practices for the commercial item being acquired permits in-process inspection.

58. Section 46.203 is amended by revising paragraph (a)(1); at the end of paragraph (a)(2) by removing the semicolon and "or" and inserting a period; and by removing paragraph (a)(3). The revised text reads as follows:

46.203 Criteria for use of contract quality requirements.

* (a) * * *

(1) Commercial (described in commercial catalogs, drawing, or industrial standards; see part 2); or

46.204 [Removed and reserved]

- 59. Section 46.204 is removed and reserved.
- 60. Section 46.709 is revised to read as follows:

46.709 Warranties of commercial items.

The contracting officer should take advantage of commercial warranties, including extended warranties (where appropriate and in the Government's best interests), offered by the contractor for the repair and replacement of commercial items (see part 12).

58. Section 46.710 is amended by revising the first sentence of the introductory paragraph; by removing paragraphs (a)(2) and (b)(2) and redesignating paragraphs (a)(3) through (a)(6) as (a)(2) through (a)(5), and paragraphs (b)(3) through (b)(5) as (b)(2) through (b)(4), respectively. The revised text reads as follows:

46.710 Contract clauses.

The clauses and alternates prescribed in this section may be used in solicitations and contracts in which inclusion of a warranty is appropriate (see 46.709 for warranties for commercial items). * * *

61. Section 47.405 is amended by revising the last sentence to read as follows:

47.405 Contract clause.

* * * This clause does not apply to contracts awarded using the simplified acquisition procedures in part 13 or contracts for commercial items (see part

PART 49—TERMINATION OF CONTRACTS

62. Section 49.501 is revised to read as follows:

49.501 General.

This subpart prescribes the principal contract termination clauses. For

contracts for the acquisition of commercial items, this part provides administrative guidance which may be followed when it is consistent with the requirements and procedures in the clause at 52.212-4, Contract Terms and Conditions—Commercial Items. In appropriate cases, agencies may authorize the use of special purpose clauses, if consistent with this chapter.

49.607 [Amended]

63. Section 49.607 is amended by removing "12.5" in the introductory text and inserting "48 CFR part 42, subpart 42.13".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

64. Section 52.202-1 is amended by revising the date of the clause; by redesignating paragraphs (b) and (c) as (e) and (f), and adding new paragraphs (b), (c) and (d) to read as follows:

52.202-1 Definitions.

Definitions (Date)

- (b) Commercial component means any component that is a commercial item.
 - (c) Commercial item means
- (1) Any item, other than real property, that is of a type customarily used for nongovernmental purposes and that—
 (i) Has been sold, leased, or licensed to the
- general public; or,
- (ii) Has been offered for sale, lease, or license to the general public;
- (2) Any item that evolved from an item described in paragraph (c)(1) of this clause through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;
- (3) Any item that would satisfy a criterion expressed in paragraphs (c)(1) or (c)(2) of this clause, but for-
- (i) Modifications of a type customarily available in the commercial marketplace; or
- (ii) Minor modifications of a type not customarily available in the commercial market place made to meet Federal Government requirements. Such modifications are considered minor if the change does not significantly alter a commercial item's function or essential physical characteristics. Minor is not defined by the specific dollar value or percentage basis of the change;
- (4) Any combination of items meeting the requirements of paragraphs (c)(1), (2), (3), or (5) of this clause that are of a type customarily combined and sold in combination to the general public;
- (5) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in paragraphs (c)(1), (2), (3), or (4) of this clause, and if the source of such services-

- (i) Offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and
- (ii) Offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public;
- (6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without a fixed price for a specific service performed;
- (7) Any item, combination of items, or service referred to in subparagraphs (c)(1) through (c)(6), notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a Contractor: or
- (8) A nondevelopmental item, if the procuring agency determines that the item was developed exclusively at private expense and has been sold in substantial quantities, on a competitive basis, to multiple State and local Governments.
- (d) Component means any item supplied to the Federal Government as part of an end item or of another component.

* * * (End of clause)

65. Section 52.203–6 is amended by revising the clause date; and by adding an Alternate I following paragraph (c)(5) to read as follows:

52.203-6 Restrictions on Subcontractor Sales to the Government.

Restrictions on Subcontractor Sales to the Government (Date)

Alternate I (DATE). As prescribed in 3.503-2, substitute the following paragraph

in place of paragraph (b) of the basic clause: (b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For procurements of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial item(s).

52.210-1 through 52.210-7 [Redesignated]

66. Sections 52.210-1 through 52.210-7 are redesignated as 52.211-1 through 52.211–7, respectively.

52.212-1 through 52.212-11 [Redesignated]

67. Sections 52.212–1 through 52.212-11 are redesignated as 52.211-8 through 52.211-18, respectively.