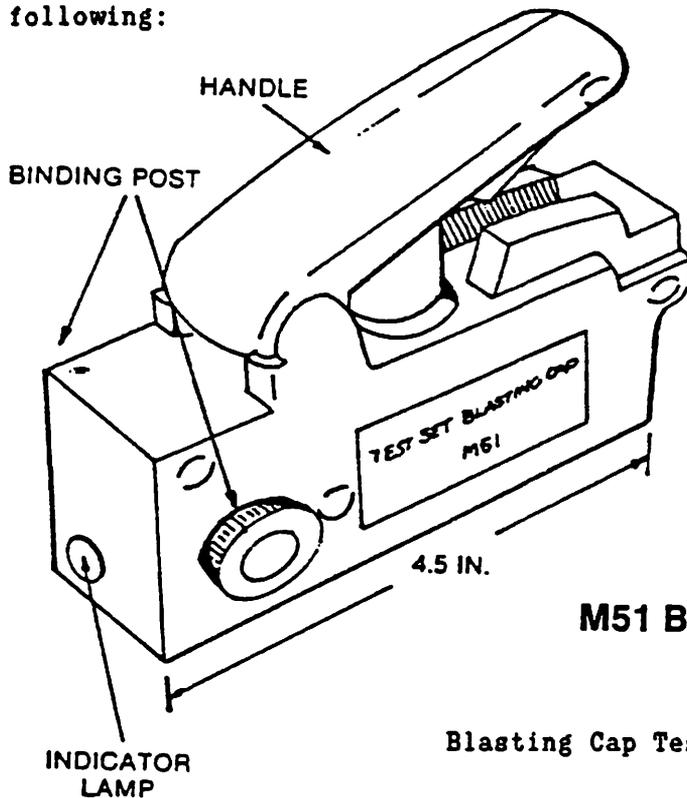
BA-2465/u Special Silver Chloride Dry-Cell; 0.9v total voltage; FSM 6135-128-1632; authorized for use at temperatures above 0° Fahrenheit.

BA-2245/u Special Silver Chloride Dry-Cell; 0.9v total voltage; FSM 6135-833-9909; authorized for use at temperatures below 0° Fahrenheit.

CAUTION: Only the two special silver chloride dry-cell batteries, BA-2465/u and BA 2245/u (which produce only 0.9 volts), are to be used in the galvanometer. Other batteries could produce enough voltage to detonate electric blasting caps.

e. **M51 Blasting Cap Test Set** This set was developed to replace the blasting galvanometer. It performs the same function of testing blasting caps, firing wire, wire connections, and wire splices. It is waterproof and may be used at temperatures as low as -40, Fahrenheit. The blasting cap test set is smaller than the blasting galvanometer and is a self-contained unit with a magneto-type impulse generator. The generator is operated by pushing the handle with quick, sharp motions.

Maintenance: The test set should be kept clean and dry and should be handled with care. Store the test set in the demolition set. Before using the test set, test it to be sure it is operational by doing the following:

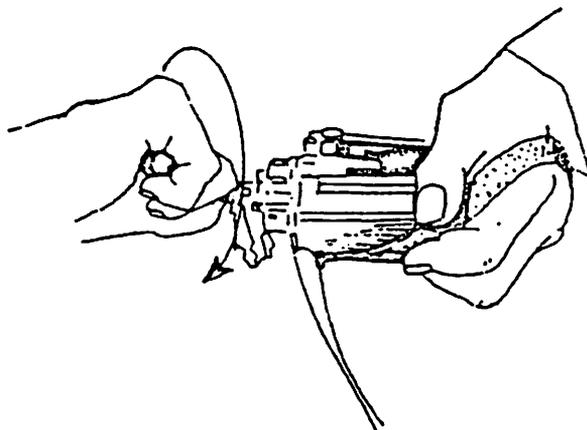


M51 BLASTING CAP TEST SET

Blasting Cap Test Set

- (1) Connect a piece of bare wire or the legs of the M2 crimpers between the binding posts.
- (2) Sharply depress handle while observing the indicator lamp. If the set is operative, the lamp will flash. If the light does not flash, the test set is no good. If this is the case, you must get another set.

- (4) Grasp the handle with the right hand and turn it vigorously clockwise as far as possible.

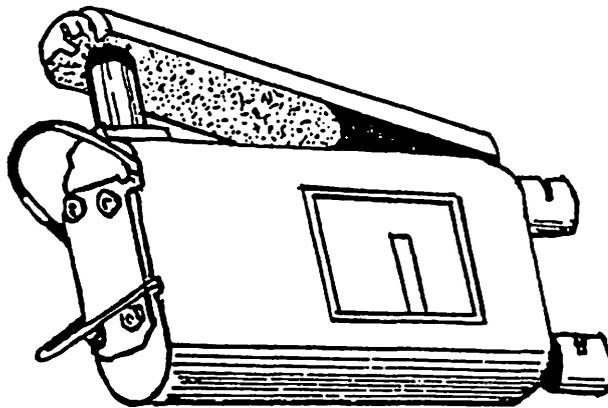


Blasting Machine Operations

Maintenance: Keep the machine clean. Keep the body free of rust, the terminals free of corrosion, and the machine stored in a dry place. Occasionally, clean the leather straps with saddle soap and oil containing Neat's foot oil. Store the machine in the demolition set.

- g. **M32 Ten Cap Blasting Machine** The M32 blasting machine is a small machine intended to replace the larger, heavier ten cap blasting machine. Its rated capacity is 10 caps. It uses a small alternator which is gear-driven by a handle actuated plunger. When sufficient energy is stored in the capacitors (this may take three or four strokes of the handle), an internal switching circuit discharges the electrical energy to the machine terminals and to the firing wires that are connected to these terminals. When not being used, the hand is held against the body of the machine by a D-Ring. The plunger is spring-loaded, so that when the handle is squeezed and the machine has stored up enough energy to set off 10 caps, a momentary glow is normally visible in the lamp located on top of the housing between the terminals. The glow occurs whether the machine is connected to a firing circuit or not.

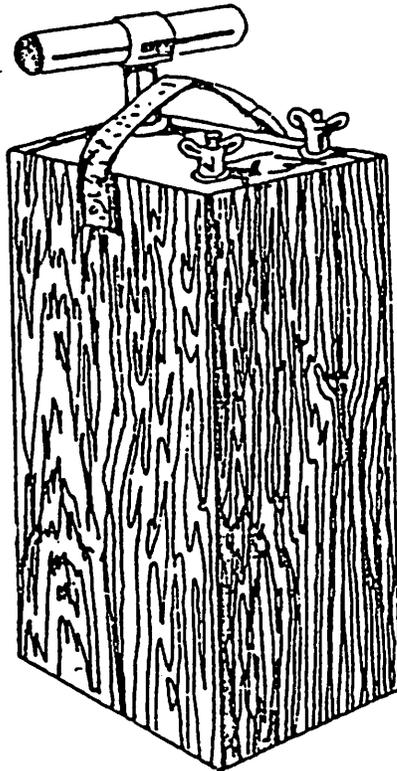
Maintenance: Maintenance of this machine is essentially the same as that for the 10 cap blasting machine. Keep the machine clean; keep the body free of rust; and keep the terminals free of corrosion. Store it in the demolition set.



M32 Ten Cap Blasting Machine

- h. M34 50 Cap Blasting Machine: This small, lightweight machine produces adequate current to initiate 50 electrical blasting caps connected in a series. It looks like the M32 blasting machine except for a black band around the base and a steel-reinforced actuating handle. Test and operate the M34 in the same manner as the M32.

- i. 50 Cap Blasting Machine (old type) The 50 cap blasting machine and the 30 cap and 100 cap machines (older types) are similar in features, except for their rated capacity, size, and weight. The 10, 30, 50, and 100 cap machines are named for the number of electric blasting caps they can initiate in a series (hooked together so that electricity passes through each cap). The 30, 50, and 100 cap machines (like the 10 cap machine) are generators and have no batteries. Operate the machine as follows:



50 Cap Blasting Machine

- (1) After connecting the firing wires to the terminals, raise the handle to the top of its stroke.
- (2) Quickly push the hand down as far as it will go.

Maintenance: Keep the machine(s) clean and dry and the terminals free of corrosion. Apply a light coat of linseed oil on the wooden parts (case and handle), and apply a light coat of Neat's foot oil on the leather strap. Store the machines in a clean, dry place.

4. **GENERAL MAINTENANCE:** Here are several general tips concerning the maintenance of demolition equipment. These guidelines will help you keep the equipment in good working condition.

DO

Keep each item free of moisture, mud, dirt, and/or corrosion.

Coat metal objects which might rust with a light coat of oil.

Keep canvas clean, dry, and free of mildew.

Touch up or sharpen cutting edges when they become dull.

Store each item in its intended compartment of the demolition set.

DON'T

Store explosive items in the demolition set!

Store a defective tool or instrument in the demolition set. (Repair it, or turn it in for replacement.)

Use a tool for anything except its intended purpose.

Allow items to become lost. If an item is used up or lost, tell your supervisor so that it can be replaced.

5. **SAFE DISTANCE FROM EXPLOSIVES:** Explosives, when detonated, can throw lethal missiles (rocks, dirt, wood, etc.) great distances. To avoid injury, it is important that you are a safe distance away from the explosion. Safe distances for personnel in a missile-proof shelter is 91.4 meters (300 feet). To find the minimum safe distance for personnel in the open, use the chart shown below.

Minimum safe distance for personnel in the open

Pounds of explosive	Safe distance in meters	Pounds of explosive	Safe distance in meters
1 to 27	300	150.....	534
30.....	311	175.....	560
35.....	327	200.....	585
40.....	342	225.....	609
45.....	356	250.....	630
50.....	369	275.....	651
60.....	392	300.....	670
70.....	413	325.....	688
80.....	431	350.....	705
90.....	449	375.....	722
100.....	465	400.....	737
125.....	500	425 and over.....	750

Safe Distance (meters) = $100 \times \sqrt[3]{\text{Pounds of Explosive}}$
 Safe distance using missile - proof shelters is 91.4 meters.

STUDENT ADVANCE SHEET
LESSON #CETA12

1. Training objective:

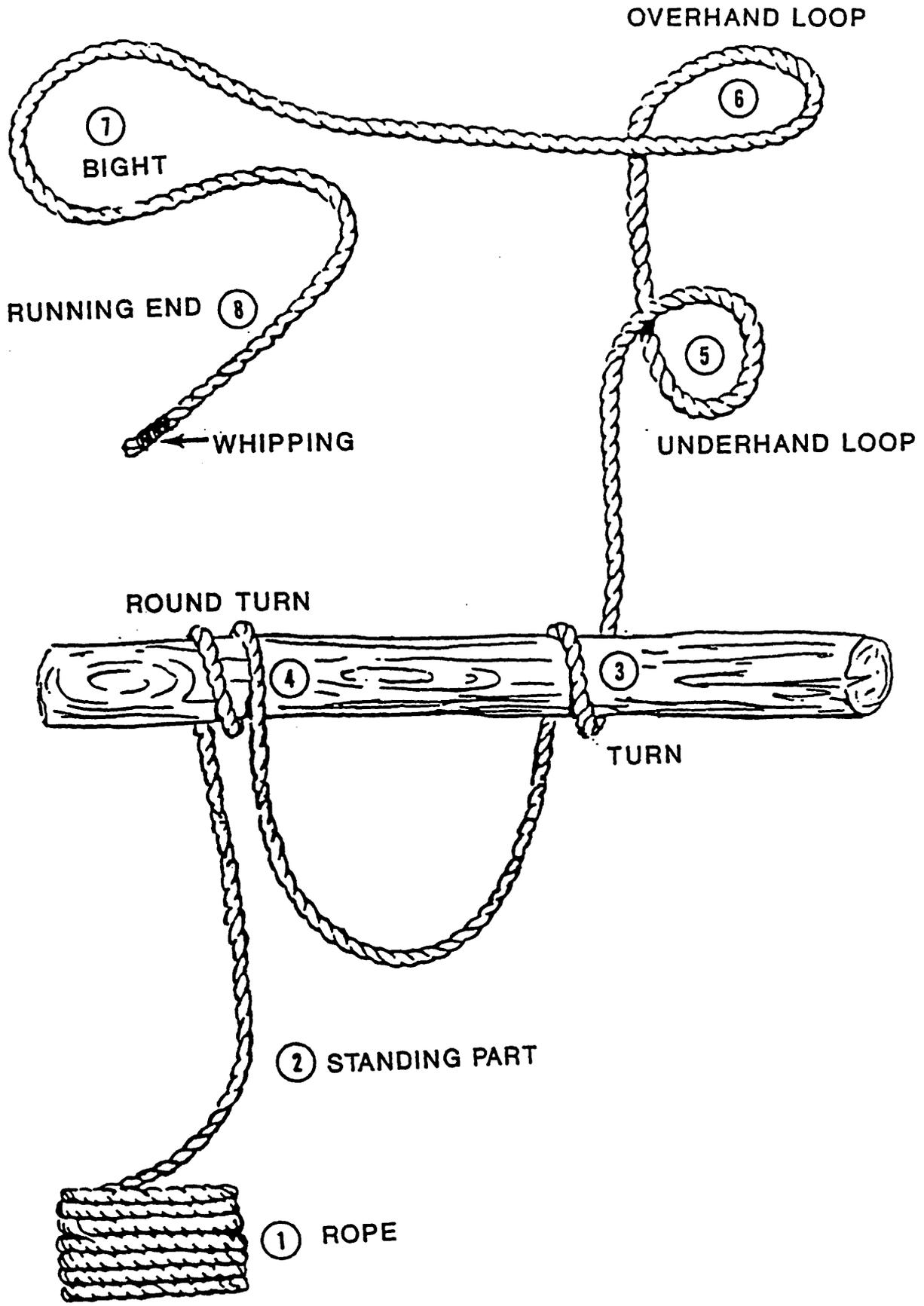
- a. **TASK:** Tie knots and lashings and prepare a simple tackle system.
- b. **CONDITION:** In a classroom and a prepared practical exercise area, given lengths of fiber rope up to one-inch in diameter (including at least one rope of a different diameter), and wooden poles of various sizes, two single blocks and two double blocks.
- c. **STANDARD:** The student will tie, without error, the following knots: square knot, double sheet bend, bowline, timber hitch, clove hitch, sheepshank, fisherman's bend. The student will tie without error the following lashings: square, shear, block, and girth hitch. The student will correctly reeve a simple tackle system.

2. Preclass instructions:

Study STP 5-12B1-SM, Tasks 051-200-1001 and 051-200-1002, and attached material.

3. Requirements for class:

None.



RIGGING TERMINOLOGY

ROPE: A rope is a large, stout cord made of strands of fiber.

RUNNING END: The running end of a rope is the free or working end of a rope

STANDING PART: The standing part of a rope is all of the rope except the running end

TURN: A turn is the placing of a loop around an object, such as a post or rail with the turning end continuing in a direction opposite to the standing part. A turn is wrapping a rope around an object once.

ROUND TURN: A round turn is the placing of a loop around an object with the running end leaving the circle in the same direction as the standing part. In a round turn the rope is wrapped around an object one and a half times

OVERHAND LOOP: An overhand loop is formed when the running end passes under the standing part

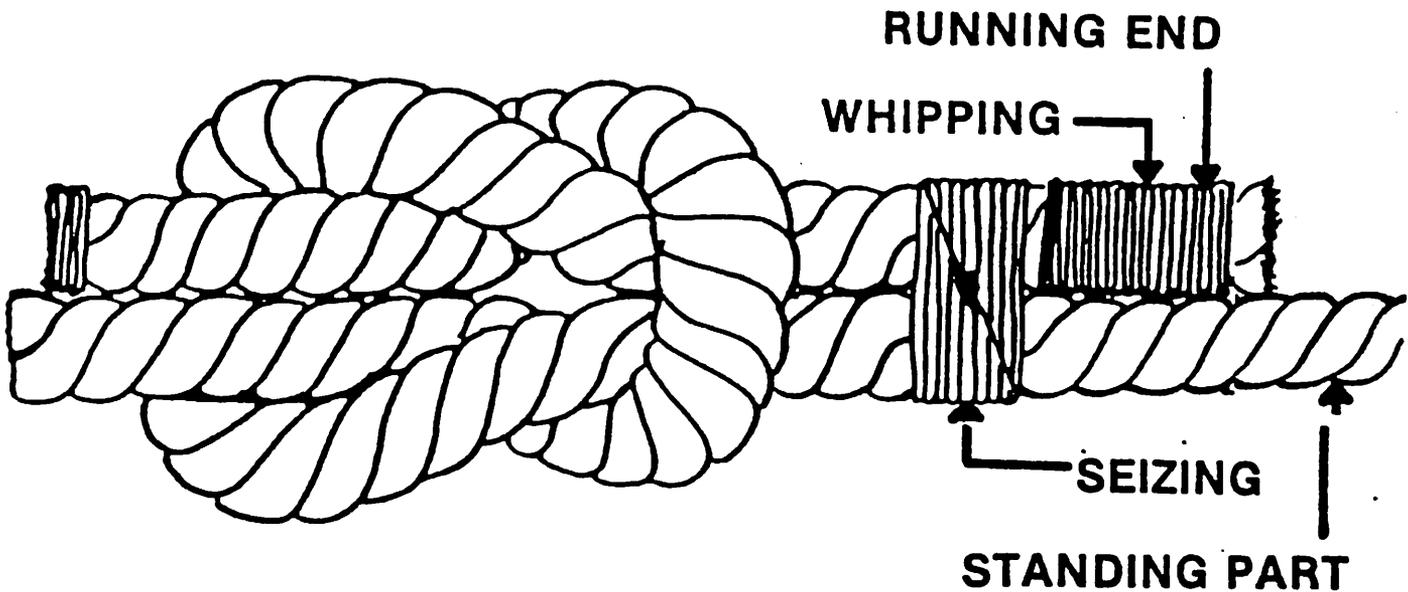
UNDERHAND LOOP: An underhand loop is formed when the running end passes under the standing part

BIGHT: A bight is a "U" shaped curve in a rope

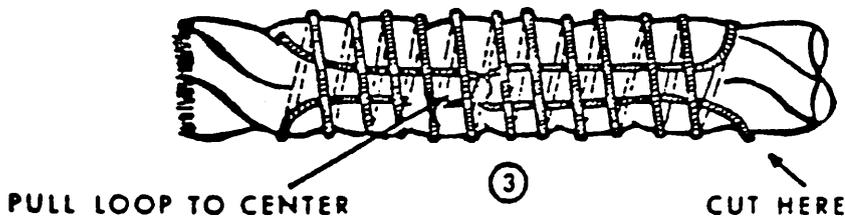
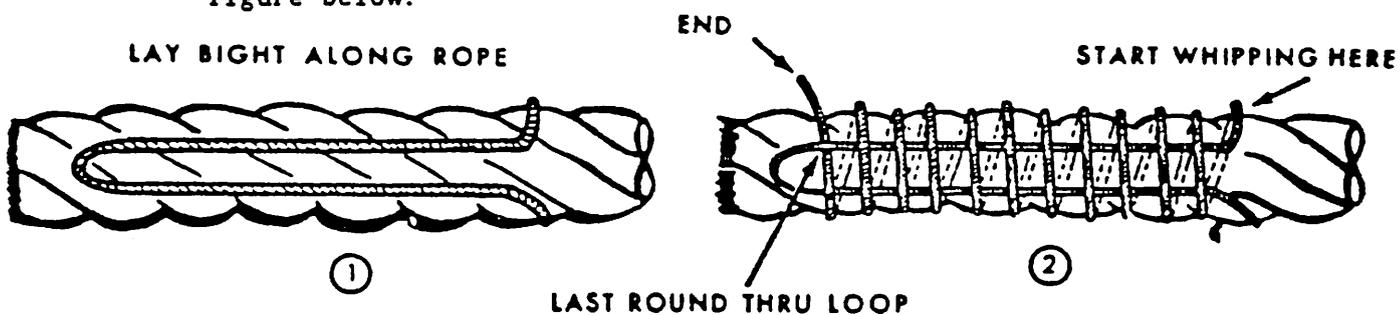
WHIPPING: A method of fastening the end of a rope to prevent it from untwisting.

SEIZING: Seizing for manila rope is the tying of a running end to the standing part to prevent a knot from untying due to the slackening and tightening action on a rope.

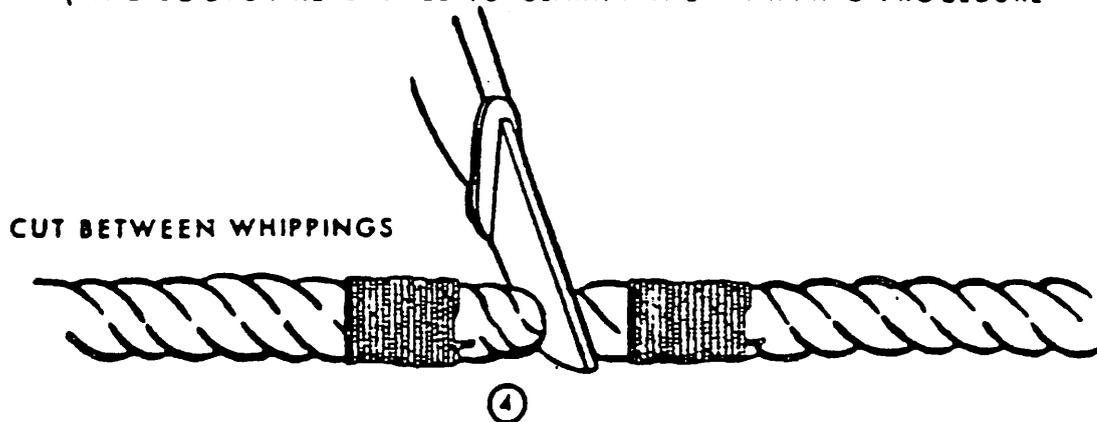
SEIZING: Seizing is a way of keeping knots that need pressure to stay tied from 'falling out' when the pressure is released. To seize a rope, lay the running end next to the standing part of the rope and use cord to tie the running end to the standing part. Make approximately eight turns around both the running end and the standing part. Tying the cord together will keep the knot together even when the tension on the rope is released. (The square knot is used as the example)



WHIPPING: The raw, cut end of a rope has a tendency to untwist and, therefore, should always be knotted or fastened to prevent this untwisting. One way in which to keep the rope from untwisting is 'whipping' the end of the rope. A rope is whipped by wrapping the end tightly with a small cord. This method is very good because it keeps the rope from untwisting but does not increase the size of the rope very much. The whipped end of the rope will thread through blocks or other openings that the unwhipped part of the rope will go through. The steps and procedures for whipping the ends of a rope are clearly shown in the figure below.



(THE LOOPS ARE OPENED TO CLARIFY THE WHIPPING PROCEDURE



PRACTICE EXERCISE:

Fill in the blank spaces.

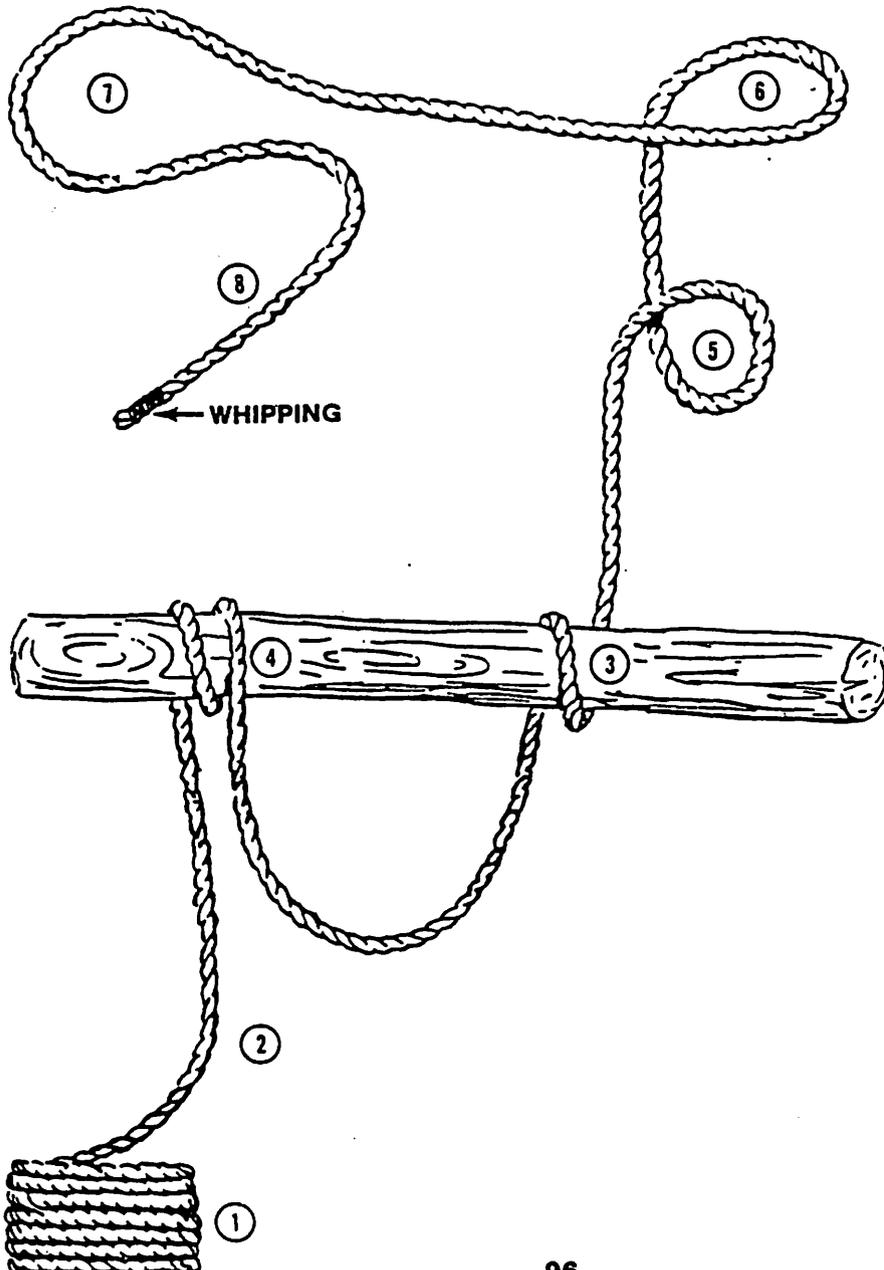
1. A Round turn is when the rope passes around an object and the running end and standing part leave the object in the same direction.
2. An overhand loop is formed when the running end of a rope passes ^{over}~~under~~ the standing part of the rope.
3. A Rope is a large stout cord made of fiber or wire.
4. The free or working end of a rope is called the running end.
5. A turn is when a rope passes around an object and the running end leaves the object in the opposite direction of the standing part.
6. The part of the rope which is not the running end is called the standing part.
7. An overhand loop is formed when the running end passes over the standing part.
8. A large "U" shape in a rope is called a bight.
9. A cord wrapped lightly around the ends of a rope to keep the rope from unraveling is called whipping.

Finish the sentence below in your own words.

10. Seizing is used to prevent the running end to
unwrapping.

Select the correct corresponding number from the illustration to match the following:

- | | |
|-------------------|----------|
| a. Round Turn | <u>4</u> |
| b. Overhand Loop | <u>6</u> |
| c. Bight | <u>7</u> |
| d. Turn | <u>3</u> |
| e. Rope | <u>1</u> |
| f. Standing Part | <u>2</u> |
| g. Underhand Loop | <u>5</u> |
| h. Running End | <u>8</u> |



SQUARE KNOT

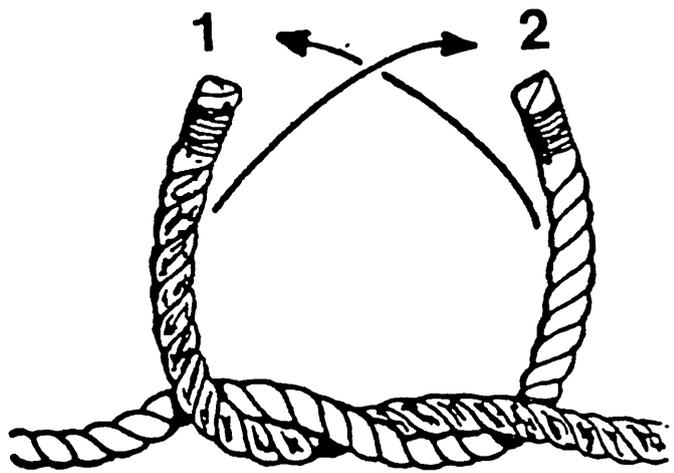
A Square Knot is used to tie two dry ropes of equal size together. It forms a non-slipping knot that tightens under strain but can easily be untied.

STEP #1: Cross the ends of two ropes of equal size (ropes #1 and #2). Ropes may be crossed #1 over #2 or #2 over #1.

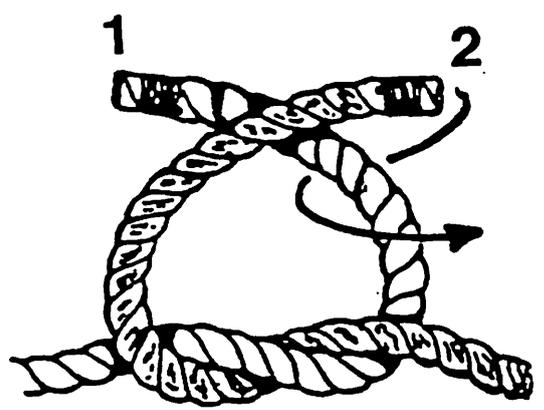
STEP #2: Bend the rope ends back and cross the ropes again. This time cross the ropes the opposite direction from which you crossed them in Step #1. (For example, if you crossed rope #1 over rope #2 in step 1, then at this time cross rope #2 over rope #1.)

STEP #3: Complete the square knot by passing the end of rope #2 through the bight formed by rope #1. Pull the knot tight. The running ends and standing parts of ropes 1 and 2 should be on the same side of the bight formed by the other rope. Example: The running end and standing part of rope #2 should be on the same side of the bight formed by rope #1.

Square-nat



Step 1



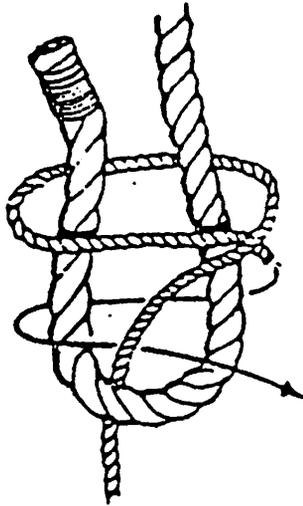
Step 2

WHIPPING

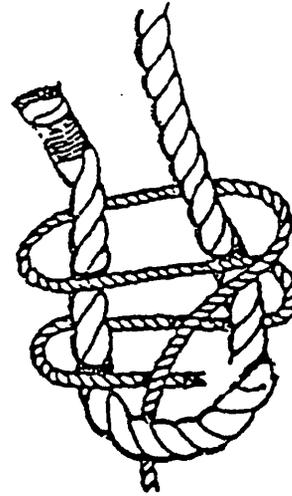


Step 3

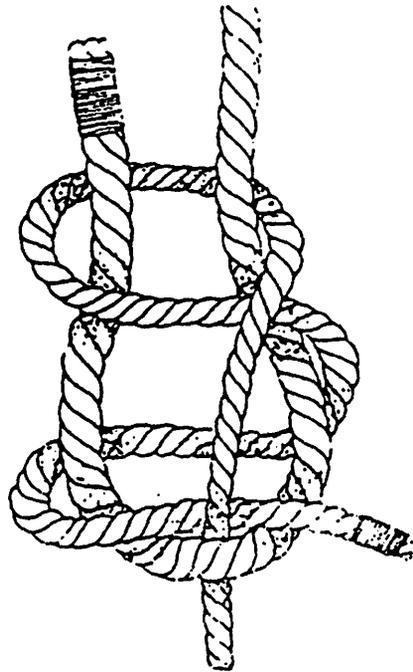
Double sheet bend



Step 1



Step 2



Step 3

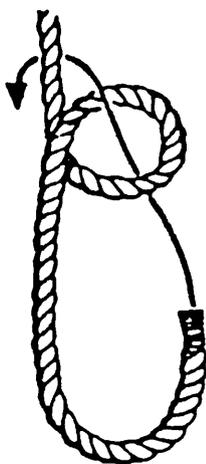
BOWLINE

The Bowline is the best knot for forming a single loop in the end of a rope. It will not slip or tighten under strain and is easily untied. The running end may be seized to its standing part.

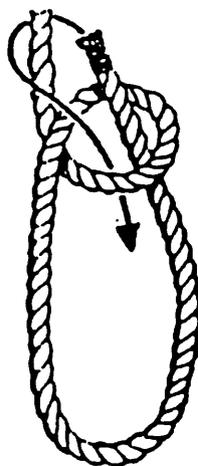
STEP #1: Approximately 3 feet from the running end form an overhand loop in a rope; below the overhand loop form a bight, leaving about nine inches with which to tie the knot.

STEP #2: Pass the running end up through the overhand loop from the back side, behind the standing part above the overhand loop, around to the front, and then down through the overhand loop.

STEP #3: Pull about six inches of the running end through the overhand loop, then tighten the Bowline.



Step 1



Step 2



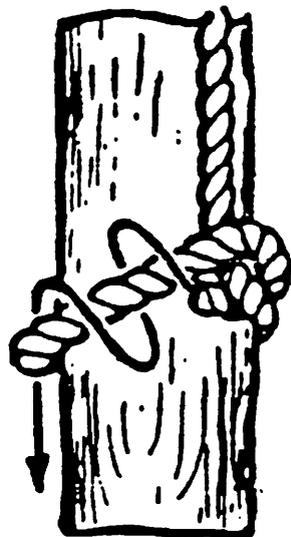
Step 3

TIMBER HITCH

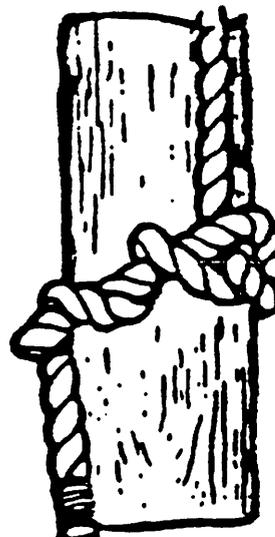
The Timber Hitch is used for moving heavy timber or poles. This hitch is excellent for securing a piece of lumber or similar object. The pressure of the coils, one on the other, holds the timber securely; the more tension used, the tighter the hitch becomes. It will not slip, but is easily loosened when the tension is released.

STEP #1: Wrap a rope around a log about 18 inches from the end of the log. Leave about 18 inches of the running end of the rope free to complete the tie.

STEP #2: Hold up the standing part of the rope and double the running end back around the standing part, forming a bight. With the running end, take two turns around the standing part of the bight. Pull the standing part tight toward the end of the log.



①



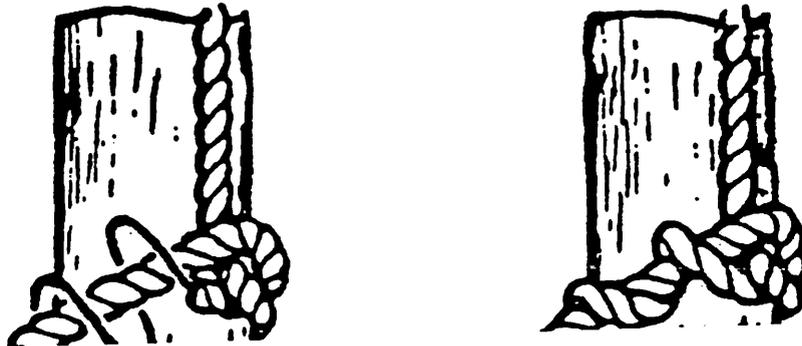
②

TIMBER HITCH

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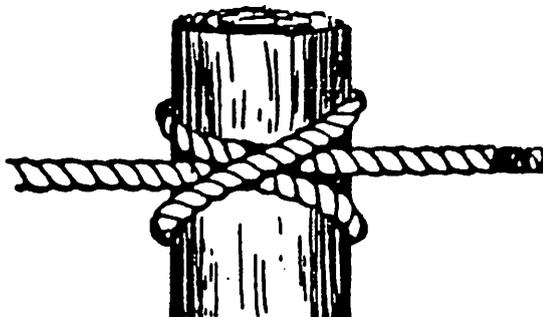
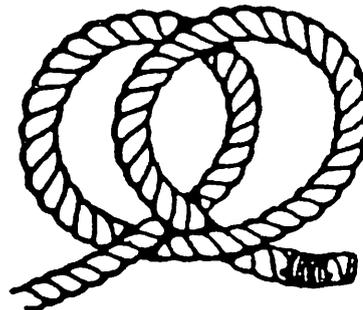
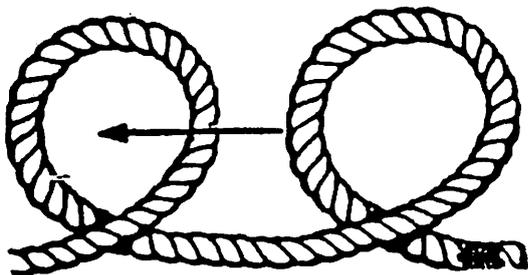
Middle of Rope Clove Hitch

Used to tie a clove hitch in a rope, then slip the knot over the end of a post or pipe.

STEP #1: Form two underhand loops in the middle of a rope.

STEP #2: Place the right underhand loop over the left underhand loop.

STEP #3: Place both loops over the object. Slide the loops together and tighten the clove hitch by pulling the rope on both sides of the knot.



SHEEPSHANK

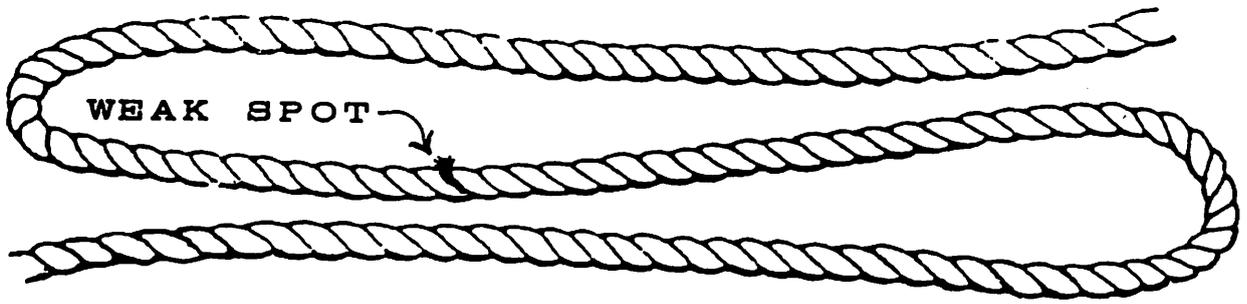
A sheepshank is a method of shortening a rope, and it also may be used to take the load off a weak spot in a rope. This is a temporary knot and must have tension on it at all times to remain tied. Steps 1 through 4 show how to tie a sheepshank.

STEP #1: Form a double bight (large flat S) in a rope. The weak spot must be in the middle.

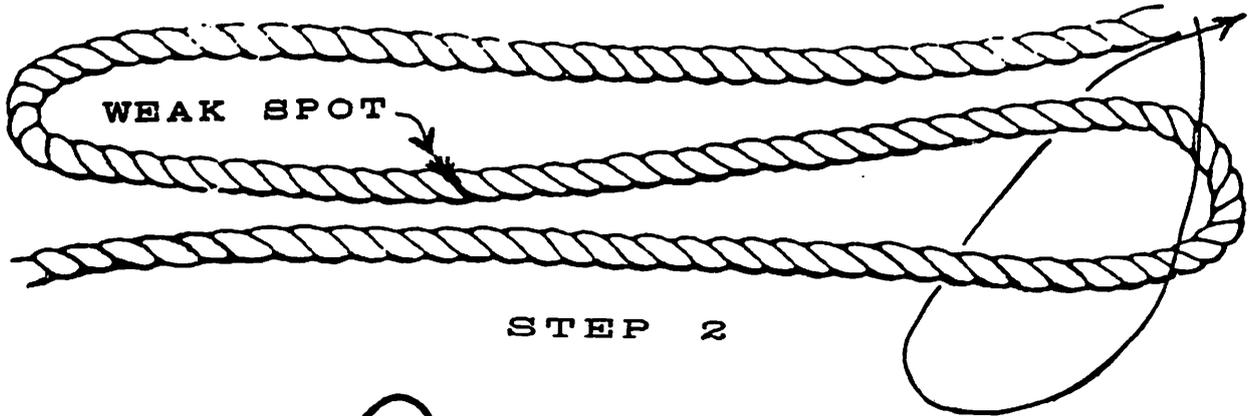
STEP #2: Form an underhand loop around the bight at one end of the rope.

STEP #3: Form an underhand loop around the bight at the other end of the rope.

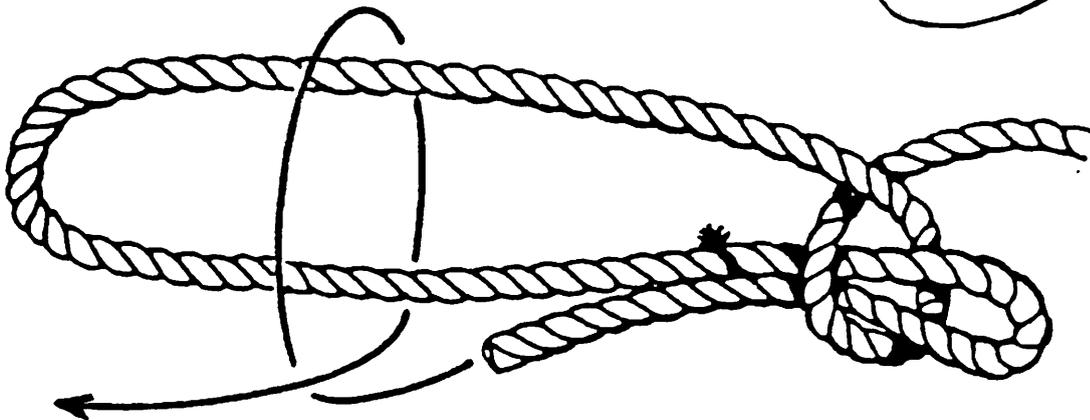
STEP #4: Pull both underhand loops tight and keep tension on them until you are ready to untie the sheepshank.



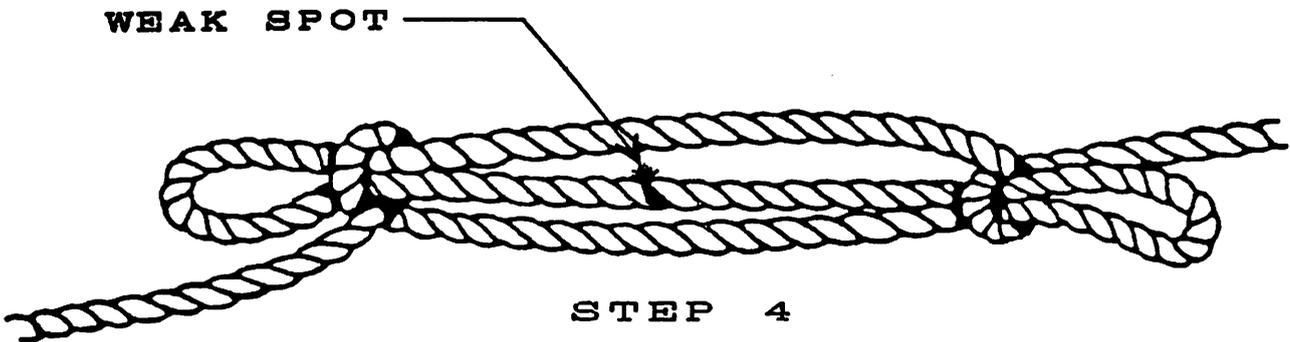
STEP 1



STEP 2



STEP 3



STEP 4

SHEEP SHANK USED TO SHORTEN A ROPE OR TO TAKE THE LOAD OFF A WEAK SPOT IN THE ROPE

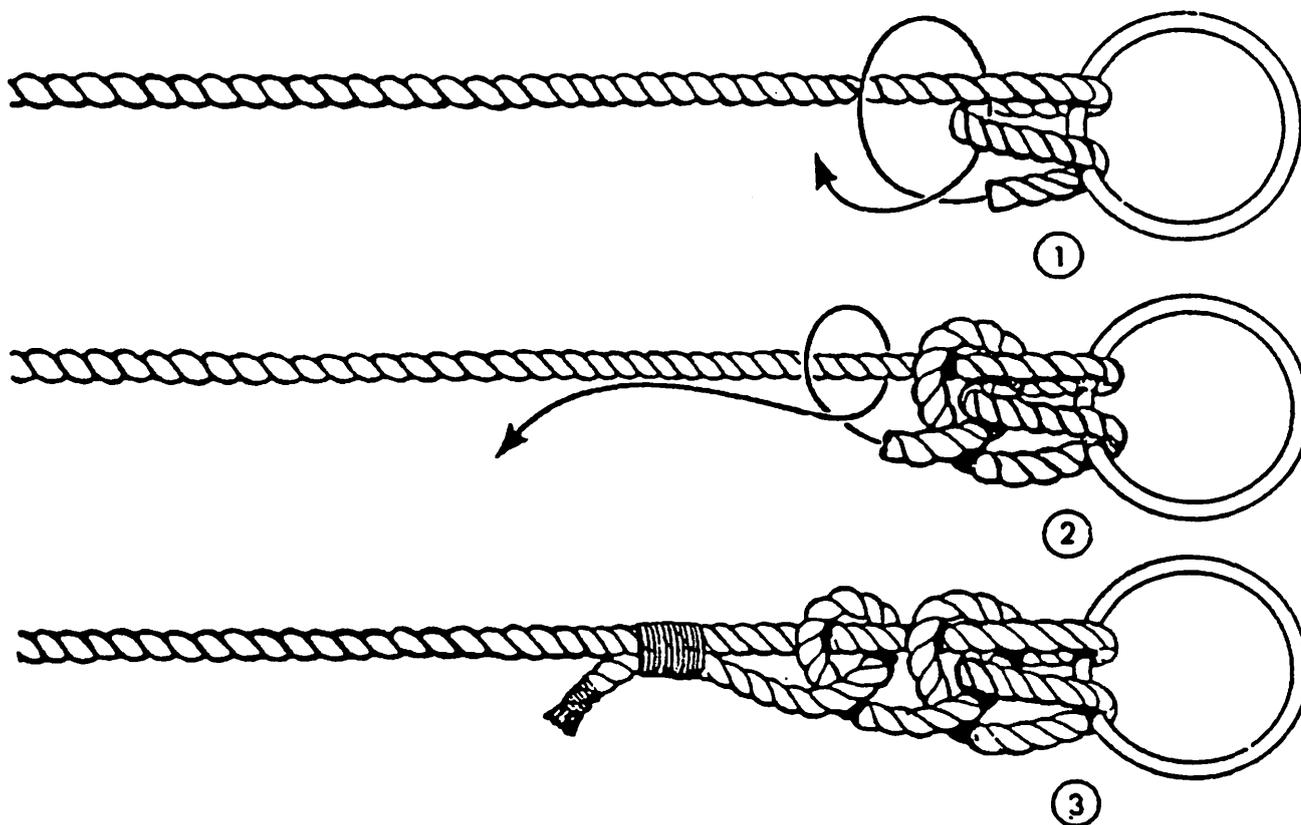
FISHERMAN'S BEND

The fisherman's bend is an excellent knot for attaching a rope to an object such as an anchor ring or a rectangular piece of stone or timber. It can be used to fasten a rope to a ring or post where there will be slackening and tightening motion in the line. Anchoring a boat to a pier is an example of the tightening and slackening motion in which a fisherman's bend would work well. Steps 1 through 3 show how to tie a fisherman's bend.

STEP #1: With the running end of a rope, make a round turn through a ring.

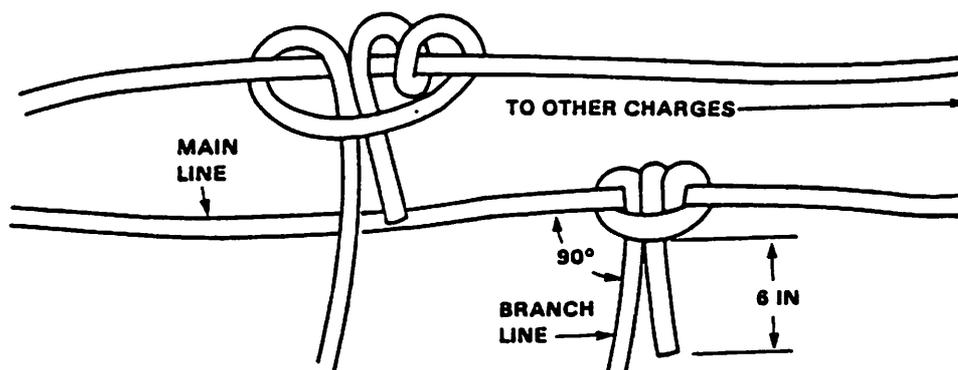
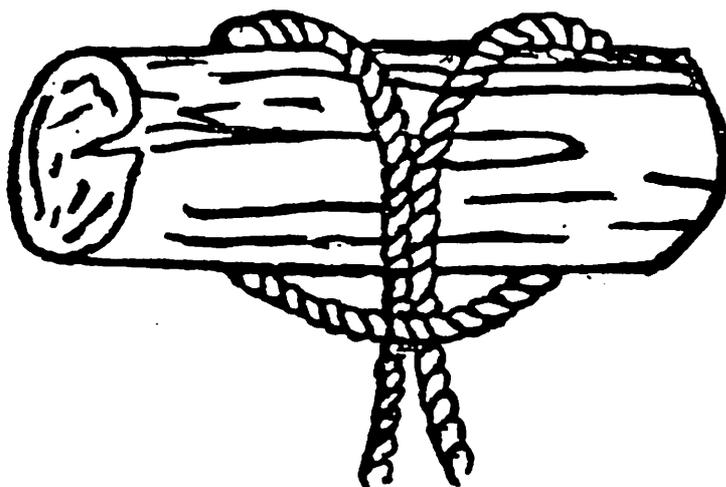
STEP #2: With the running end of the rope, start to tie a clove hitch around the standing part. As you make the first loop of the clove hitch, pass the running end through both loops of the round turn you made in Step #1.

STEP #3: With the running end, complete the second loop of the clove hitch. Seize the running end to the standing end.



GIRTH HITCH

The girth hitch is used in tying suspender ropes to hand ropes in the construction of expedient rope bridges. The girth hitch is also used in your demolition training with the modification shown below.



Girth Hitch with One Extra Turn

USES OF RIGGING KNOTS

KNOT

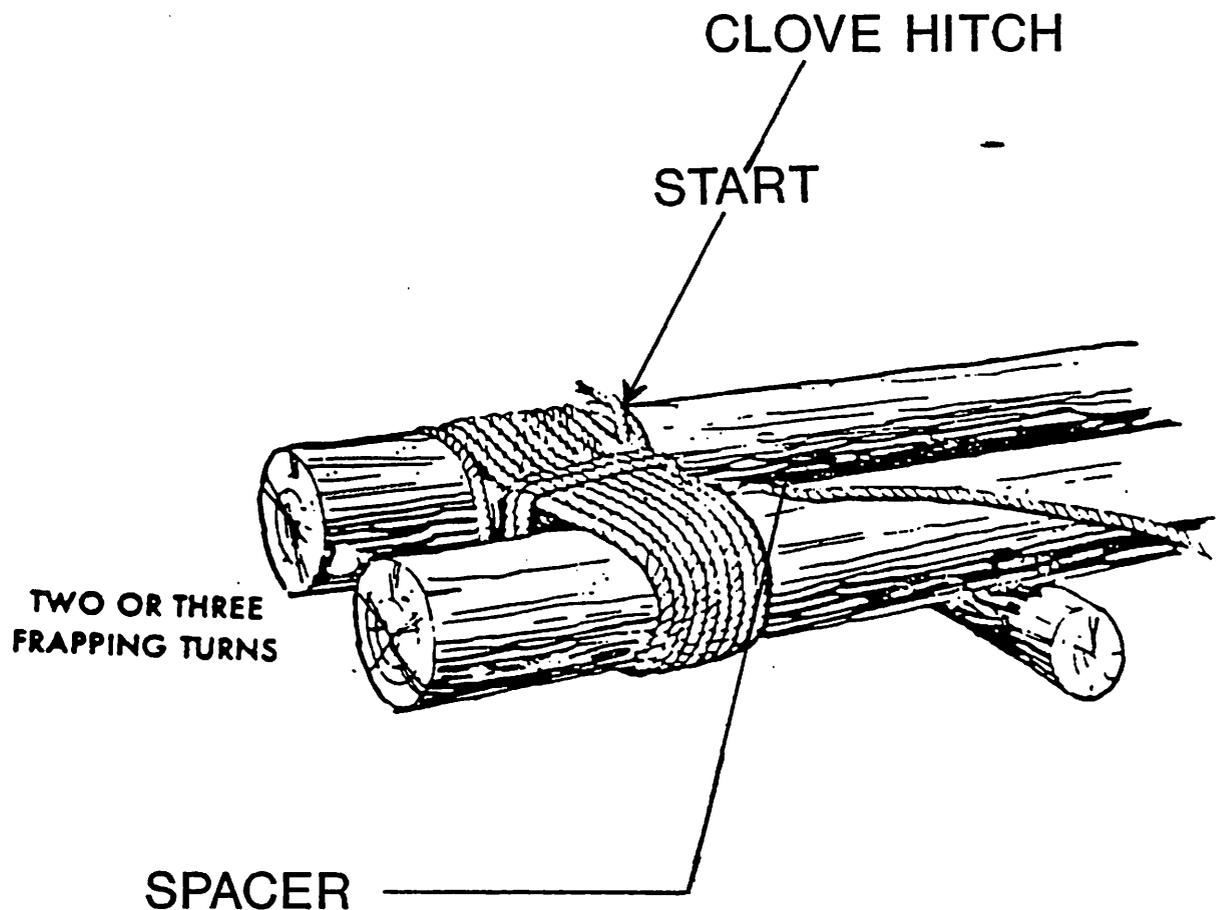
USE

Square Knot	Used to tie two dry ropes of equal size together. It forms a non-slipping knot that tightens under strain but can easily be untied.
Fisherman's Bend	Used to fasten to a ring or post. This type of knot is generally used where there will be slackening and tightening motion in the rope.
Sheepshank	Used to shorten a rope or to take the load off a weak spot in the rope.
Clove Hitch	Used to fasten a rope to a timber, pipe, or post. It is also used in making other knots, such as the Fisherman's Bend.
Timber Hitch	Used to move heavy timber or poles. This hitch is excellent for securing a piece of lumber or similar object.
Double Sheet Bend	Used to join together the ends of two wet ropes of equal size or two dry ropes of unequal sizes. It will not slip or draw tight under a heavy load.
Bowline	Used to form a single loop in the end of a rope. It will not slip or tighten under strain and is easily untied.
Girth Hitch	Used to tie suspender lines to rope bridges. When modified with an extra turn, this knot may also be used as a demolition knot.

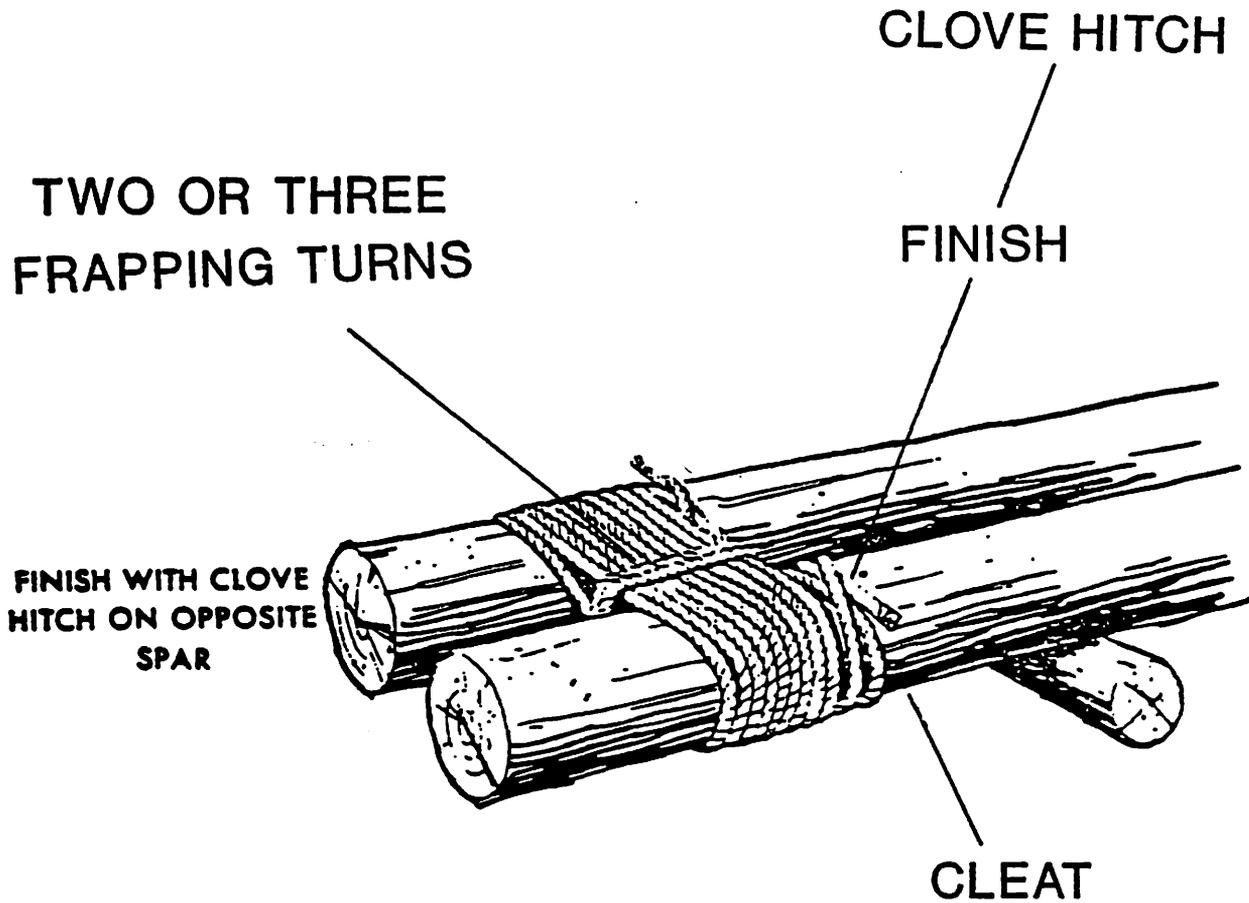
SHEAR LASHING

The Shear Lashing is used to lash two spars together at one end.

Lay two spars side by side. Space the spars apart by approximately $\frac{1}{3}$ the diameter of a spar at the small end. Place the large ends together. Start the Shear Lashing by tying a Clove Hitch at least 15' from the small end of either spar. Working toward the small end of the spars, take eight tight turns around both spars. (Use a spacer equal to one third the diameter of one leg of the shears.) Remove the spacer after the lashing is tied.



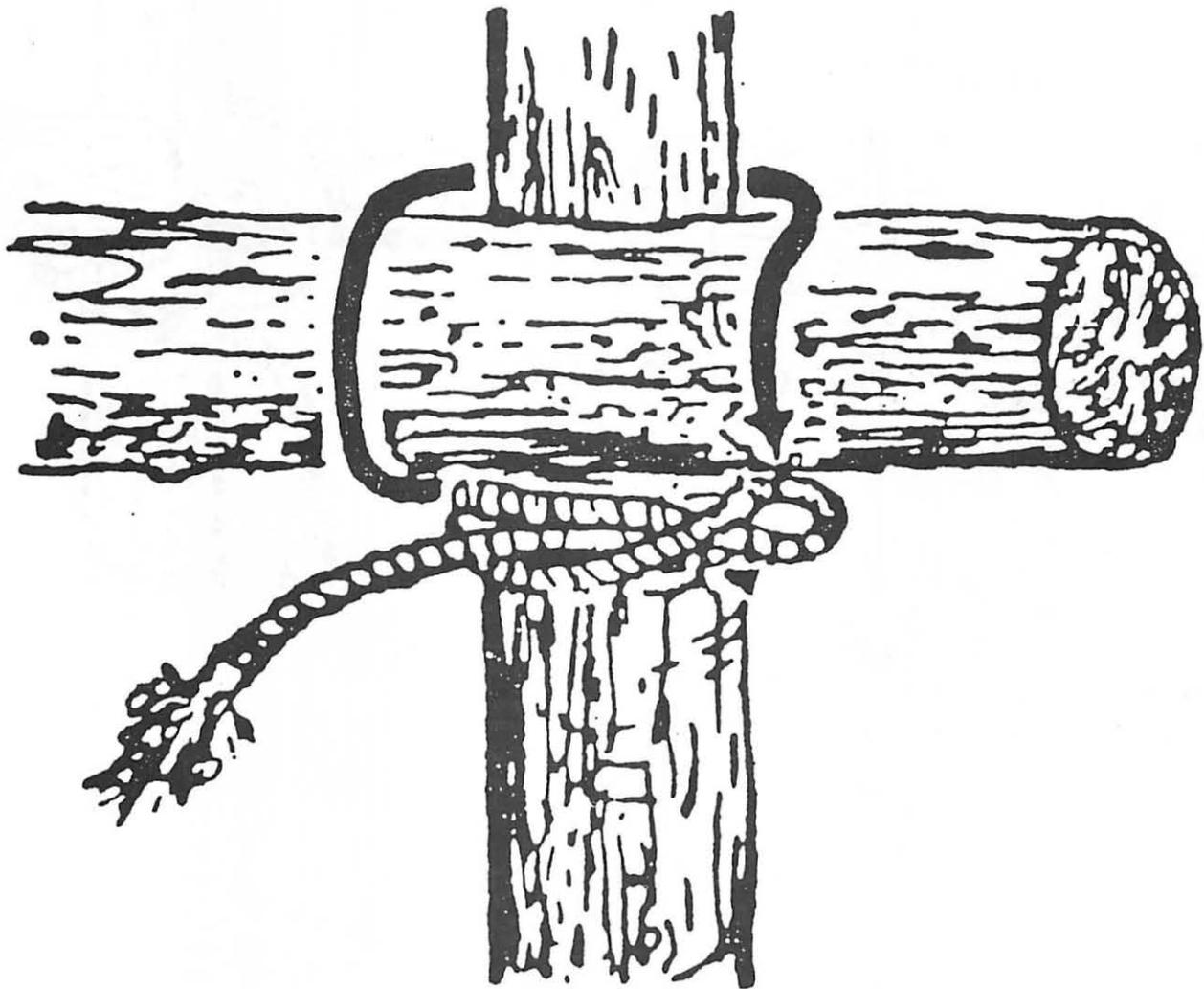
Pass the rope between the spars and around the eight turns twice, pulling tight. These two turns are called frapping turns. Complete the Shear Lashing by tying off the end of the rope with another Clove Hitch on the opposite spar from which you started. After the lashing is tied, 2 x 4 x 12 inch cleats are installed on the outside of each leg to prevent the lashing from slipping.



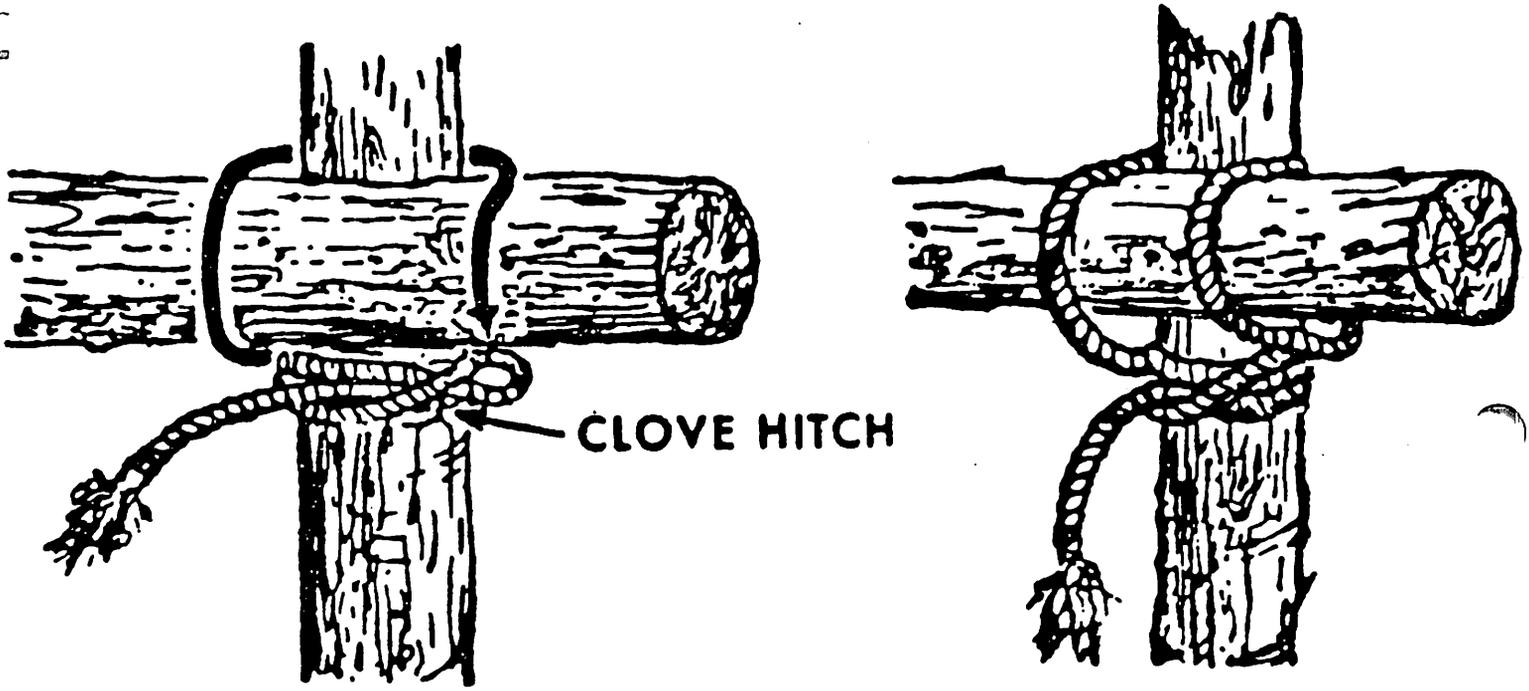
SQUARE LASHING

Used to tie two spars together at right angles to each other.

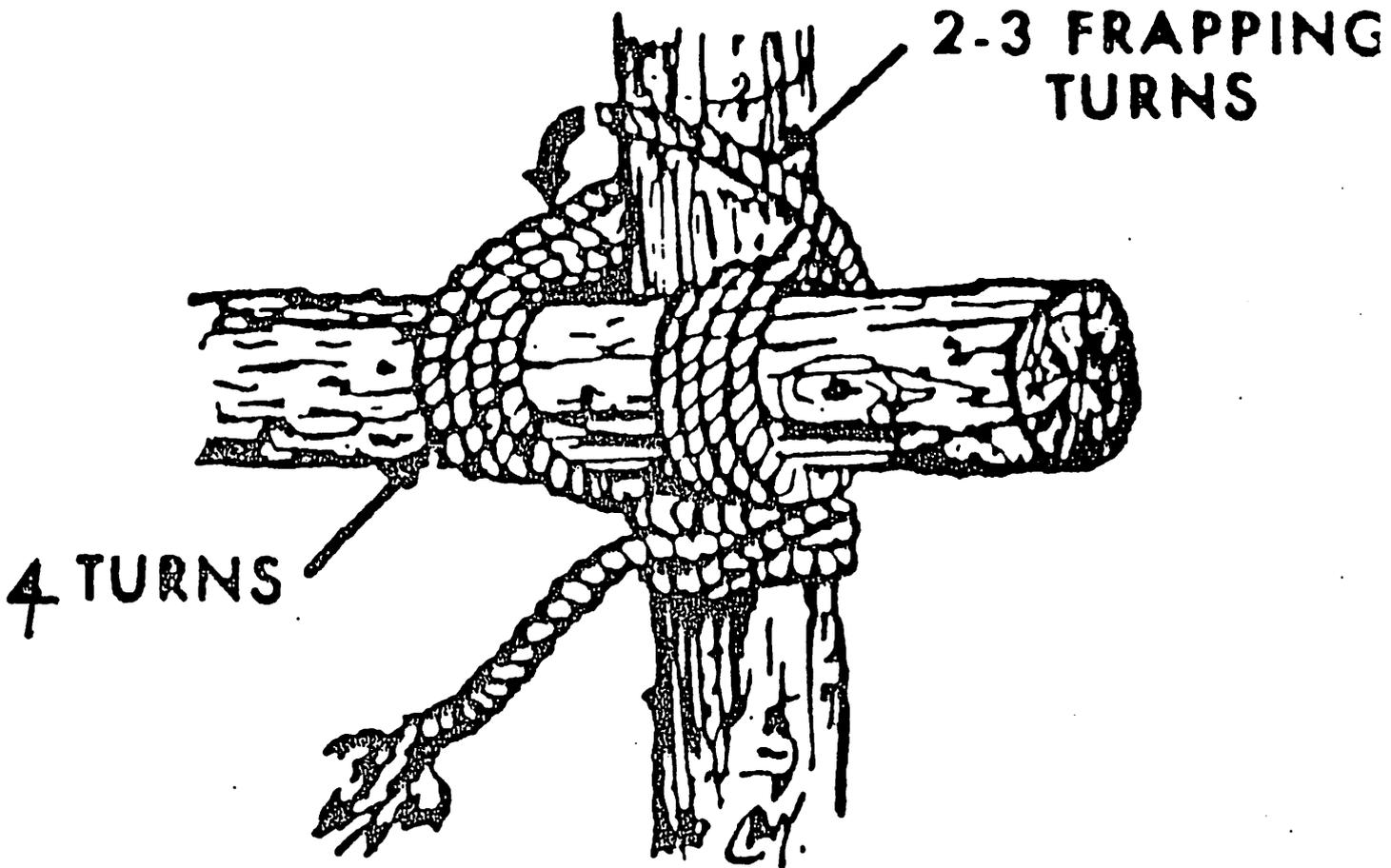
Tie a clove hitch on the vertical spar.



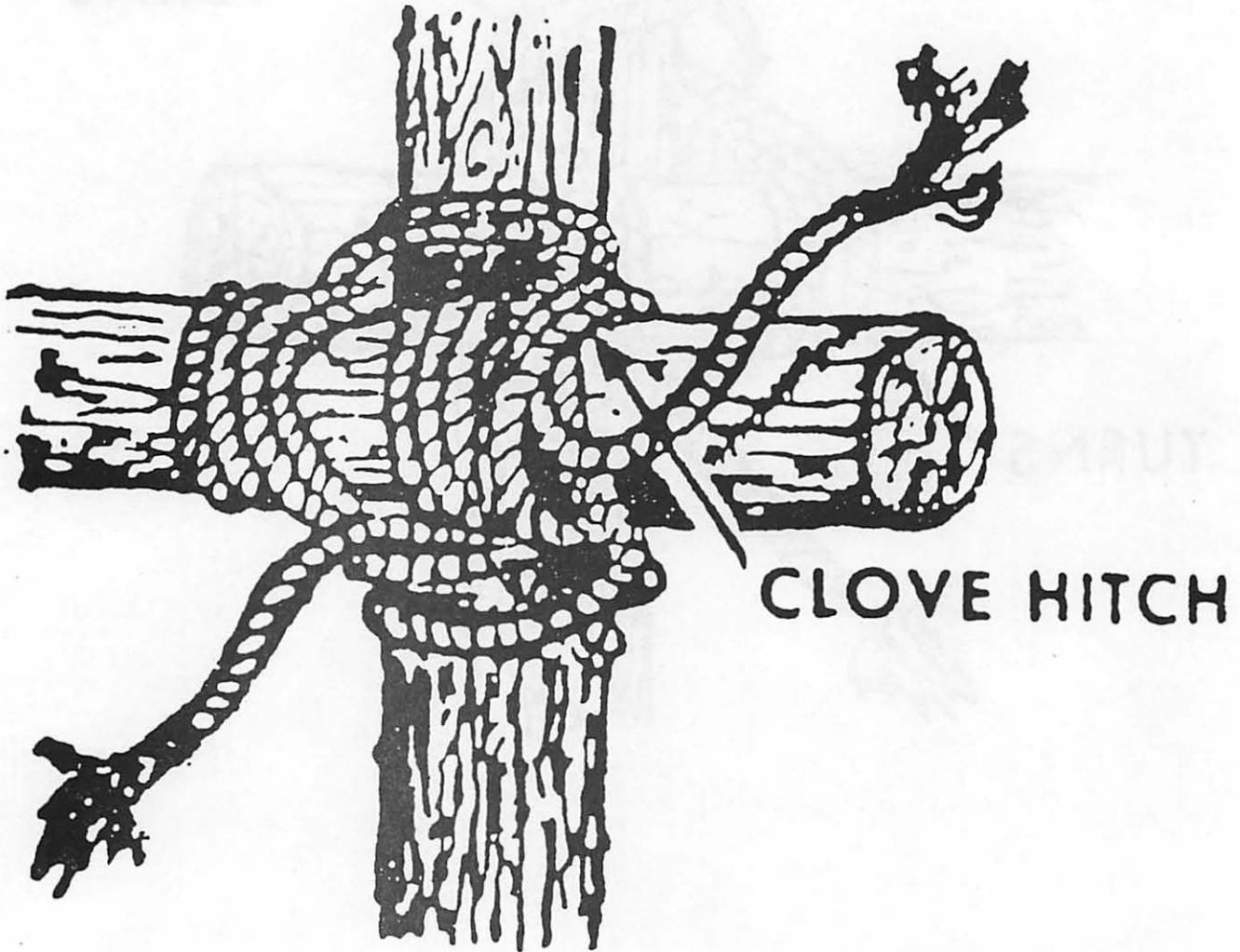
Make 4 complete turns around the spars as shown



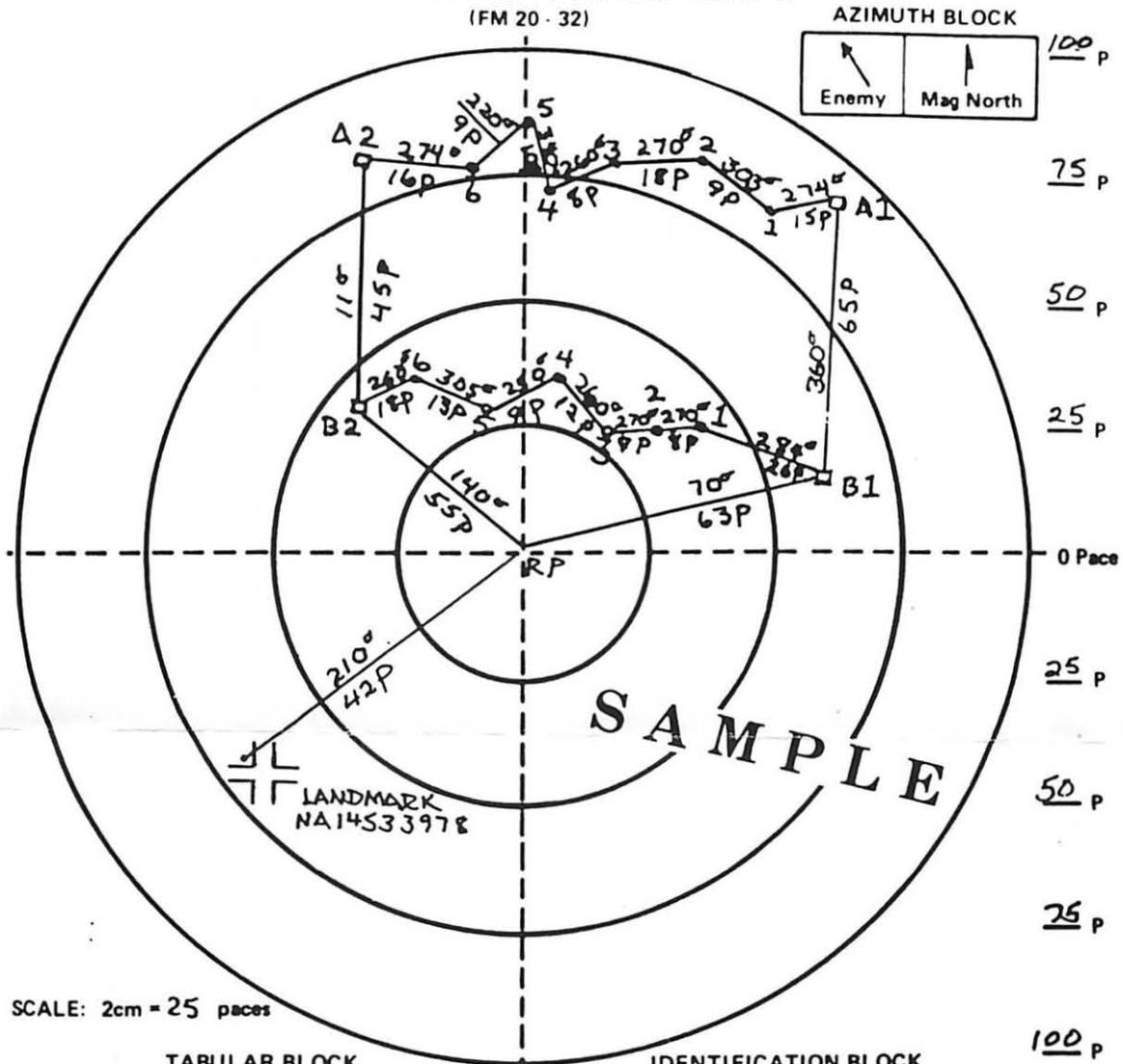
When you have completed four complete turns, pass the rope between the two spars, around the four turns two or three times, pulling tight to help tighten the lashing. These two or three turns are called frapping turns.



Complete the square lashing by tying a clove hitch on the end of the opposite spar from which you started. This clove hitch must be tight against the lashing.



HASTY PROTECTIVE MINEFIELD RECORD
(FM 20 - 32)



SCALE: 2cm = 25 paces

TABULAR BLOCK

Row	Type	Action	Mine number
A	M16A1	TRIPWIRE	1, 2, 3, 4, 5, 6
B	M18A1	CONTROLLED	1, 2, 3, 4, 5, 6
Remarks POINTS A1, A2, B1, B2 ARE MARKED WITH 2" X 2" STAKES			

IDENTIFICATION BLOCK

Unit	24PIT, ACO-4th 28DE, 1CDIV	
Ref Pt	TREE STUMP AT NE SIDE OF ROAD JUNCTION	
Remarks	LANDMARK IS ROAD SIGN AT ROAD JUNCTION NA14533978	
Map & Sheet No	TALBOT 5568	
Name of OIC	LT. M. P. KES	
Signature	M. M. Kes	Time & Date
Mines removed		
Mines transferred		

DA Form 1355-1-R, Jul 75

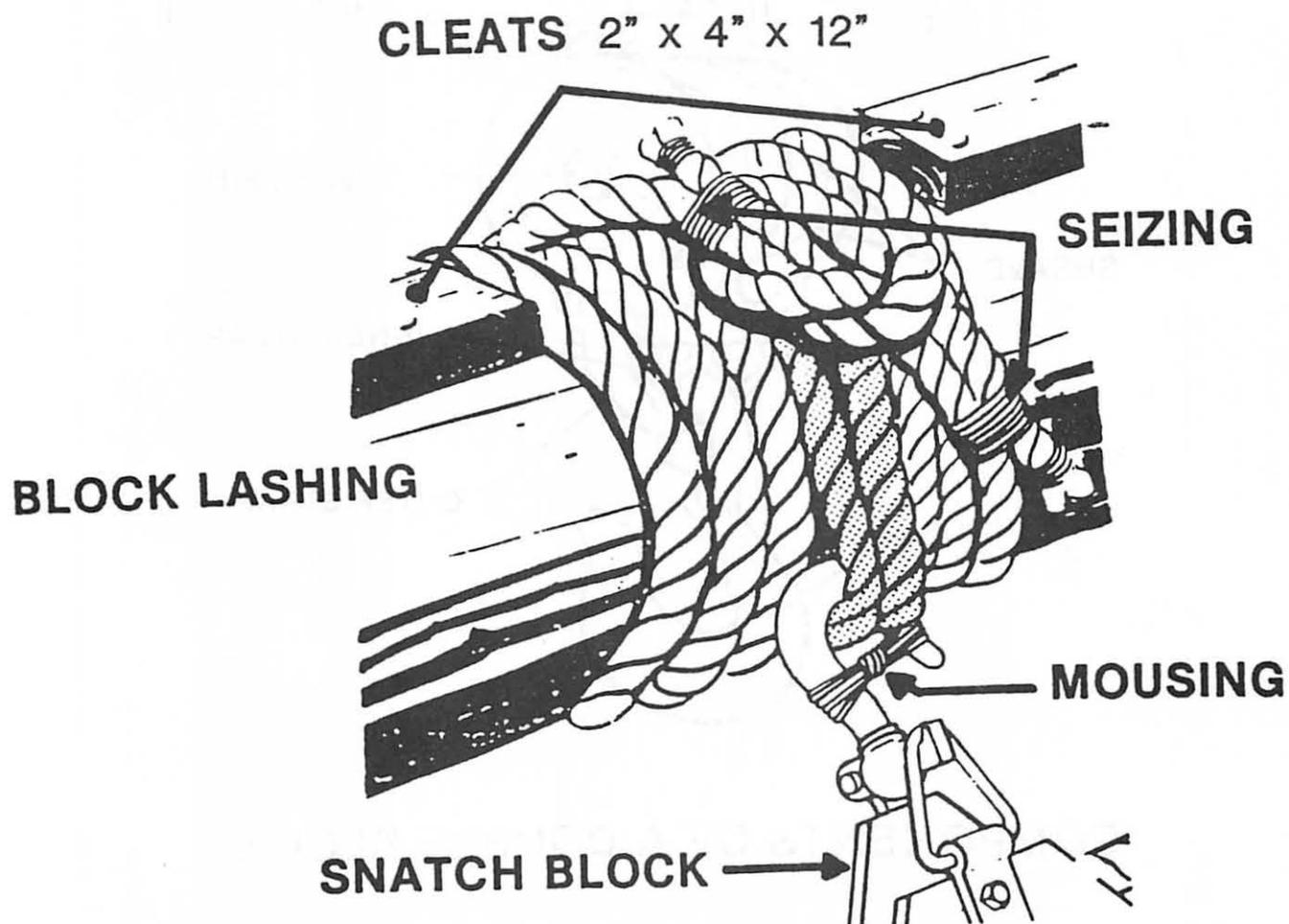
Figure 5-3. Sample DA Form 1355-1-R (completed)

Figure 5-2c. Standard pattern minefield - completed sample DA Form 1355 (back side) (continued)

BLOCK LASHING

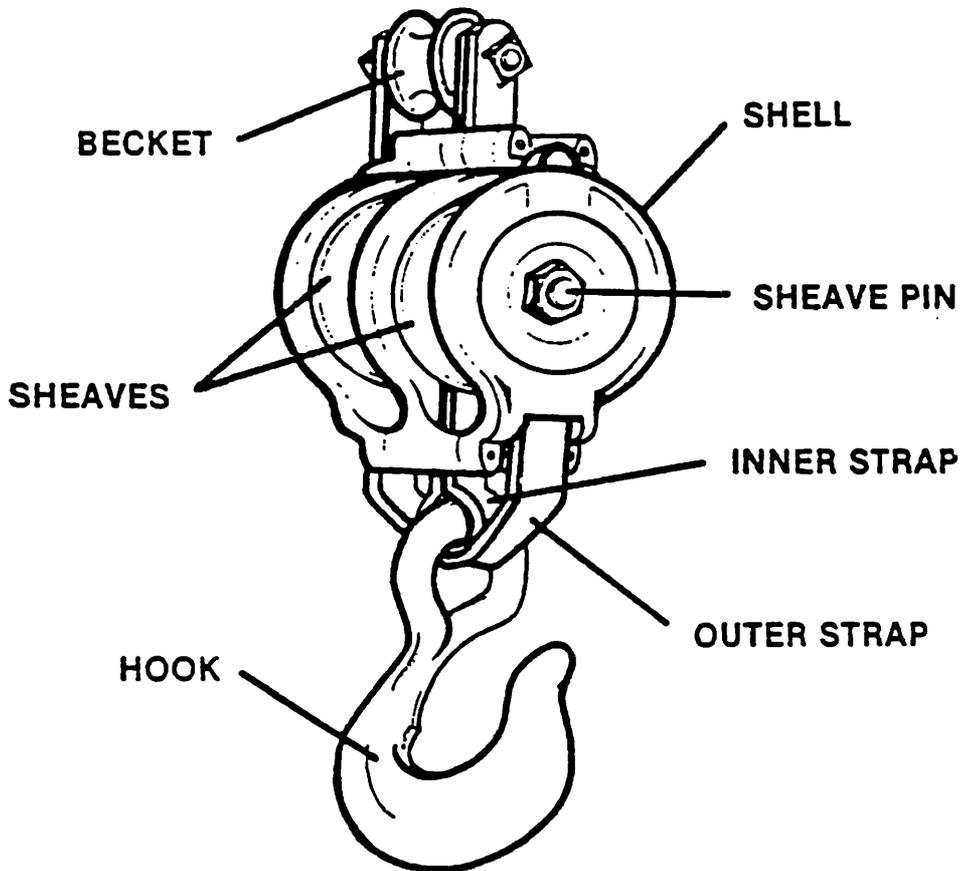
Block lashing is used to tie a tackle block to a spar.

Take three tight turns around the spar where the block is to be attached. Pass the next two turns through the hook of the block and pull tight. Take three more tight turns around the spar on the other side of the block from the first three. Finish the block lashing by tying the two ends together with a square knot. The ends may be seized to their standing parts. Place two cleats as shown. When rope, wire, or twine is tied across a hook as shown below, it is called mousing.



BLOCKS

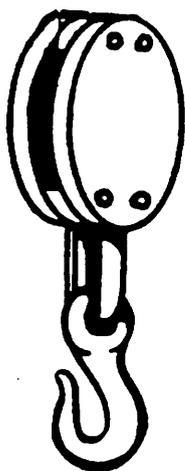
A block consists of a wood or metal frame containing one or more rotating pulleys called sheaves.



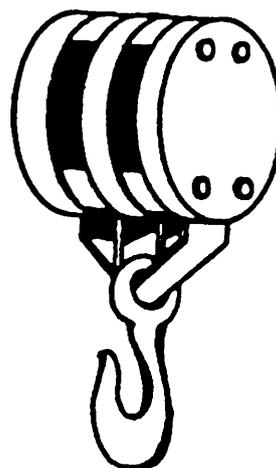
COMPONENTS OF A DOUBLE BLOCK

Blocks are used to reverse the direction of the rope in a tackle system. Blocks take their names from the purpose for which they are used, the places they occupy, or a certain shape or type of construction.

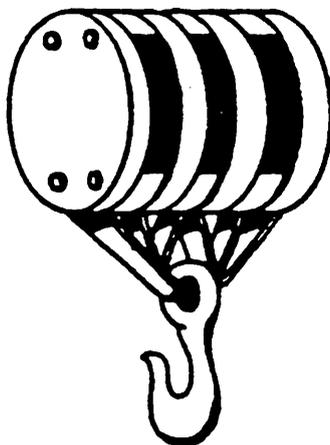
Blocks are called single, double, or triple depending upon the number of sheaves they have.



SINGLE BLOCK



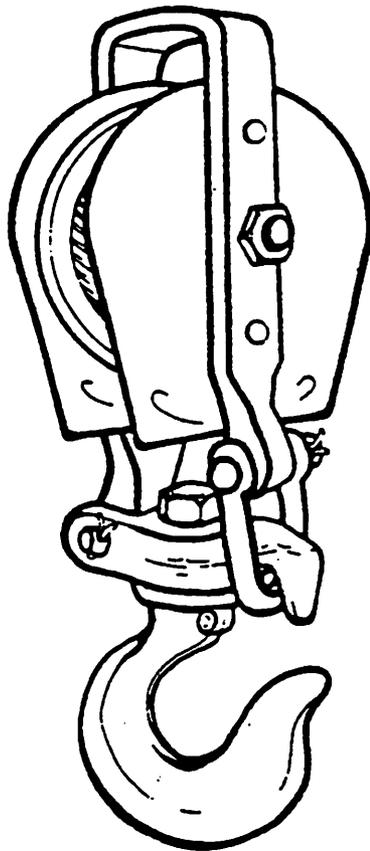
DOUBLE BLOCK



TRIPLE BLOCK

SNATCH BLOCK

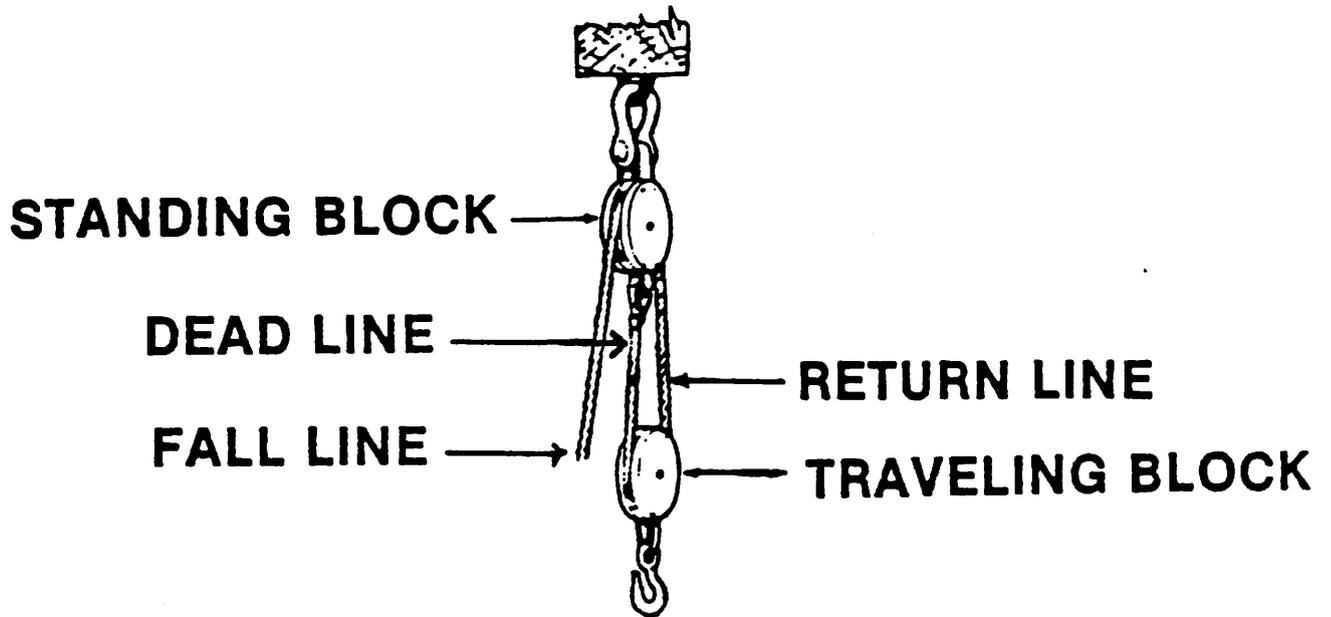
A snatch block is a single sheave block made so that the shell opens on one side at the base of the hook to permit a rope to be slipped over the sheave without threading the end of the rope through the block.



MANILA ROPE SNATCH BLOCK

TRAVELING AND STANDING BLOCKS

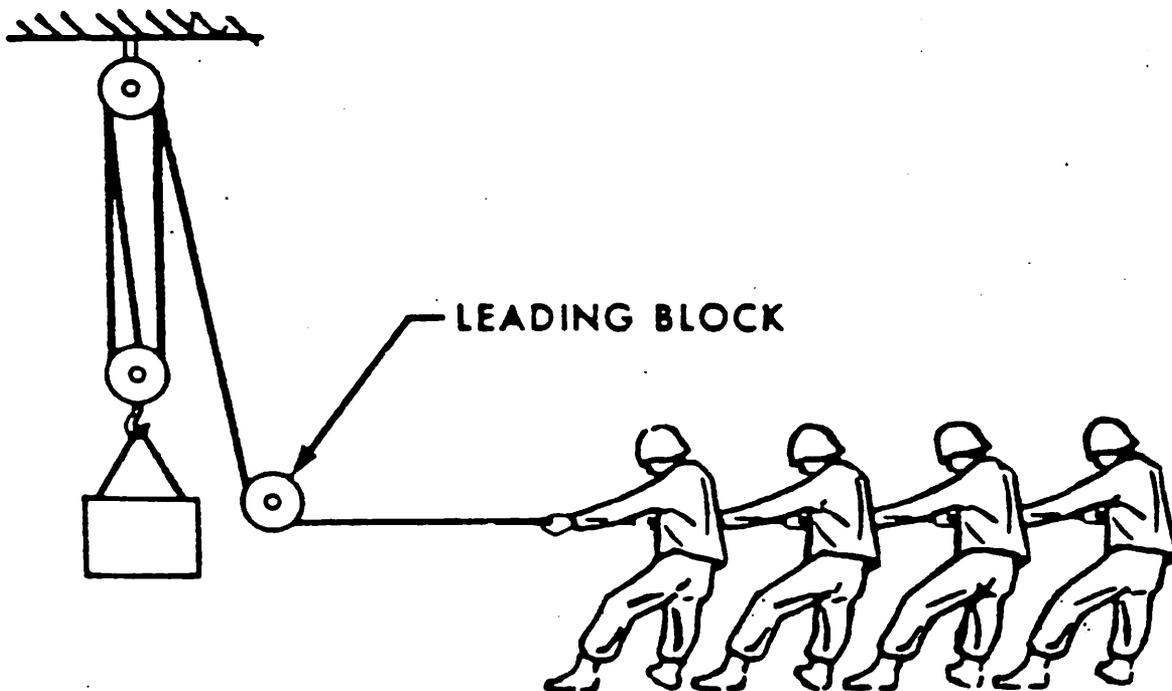
A traveling block is a block which is attached to the load being lifted and moves as the load is lifted, thus it travels with the load. A standing block is a block which is fixed to a stationary object.



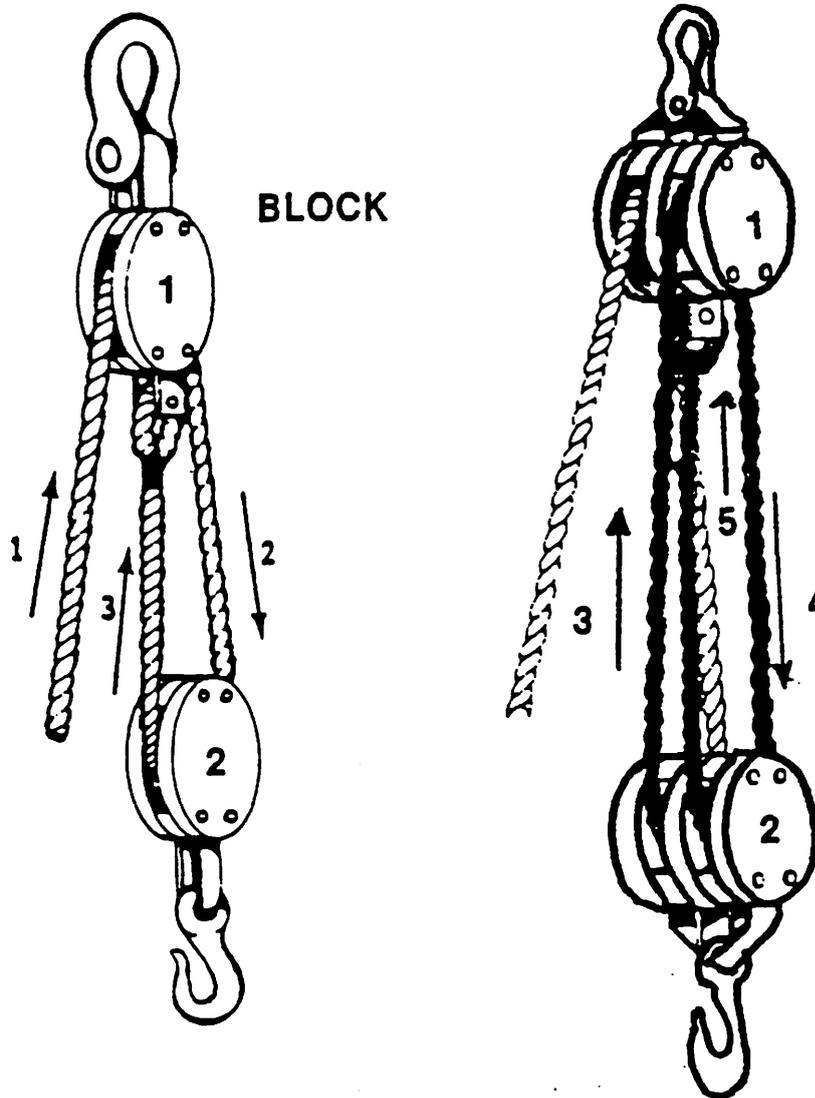
STANDING AND TRAVELING BLOCK

LEADING BLOCK

Blocks used in the tackle to change the direction of pull are called leading blocks. In some tackle systems the fall line (the line which is pulled) leads off the last block in a direction which makes it difficult to apply the force needed. A leading block (usually a snatch block) is used to correct this.



Tackle is an assembly of ropes and blocks used to multiply force. To make up a tackle system, the blocks to be used are laid out and the rope is reeved (threaded) through the blocks. A simple tackle is one or two blocks reeved with a single rope.



REEVING A SIMPLE TACKLE SYSTEM

To reeve a tackle system work on a smooth, level surface. Blocks must be clean, lightly oiled, and have free-rolling sheaves. Rope must be properly coiled to prevent tangling. Lay the two blocks about three or four feet apart with hooks away from each other. Figure shows how to reeve a simple tackle system using two single or two double blocks.

SINGLE BLOCK SYSTEM

A single block simple tackle system is reeved as follows:

STEP #1: Pass the rope through the sheave of block #1 (the standing block).

STEP #2: Pass the rope through the sheave of block #2 (the traveling block).

STEP #3: Tie the running end of the rope onto the becket of block #1 with a bowline.

DOUBLE BLOCK SYSTEM

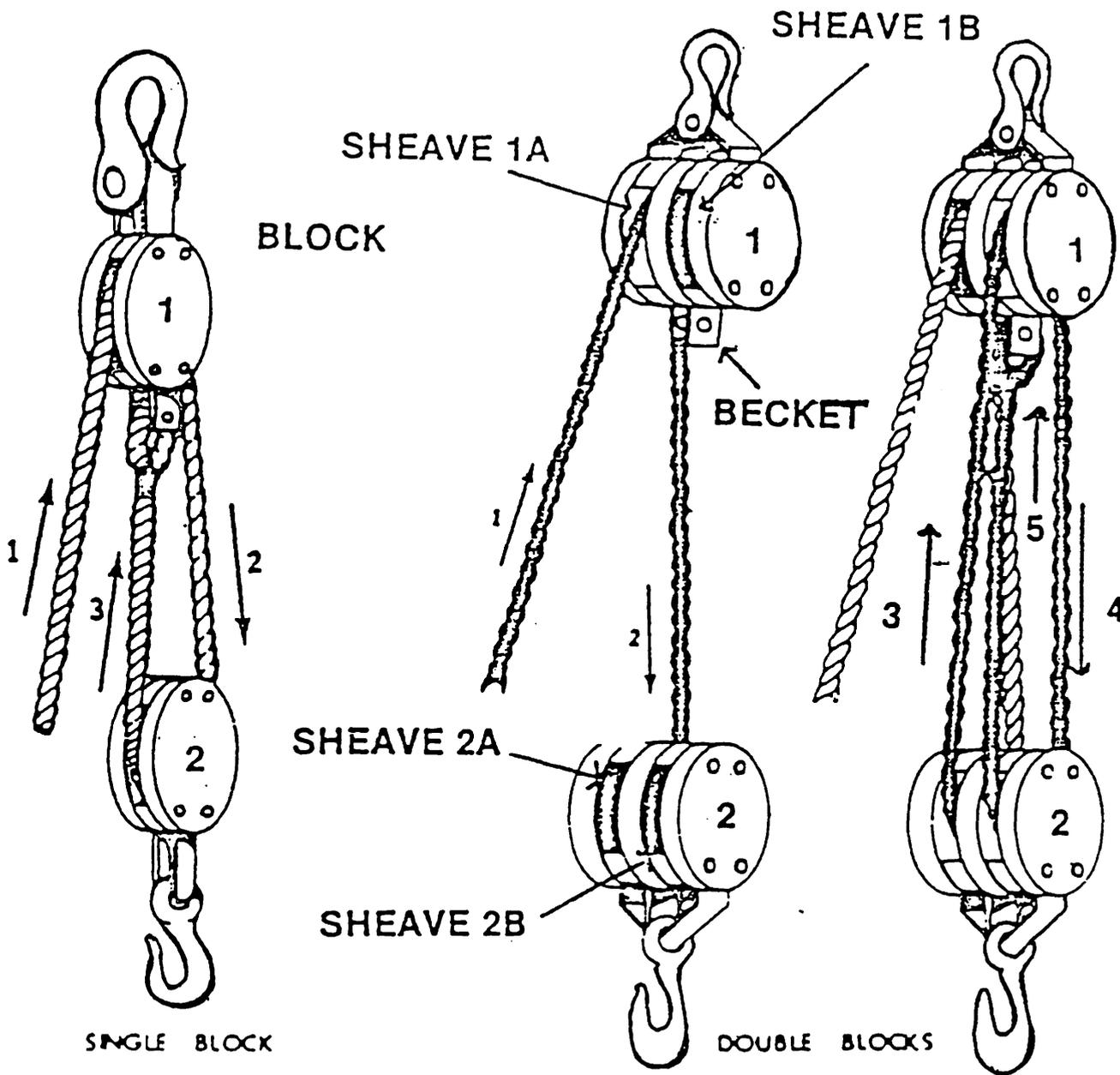
A double block simple tackle system requires more attention to detail. For ease of explaining, the blocks are laid on their shells (sides), numbered one and two, and the sheaves are lettered A and B. A double system is reeved in the following manner.

STEP #1: Thread the running end of the rope through sheave 1A.

STEP #2: Thread the rope through sheave 2A.

STEP #3: Thread the rope through sheave 1B.

STEP #4: Thread the rope through sheave 2B.



**STUDENT ADVANCE SHEET
LESSON #CETA13**

1. Training objective:

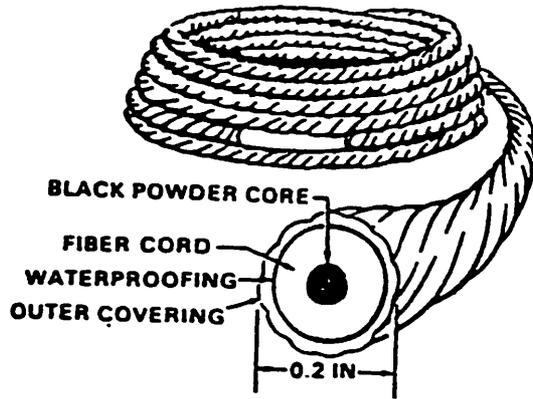
- a. **TASK:** Construct a nonelectric initiating/detonating assembly and prime explosives nonelectrically.
- b. **CONDITION:** At a training area, given M2 cap crimpers, priming adapter, inert time fuze, inert nonelectric blasting cap, M60 fuze igniter, an inert block of TNT for practical exercise, 12 feet time fuze, 2 nonelectric blasting caps, 2 M60 fuze igniters, a length of string and 2 blocks of M112.
- c. **STANDARD:** The soldier will construct a nonelectric initiating/detonating assembly, consisting of time fuze, nonelectric cap and initiation. Construct the system that will detonate when the igniter is activated.

2. Preclass instructions:

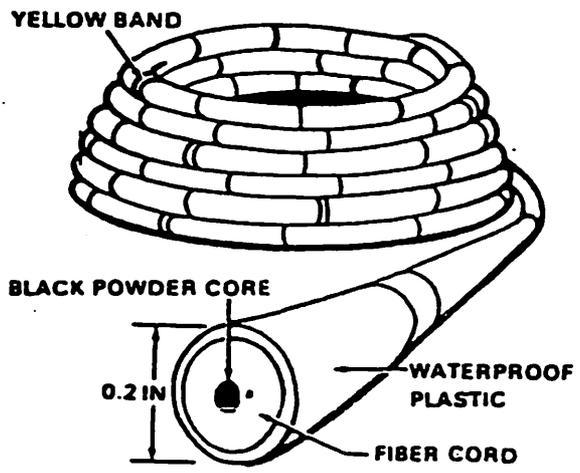
Study STP 5-12B1-SM, Tasks 051-193-1002 and 051-193-1003, and attached material.

3. Requirements for class:

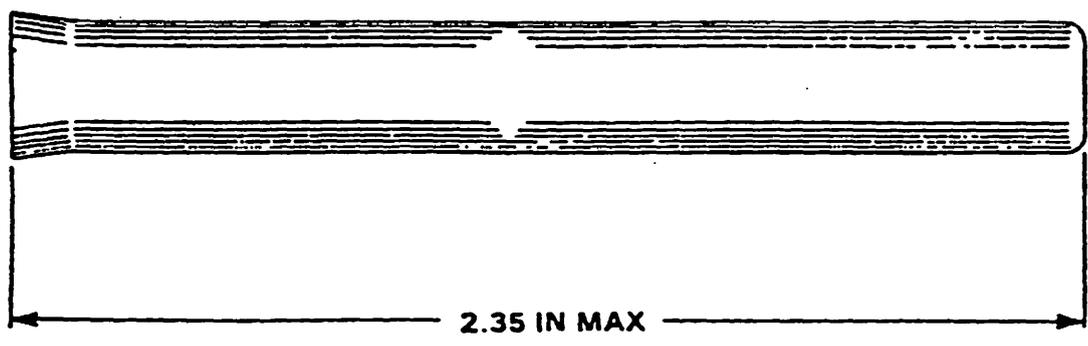
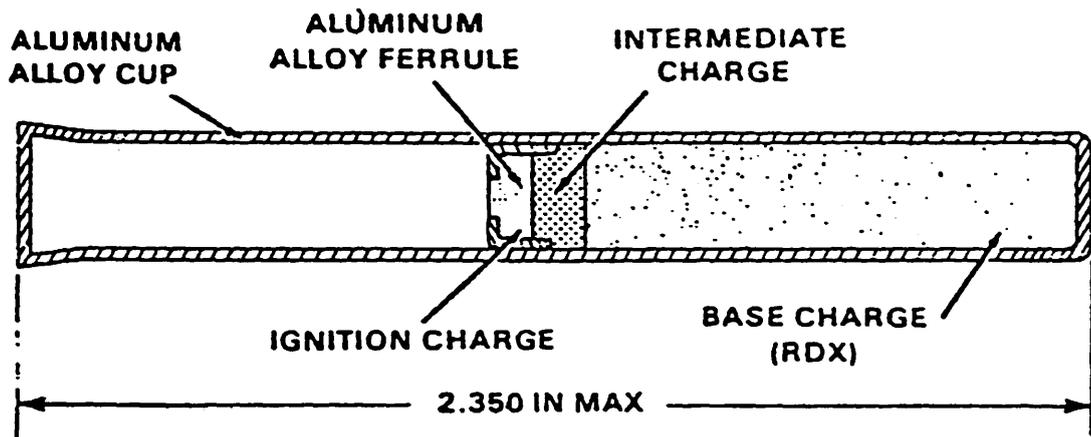
None.



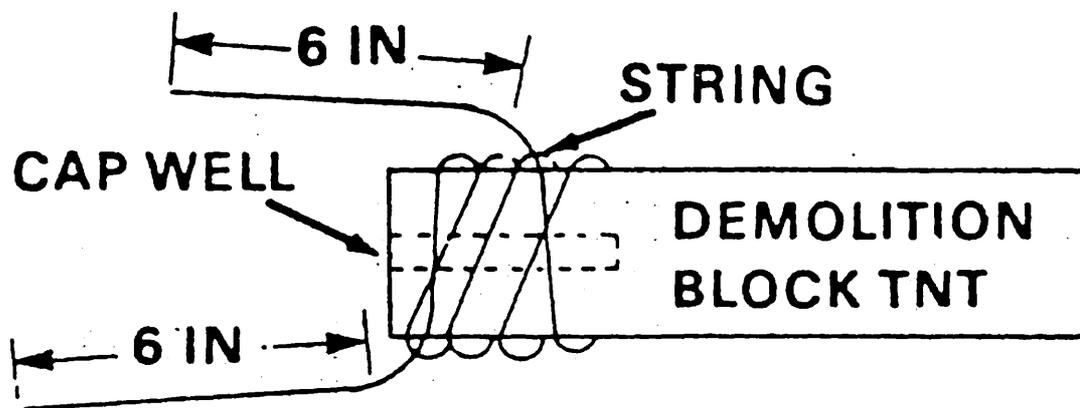
SAFETY FUSE



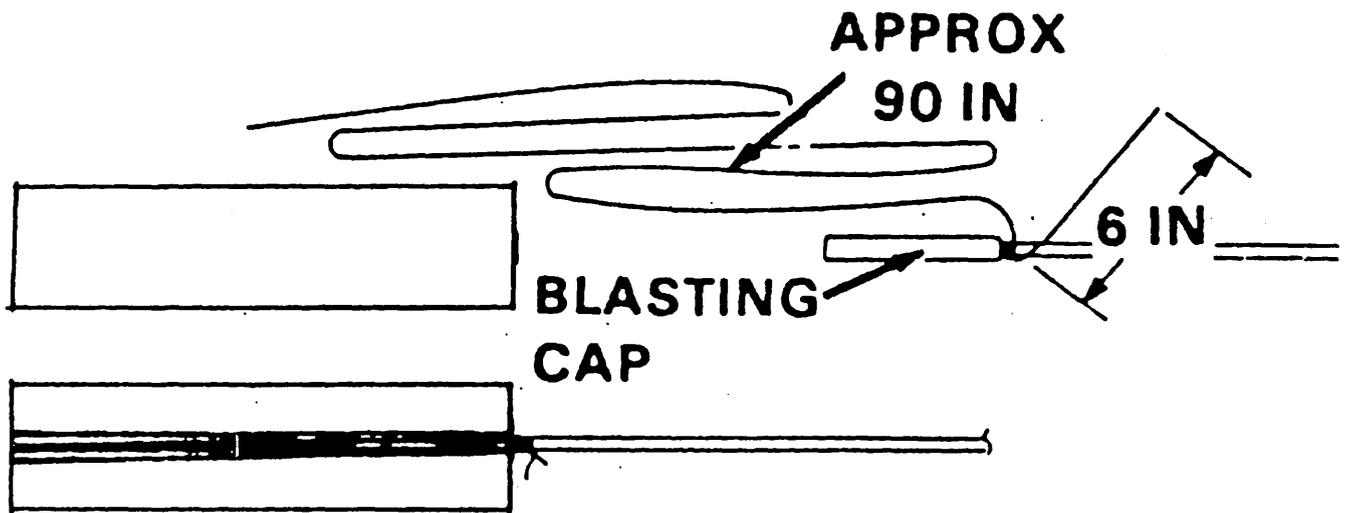
M700 TIME FUSE



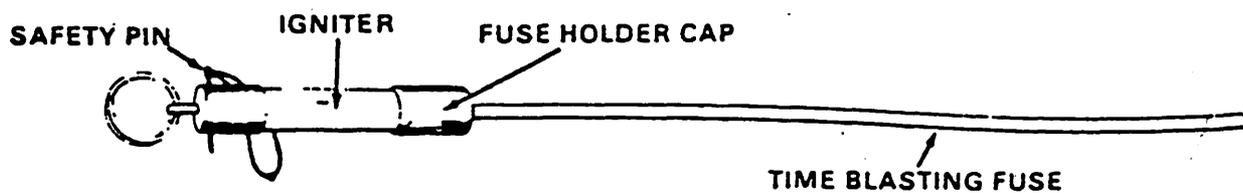
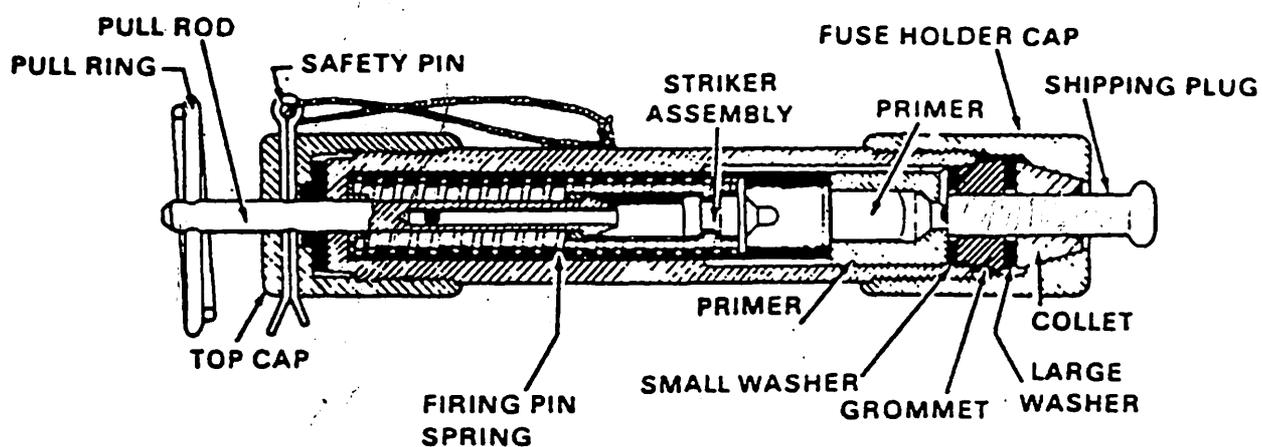
Nonelectric Blasting Cap



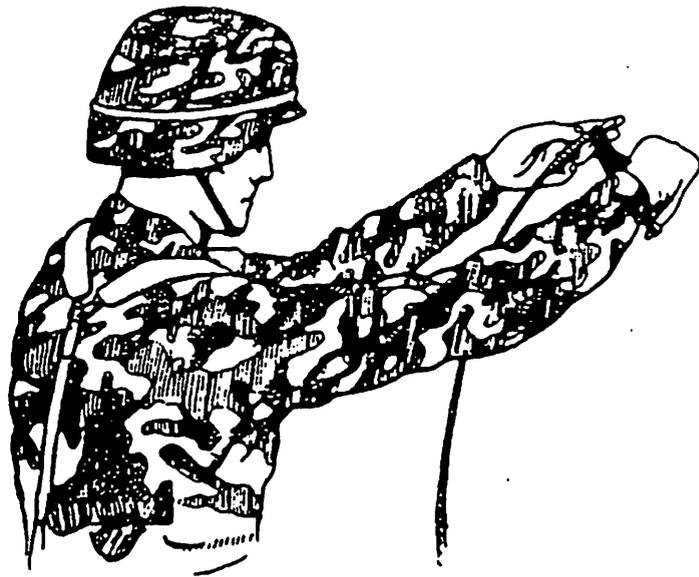
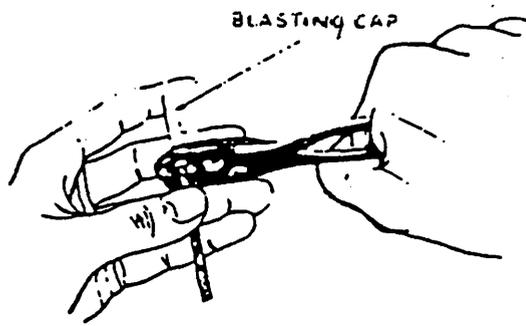
NOTE: Do not tie string so tightly that the powder train is broken in the fuse. Electrical or friction tape may be substituted for string if necessary.



NOTE: Do not try to force a cap into a cap well that is too small. Instead, remove the cap and enlarge the hole.



M60 FUSE IGNITER



CRIMPING NONELECTRIC BLASTING

**STUDENT ADVANCE SHEET
LESSON #CETA14**

1. Training objective:

- a. **TASK:** Construct an electric initiating/detonating assembly and prime explosives electrically.
- b. **CONDITION:** At a demolition training area, given an inert electric blasting cap, an M51 test set, a sandbag, and a 1/4-lb block of inert TNT for practical exercise; and two electric blasting caps, M51 test set, two 1-lb blocks TNT, a sandbag, and one blasting machine per group for practical exercise.
- c. **STANDARD:** The soldier must determine if the equipment is operational and prime the explosives so that the explosives will detonate when the detonating assembly is electrically activated. Ensure that the blasting cap remains in the cap well, does not detonate during priming, and cap lead wires remain shunted.

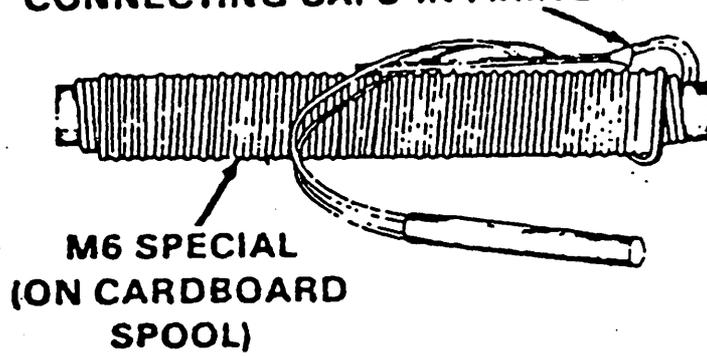
2. Preclass instructions:

Study STP 5-12B1-SM, Tasks 051-193-1004 and 051-193-1005, and attached material.

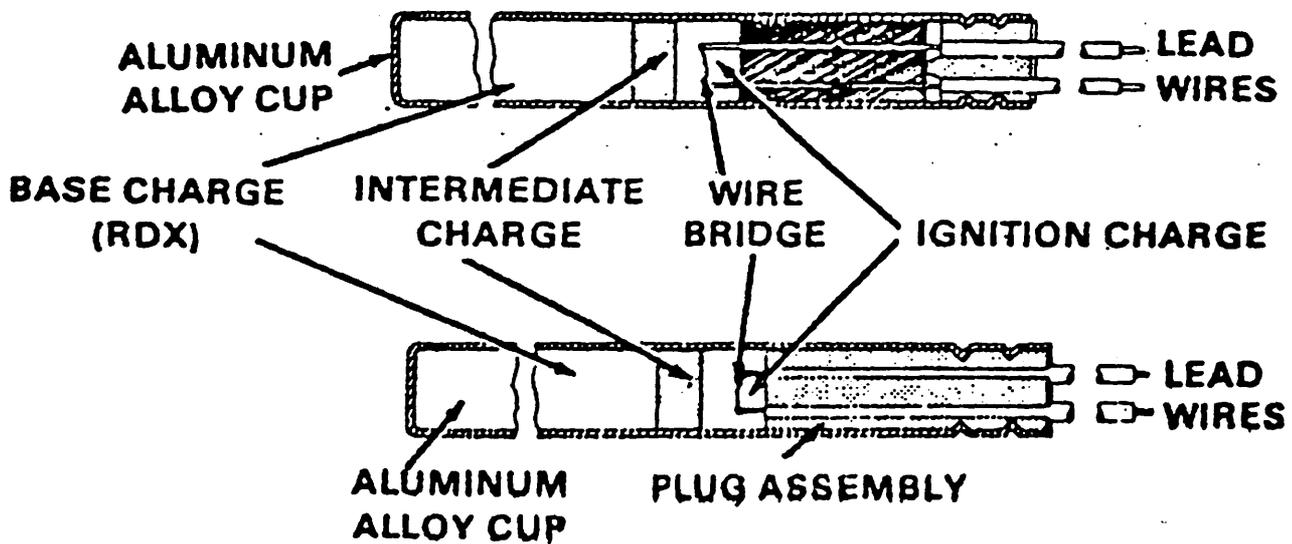
3. Requirements for class:

None.

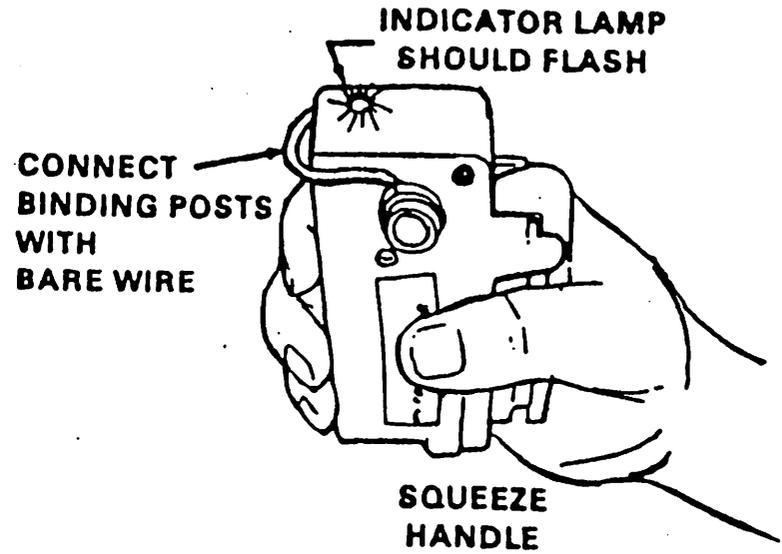
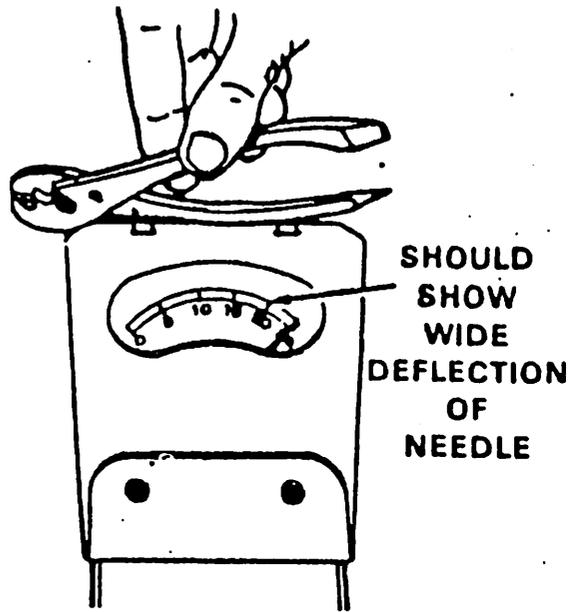
**SHORT-CIRCUITING TAB MUST BE REMOVED BEFORE
CONNECTING CAPS IN FIRING CIRCUIT**



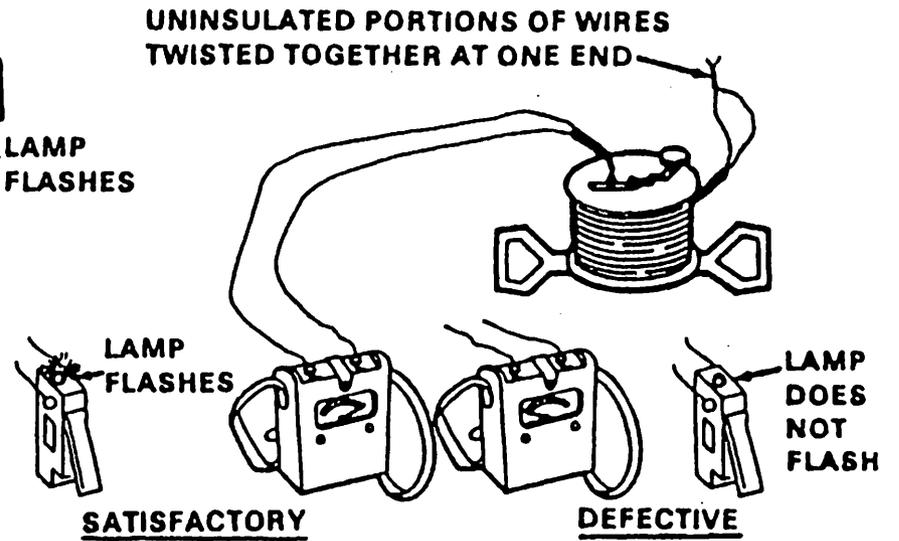
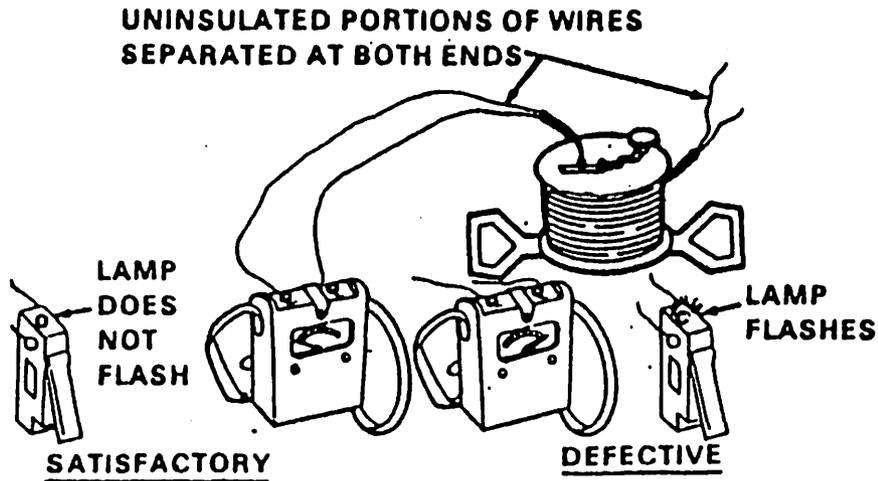
PLUG ASSEMBLY



Electric Blasting Caps

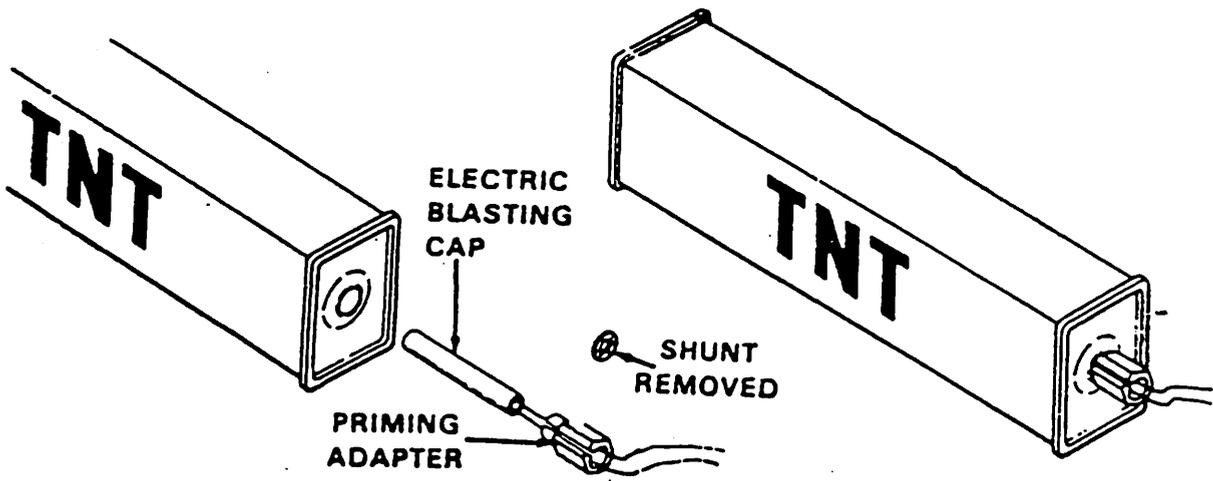


TESTING THE GALVANOMETER OR M51 TEST SET

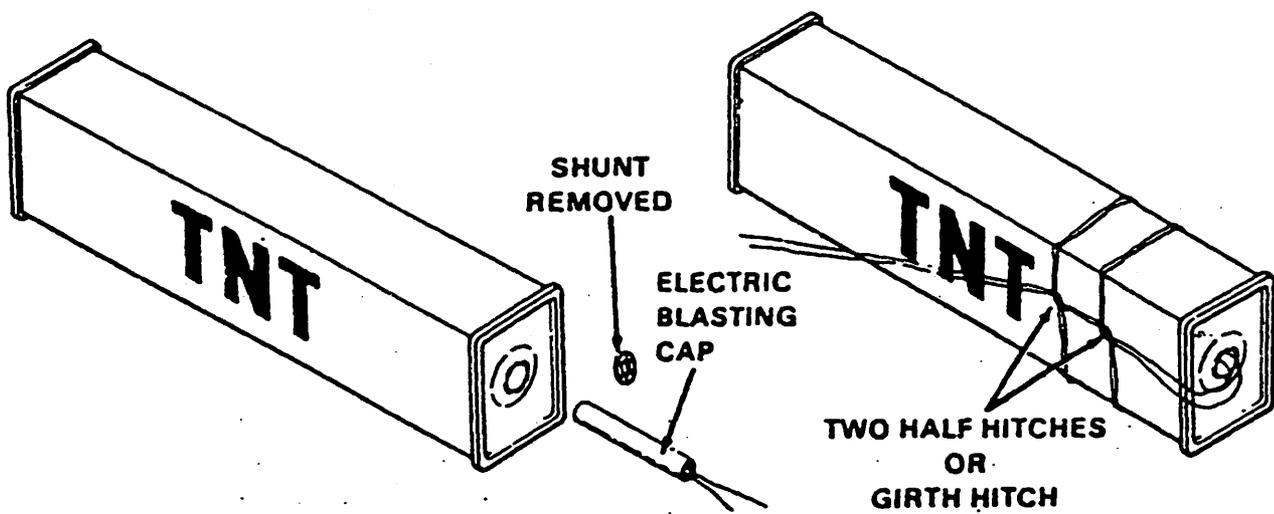


NOTE: The firing wire may be tested on the reel, but it should be tested again after unreeling because this may separate broken wires not noticed when the wire was reeled.

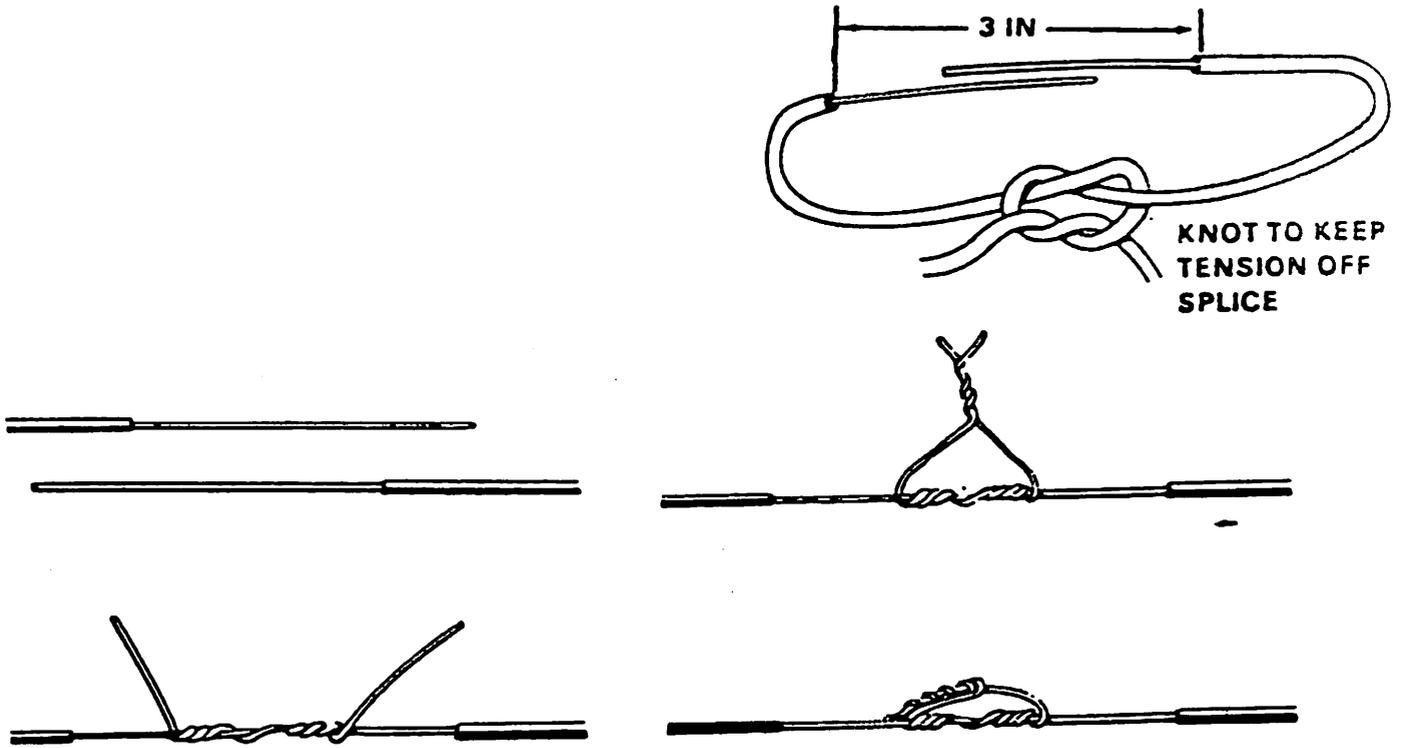
TESTING FIRING WIRE



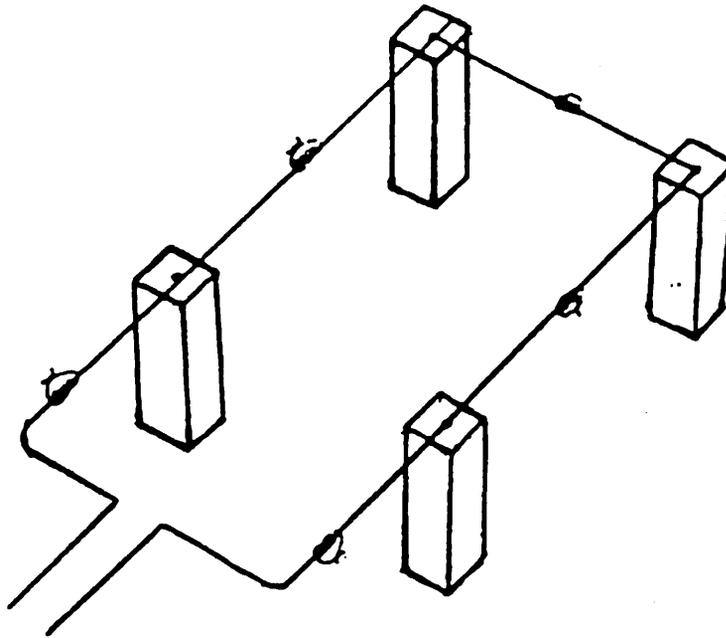
PRIMING DEMOLITION BLOCK WITH PRIMING ADAPTER



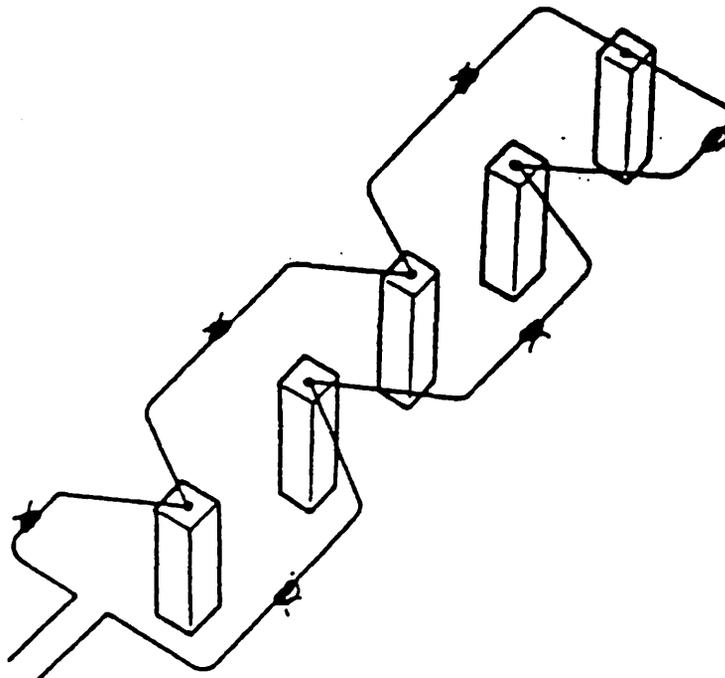
PRIMING DEMOLITION BLOCK W/O PRIMING ADAPTER



WESTERN UNION PIGTAIL SPLICE



**COMMON SERIES
CIRCUIT**



**LEAPFROG SERIES
CIRCUIT**

**STUDENT ADVANCE SHEET
LESSON #CETA15**

1. Training objective:

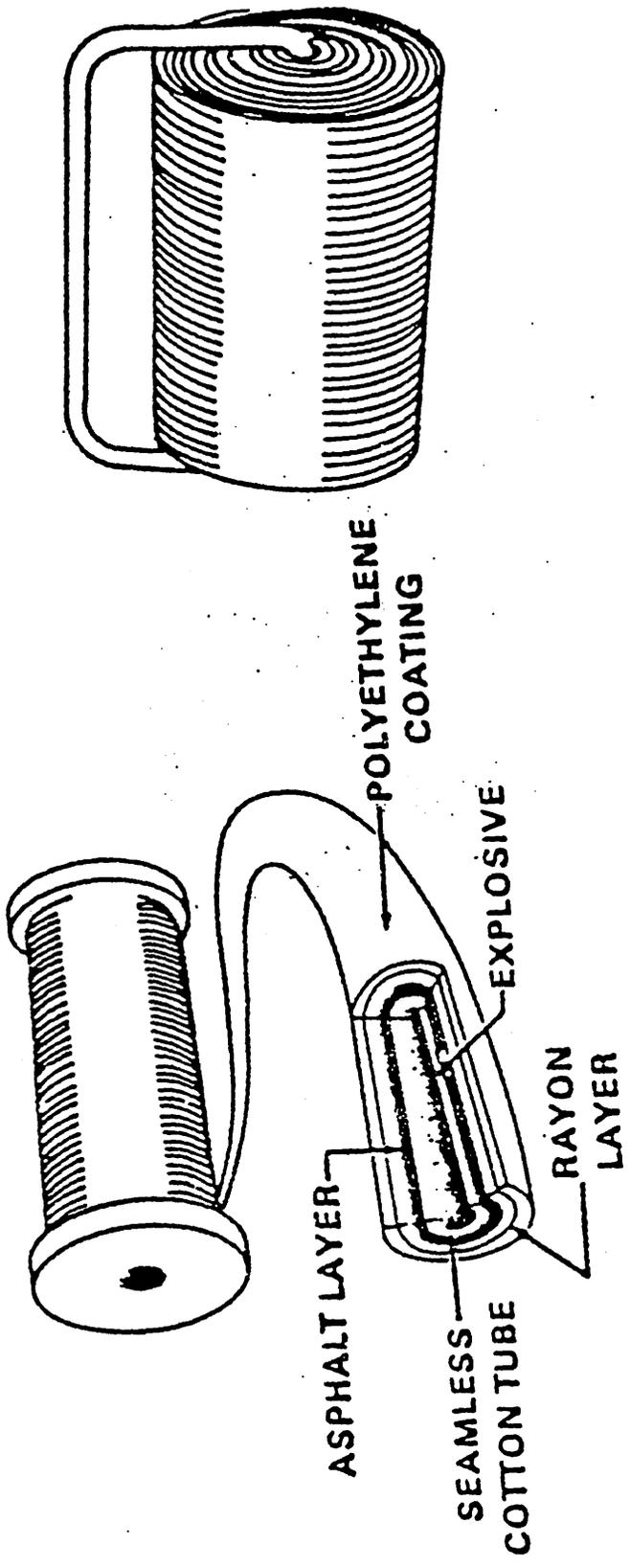
- a. **TASK:** Prime explosives with detonating cord and install dual firing system.
- b. **CONDITION:** At a training area, given 1-lb block inert TNT, one stick inert dynamite, 12 ft inert detonating cord for PE and two electric blasting caps, one M34 blasting machine, one M51 test set and 20 ft detonating cord per ring main. The student will receive 12 ft detonating cord, two 1-lb blocks TNT and demolition equipment.
- c. **STANDARD:** The student will prime explosives with detonating cord, construct a ring main, and make detonating cord connections. The student will connect the ring main to an electric dual firing system. Construct an electric/nonelectric dual firing system so all charges fire when either system is fired. Dual firing system consists of two independent electric, nonelectric, or combination electric/nonelectric firing systems.

2. Preclass instructions:

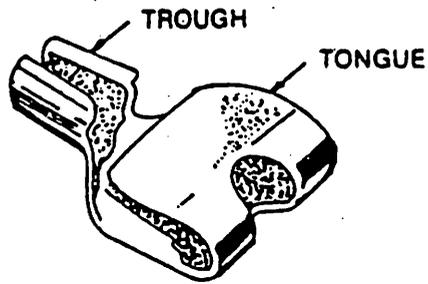
Study STP 5-12B1-SM, Tasks 051-193-1007 and 051-193-1011, and attached material.

3. Requirements for class:

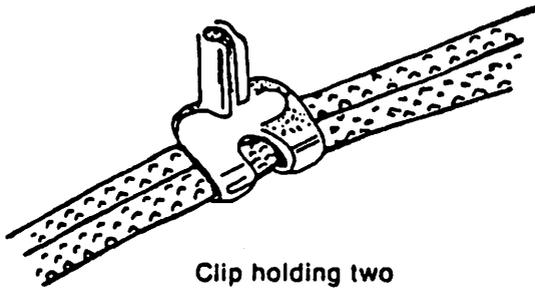
None.



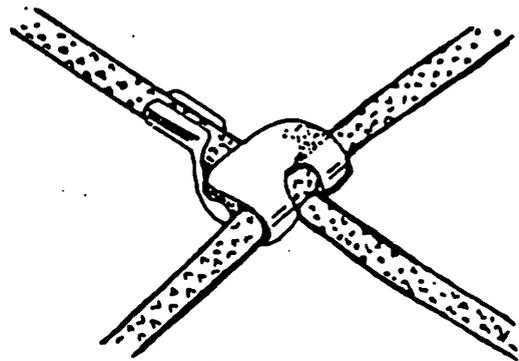
Reinforced Pliofilm-wrapped Detonating Cord



DETONATING CORD CLIP
BEFORE BENDING

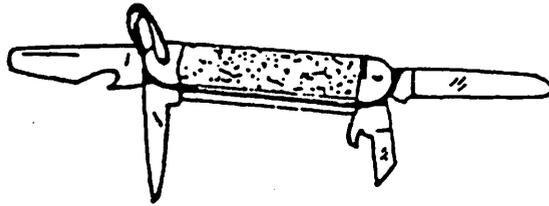


Clip holding two
parallel cords
(SPLICING)

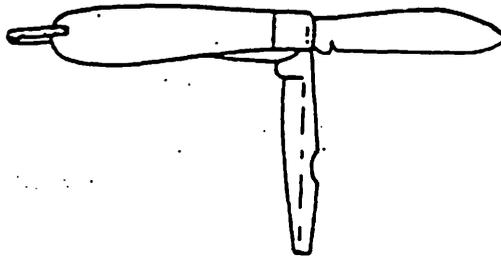


Clip holding two cords
at right angles
(BRANCH LINE CONNECTION)

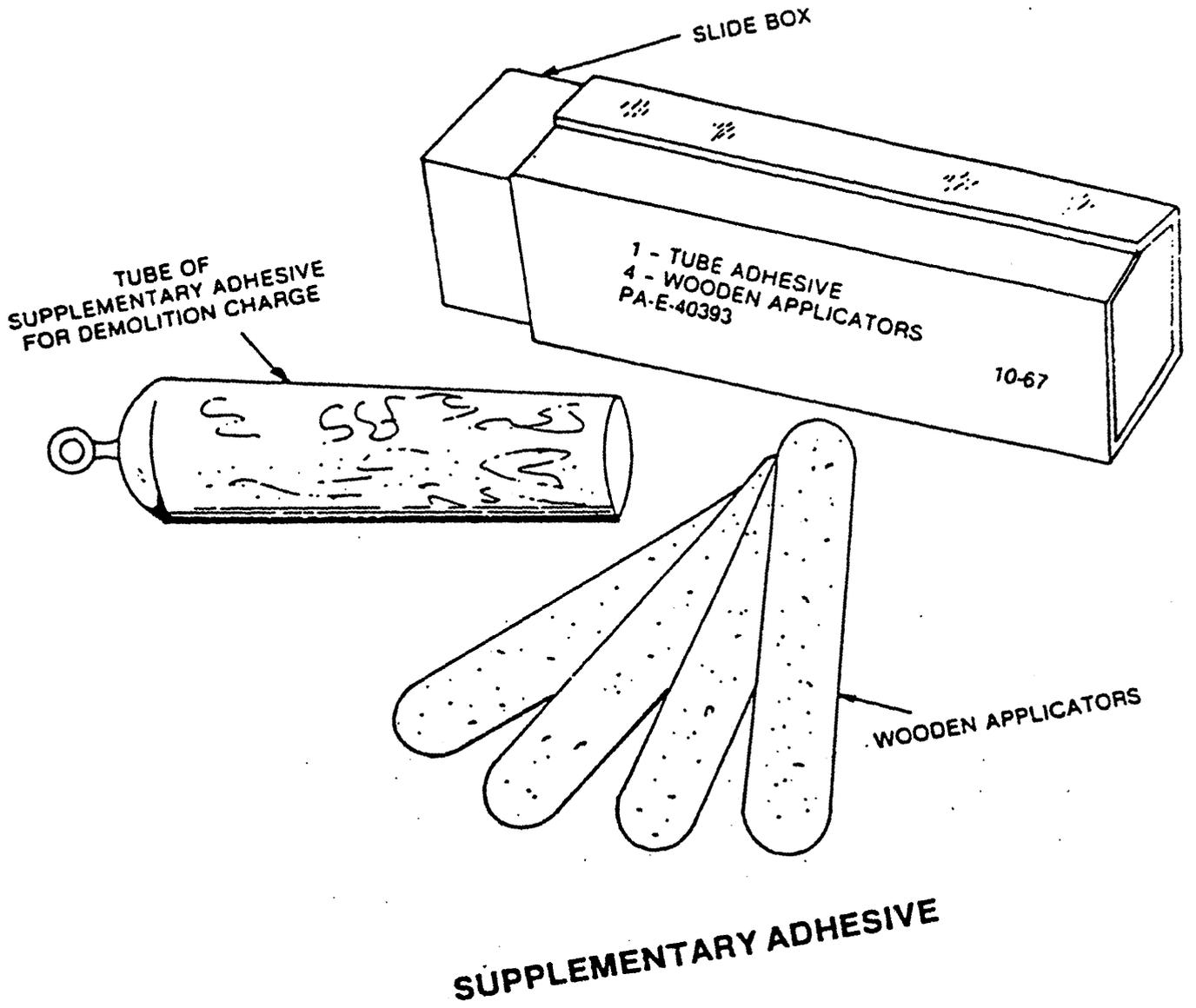
M1 DETONATING CORD CLIP

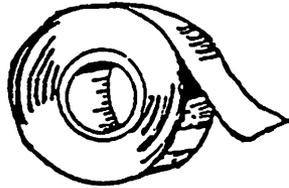


POCKET KNIFE

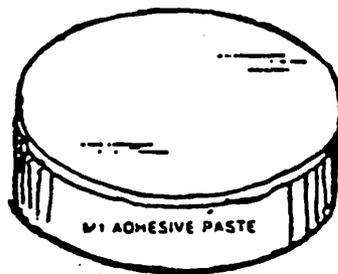


**POCKET KNIFE,
W/SCREWDRIVER
AND WIRE SCRAPER**



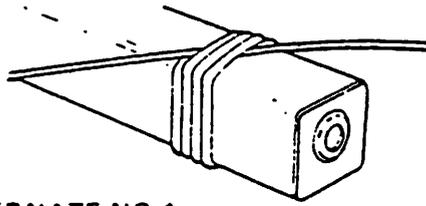


PRESSURE SENSITIVE TAPE



ADHESIVE TAPE

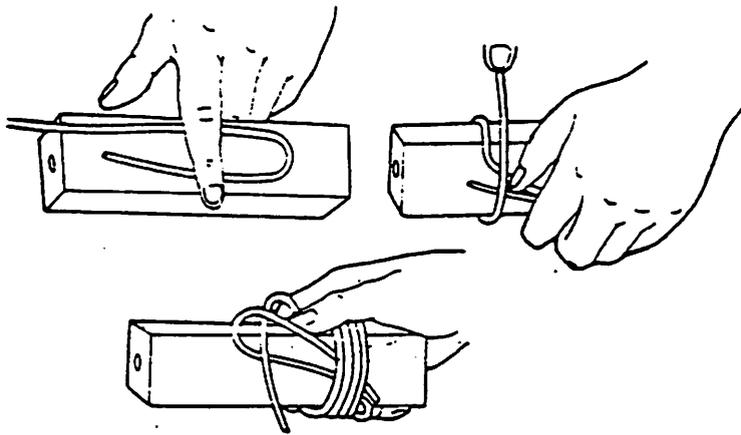
COMMON METHOD



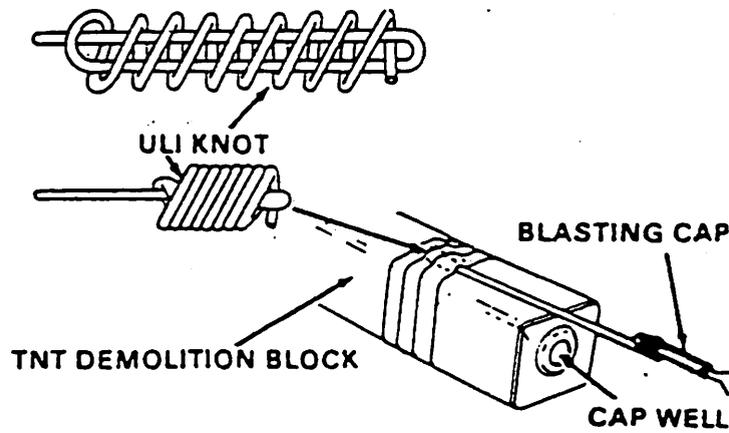
ALTERNATE NO 1



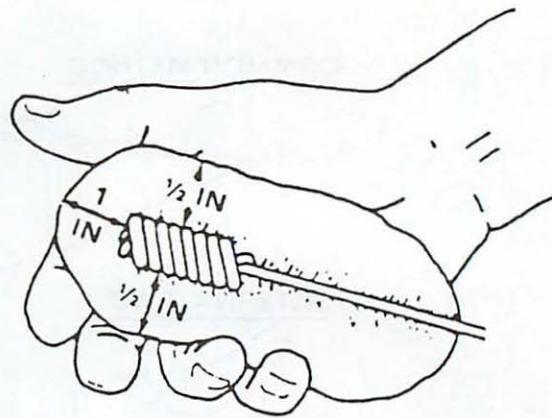
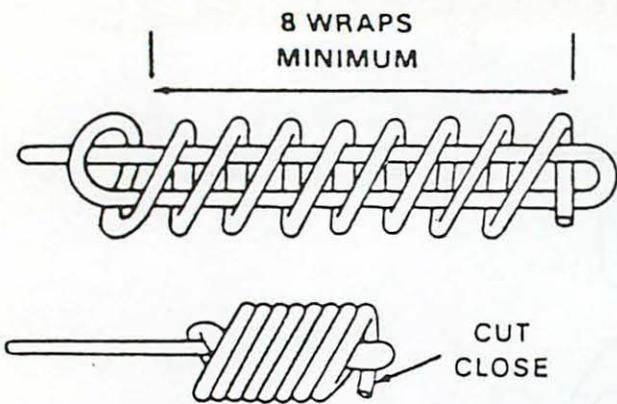
ALTERNATE NO 2



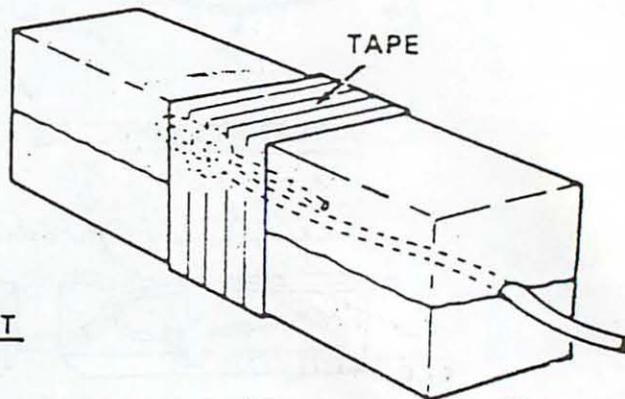
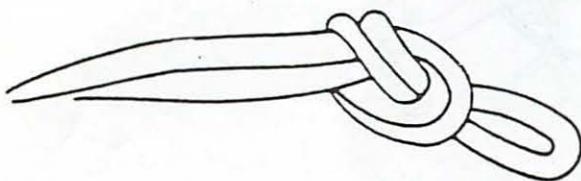
ALTERNATE NO 3



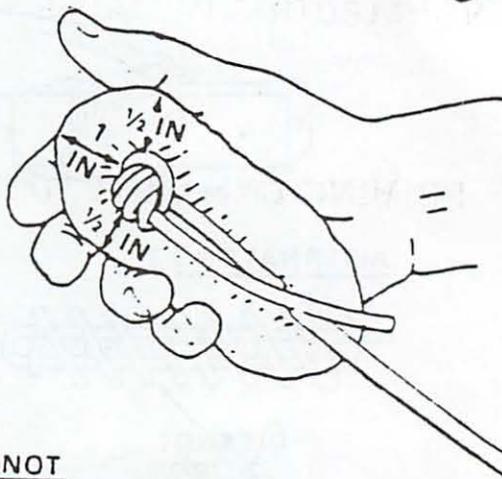
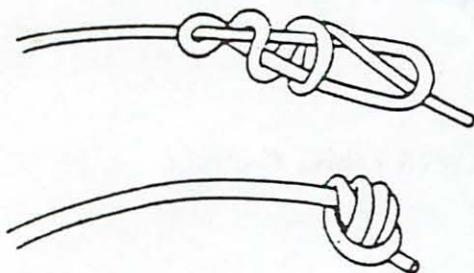
Detonating Cord Priming of
Demolition Blocks



ULI KNOT

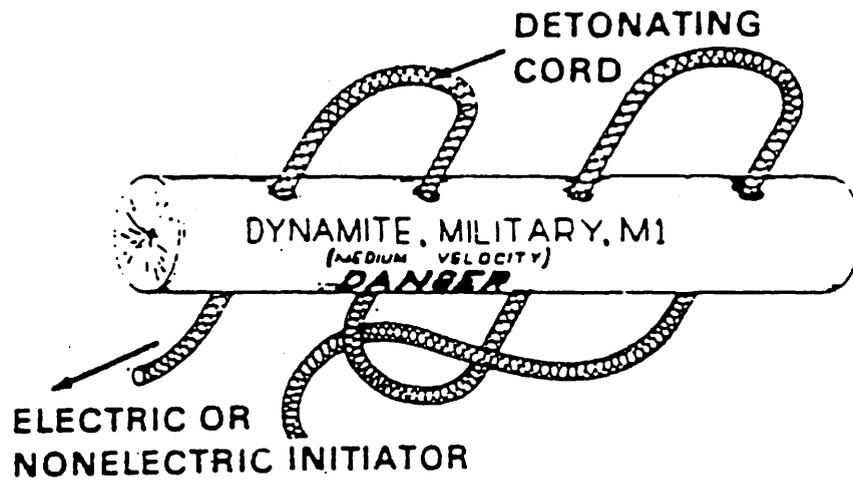


OVERHAND KNOT

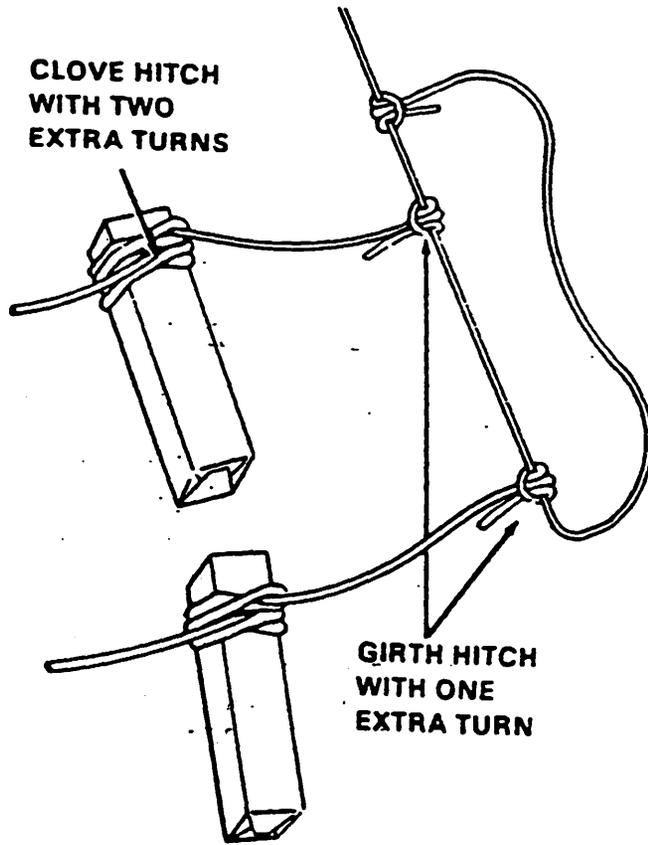


TRIPLE ROLL KNOT

Detonating Cord Priming of Plastic Explosive



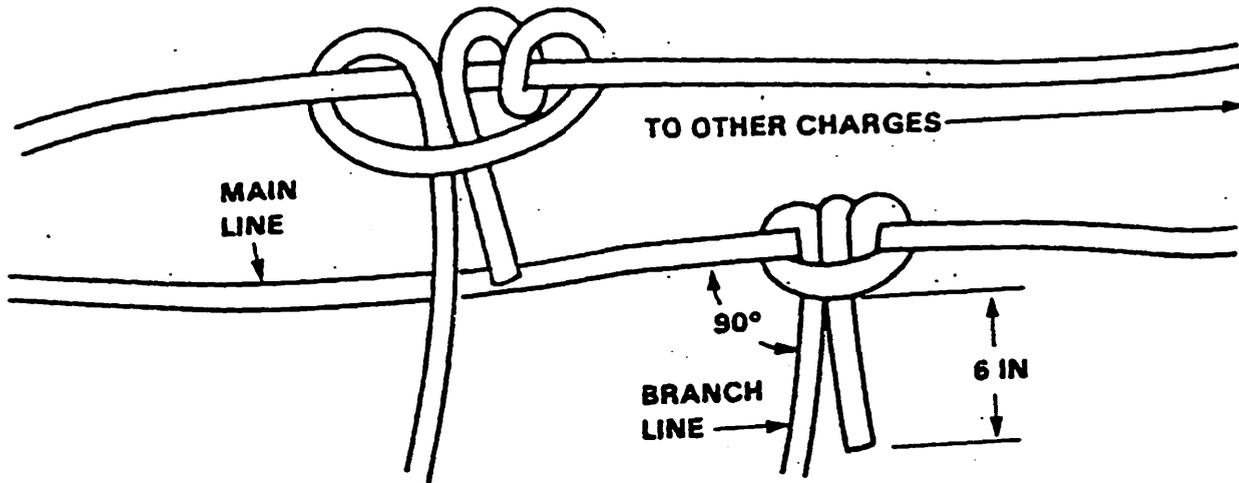
PRIMING DYNAMITE WITH DETONATING CORD



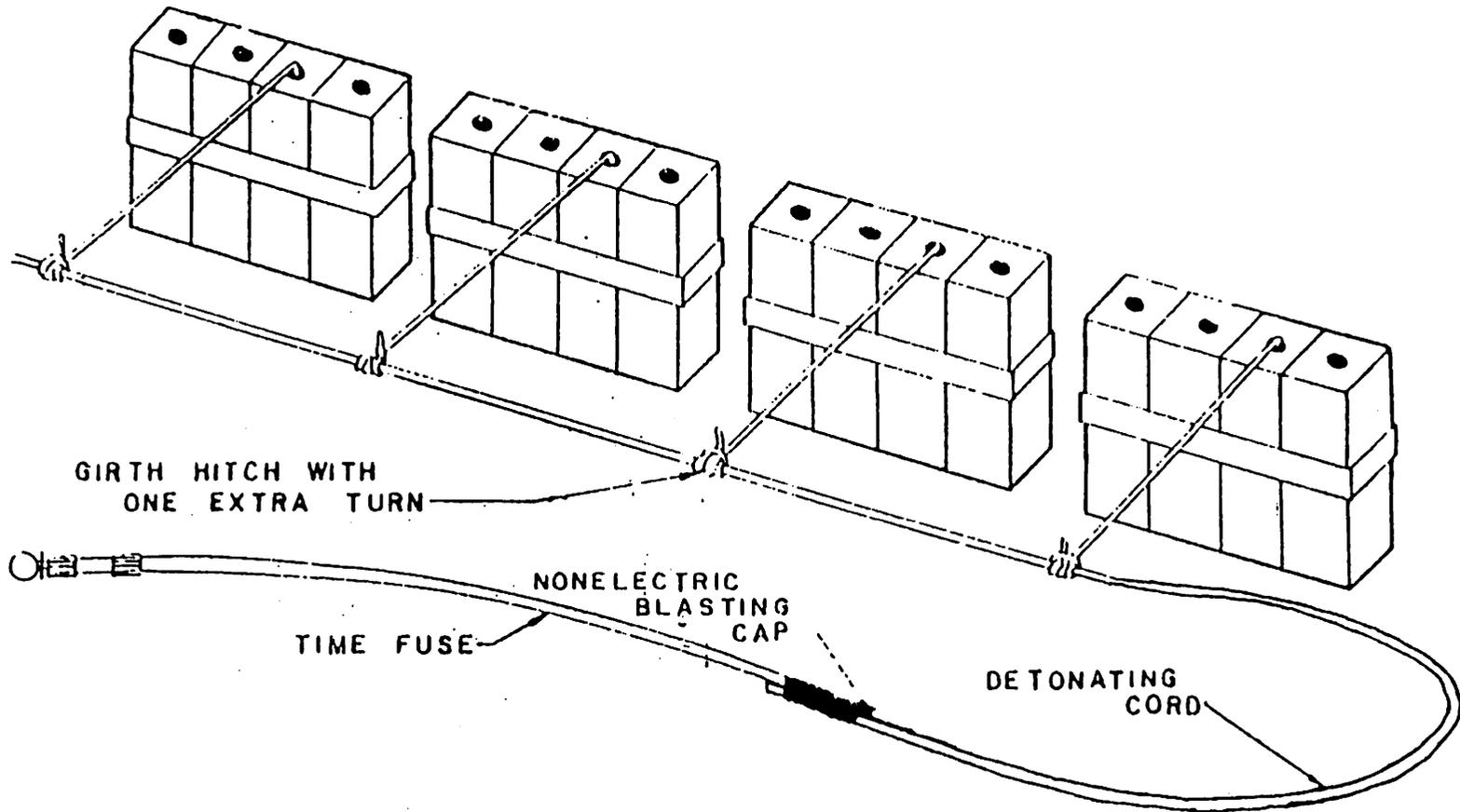
**CLOVE HITCH
WITH TWO
EXTRA TURNS**

**GIRTH HITCH
WITH ONE
EXTRA TURN**

RING MAIN



Girth Hitch with One Extra Turn



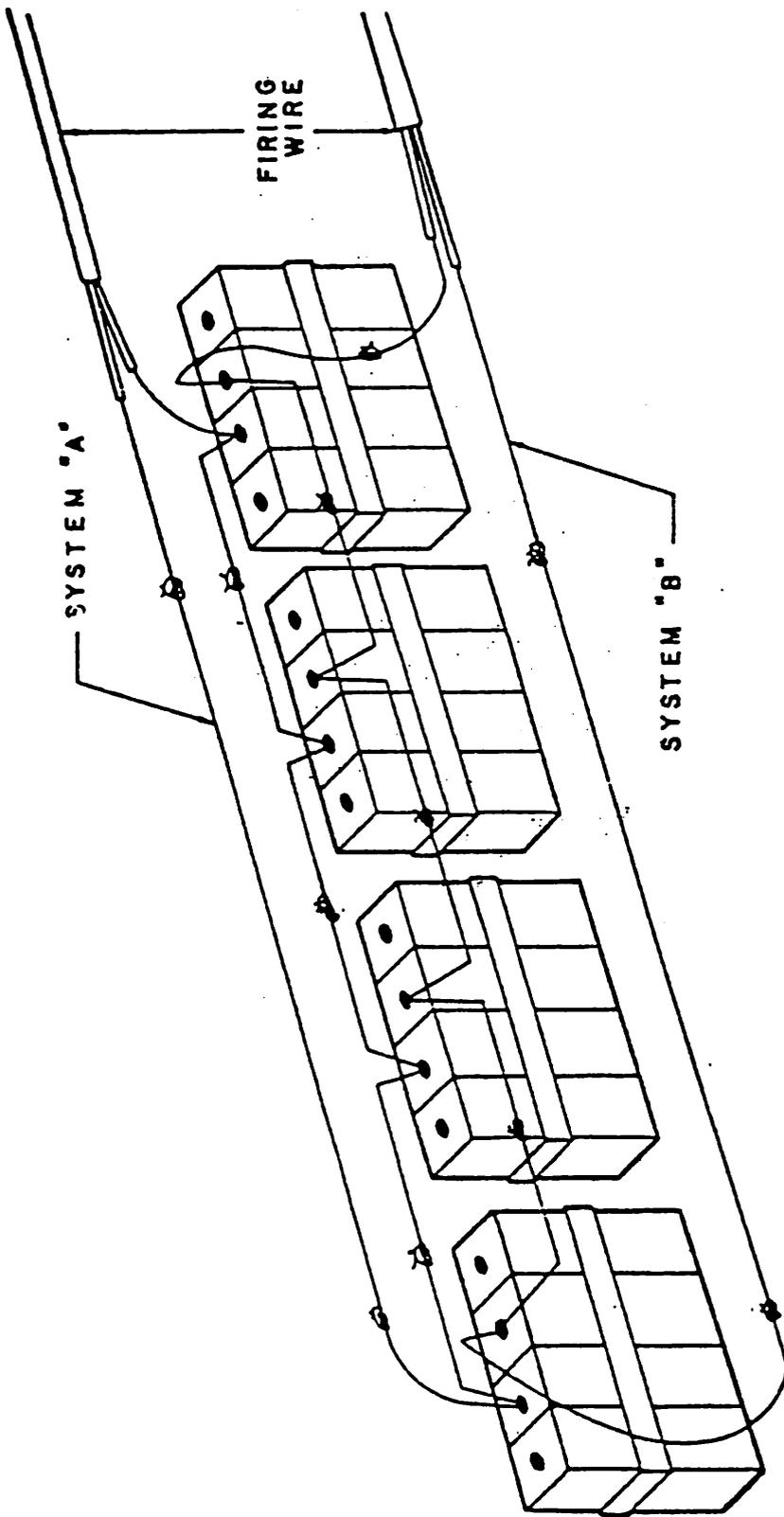
GIRTH HITCH WITH
ONE EXTRA TURN

TIME FUSE

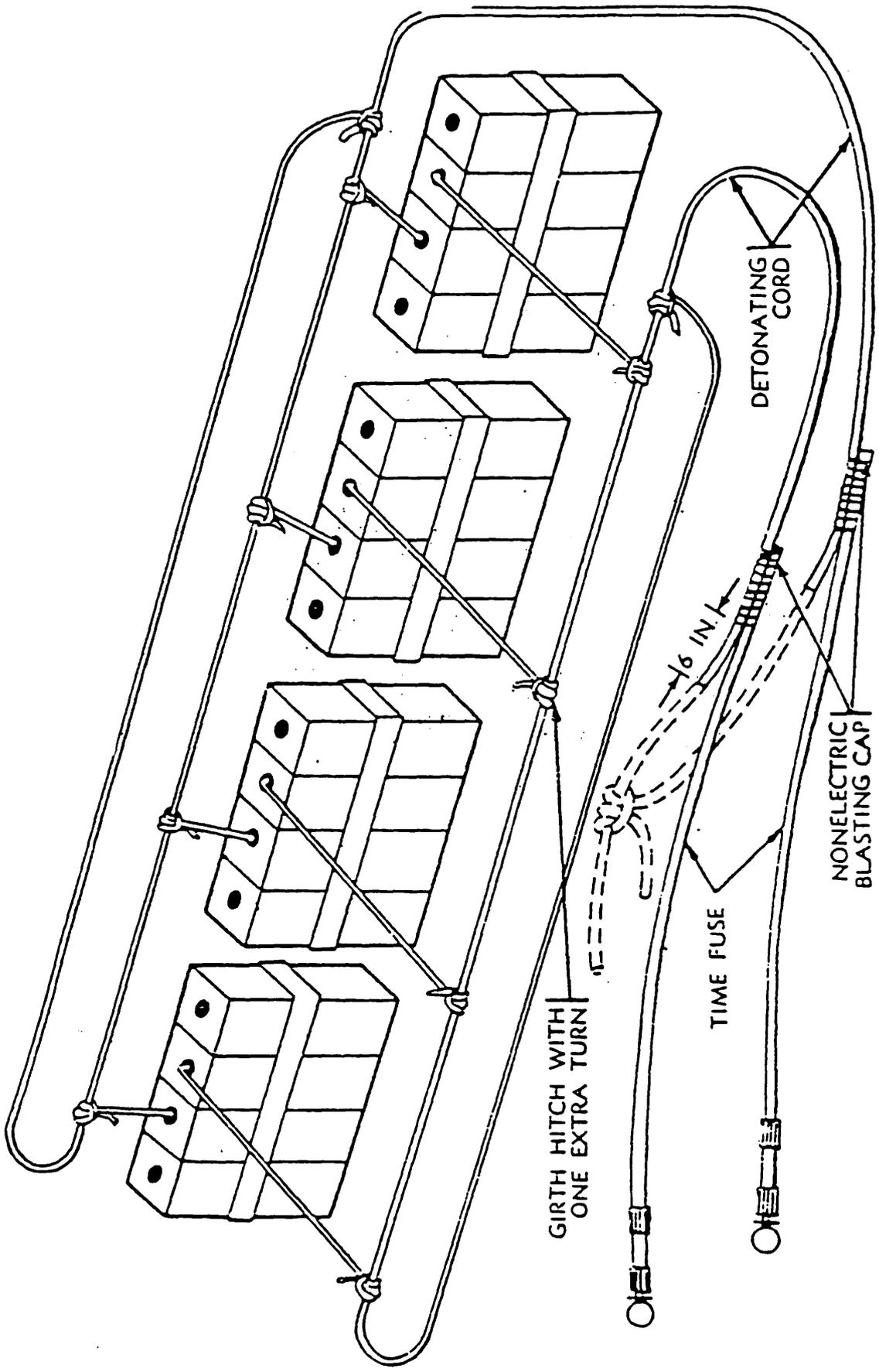
NONELECTRIC
BLASTING
CAP

DETONATING
CORD

Line Main

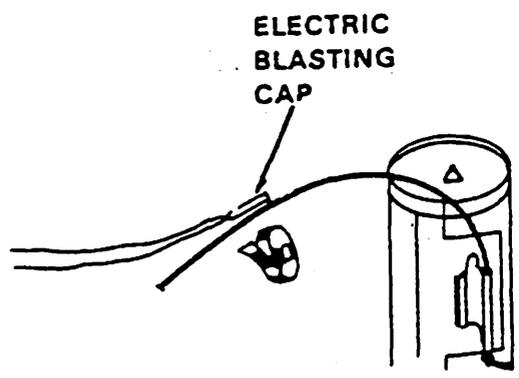
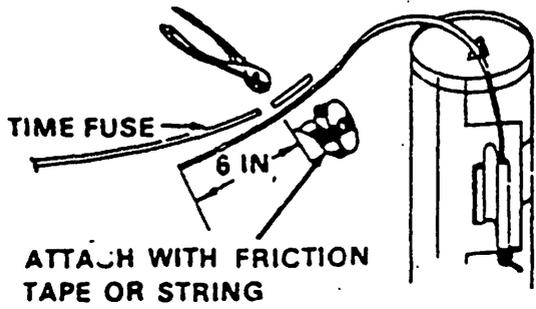


Electrical Dual Firing Systems

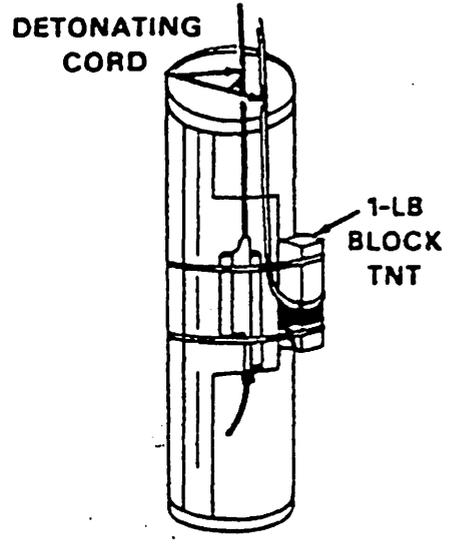


Nonelectric Dual Firing System with Dual Detonating Cord Priming

DETONATING CORD PRIMING

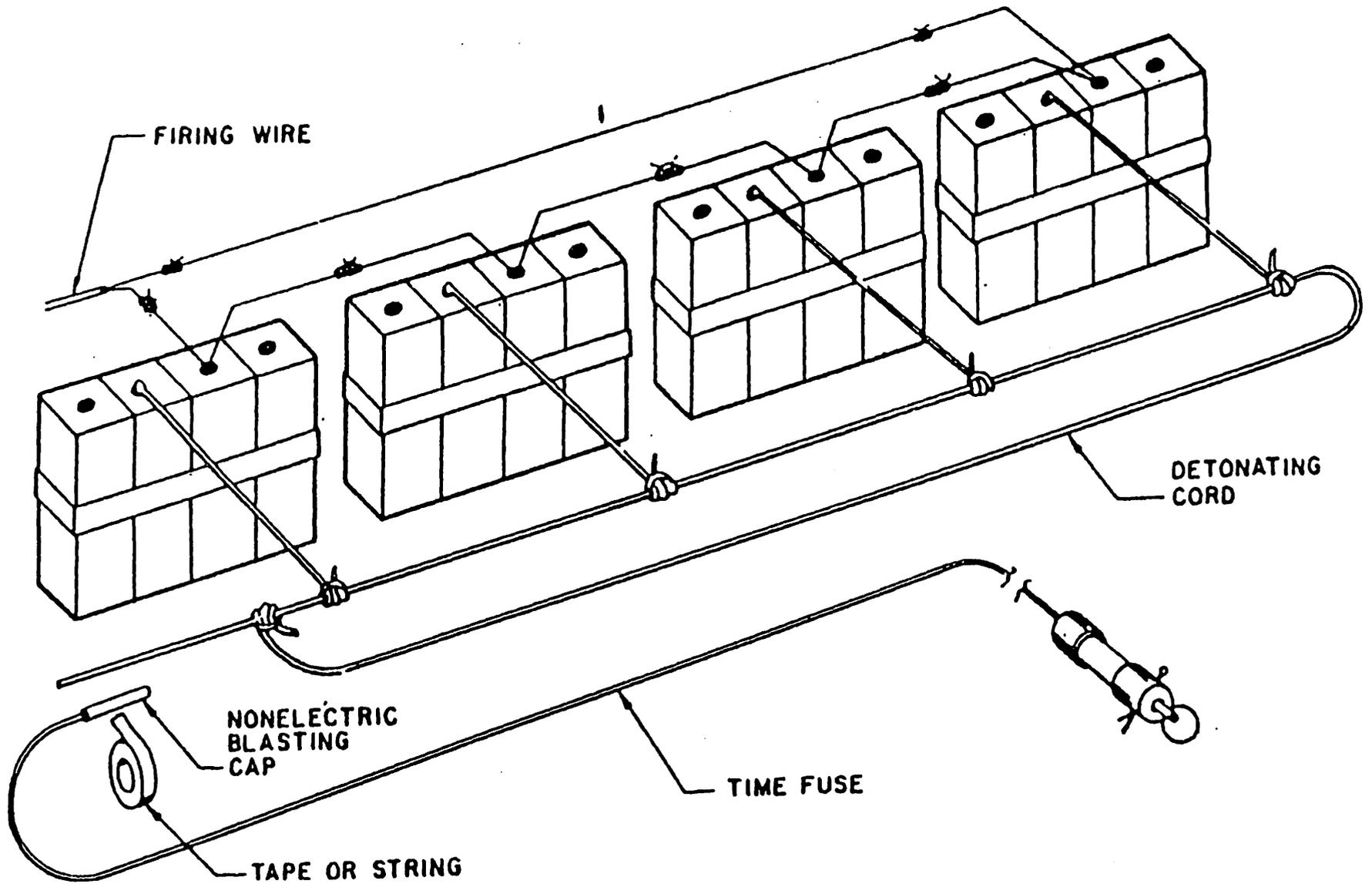


DUAL PRIMING



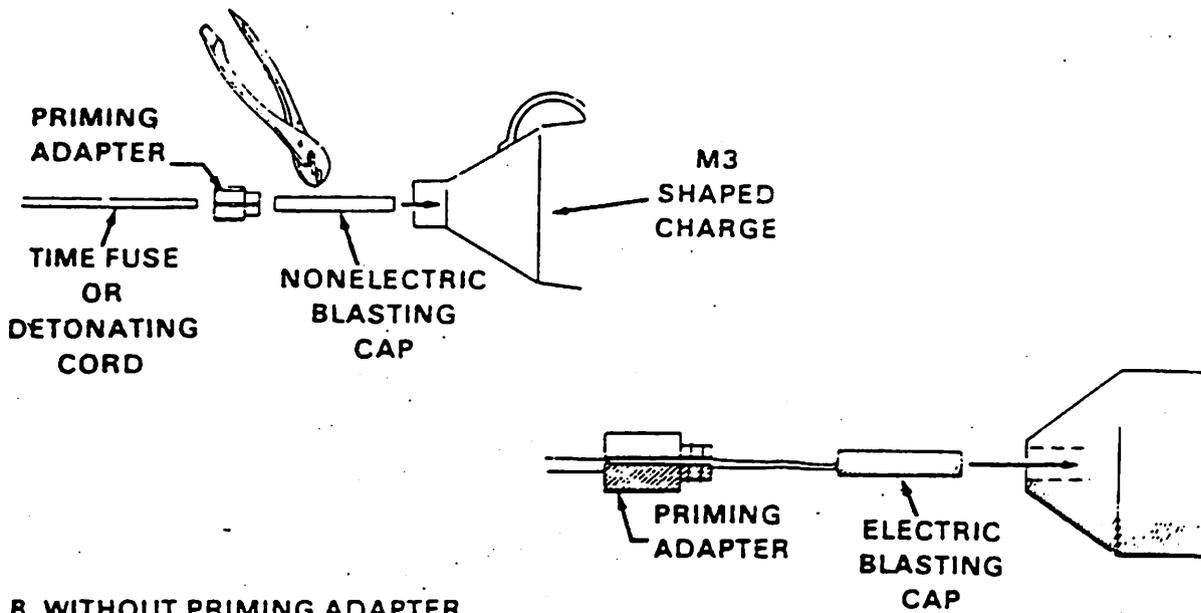
NOTE: If side placement of a 1-pound block of explosive is not possible, bottom placement is better than top placement to achieve dual priming.

Detonating Cord Priming and Dual Priming of Ammonium Nitrate Cratering Charge

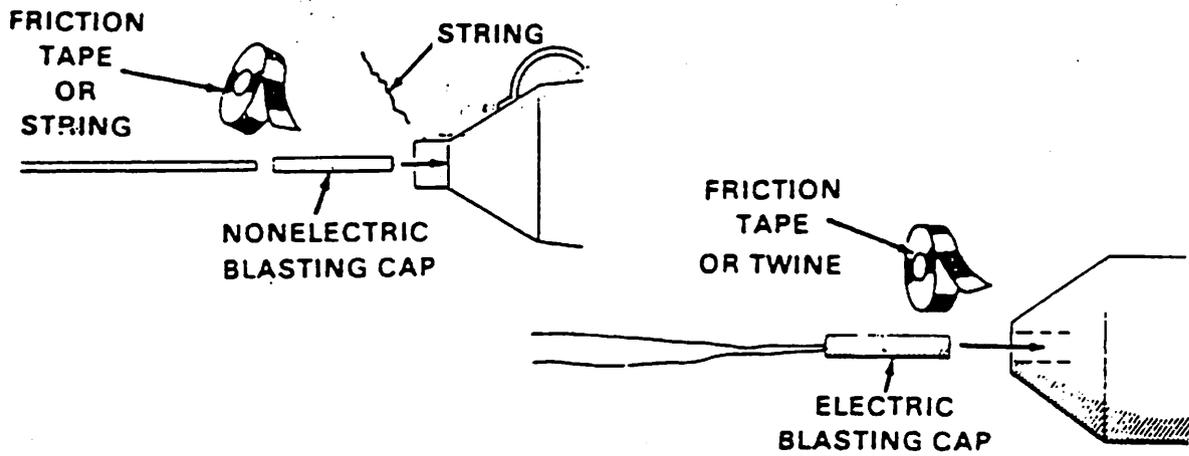


Combination Dual Firing System

A. WITH PRIMING ADAPTER



B. WITHOUT PRIMING ADAPTER



Nonelectric and Electric Priming of Shaped Charges

SECTION VI
STUDENT QUESTIONNAIRE

INSTRUCTIONS: Your responses to the questions below will assist the U.S. Army Engineer School in assessing the quality of training and in providing training support material. Please answer all questions fully, to the best of your ability and personal knowledge. Use additional paper to continue your answers, if necessary.

RANK & NAME (OPTIONAL) _____ DATE _____

COURSE _____ CLASS NO. _____

TRAINING LOCATION _____ INSTRUCTOR _____

1. Course Content and Sequence:

a. The objective for each class or period of instruction was given prior to start of instruction, and I understood the objectives of each class presented. If not, list those classes in which the objective was not given or those that you did not understand. ___YES ___NO

b. Subjects were presented in a logical sequence that enhanced learning. If not, list those subjects you feel were presented out of sequence and your recommendations for sequencing them. ___YES ___NO

c. Enough time was allowed for each subject taught. If not, list those subjects/classes you feel needed more time. ___YES ___NO

d. Excessive time was allowed for some subjects/classes taught. List those subjects/classes you feel were excessive. ___YES ___NO

e. Some subjects/classes were excessive and/or repetitious. List those you feel were excessive and/or repetitious. ___YES ___NO

2. Training Support Materials and Equipment:

Training support materials such as programmed texts, practical exercises, reference notes, etc., were easy to read and understand, current, and beneficial in preparing me for class. If not, provide examples. ___YES ___NO

3. Examinations:

- a. Examinations are clear, precise, and effectively measure the objectives of the instruction presented. YES NO
- b. I had sufficient time to complete each examination. YES NO
- c. A critique period is conducted after each examination. YES NO
- d. If you responded NO to any item in paragraph 3 above, or if you have any comments regarding examinations, please respond below.

4. Instructors:

- a. Class objectives were noticeably posted and/or explained before each class. YES NO
- b. Instructors were enthusiastic, courteous and generally showed respect for the students. YES NO
- c. All instructors were competent and demonstrated an in-depth knowledge of the subjects/classes they presented. YES NO
- d. If you responded NO to any of the above items in paragraph 3, list the name of the instructor and class title.
- e. List any instructors that you feel presented above average instruction.

5. Please list any other comments, complaints and/or recommendations you have regarding the training provided by the RCTI. (Add continuation pages, if needed).

SIGNATURE (Optional)

*U.S. G.P.O. : 1994-530-501:80086