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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON 25, D.C.

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CIVIL ACCOUNTING AND  
AUDITING DIVISION

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The Comptroller General

In connection with our review of the utilization of motor vehicles as carried out by the Atomic Energy Commission (AEC), a question has arisen as to whether the augmentation of the motor vehicle fleet by the use of pickup trucks in place of passenger motor vehicles constitutes a circumvention of the congressional limitation on the number of passenger motor vehicles which may be acquired by AEC during a fiscal year.

Congress has provided in 5 U.S.C. 78(a) that appropriated funds shall not be used for the purchase of passenger motor vehicles unless such use is expressly authorized in the particular appropriation. Pursuant to this provision, each annual appropriation for AEC contains an appropriation for the use of funds for the purchase of a specified number of passenger motor vehicles. There is a breakdown in the number authorized between those to be purchased as "additions" and those to be purchased as "replacements." For example, the Appropriation Act for fiscal year 1962 (75 Stat. 730) appropriates funds for the "purchase (not to exceed four hundred and thirty-two, of which three hundred and fourteen are for replacement only) and hire of passenger motor vehicles."

Our review of motor vehicle utilization by AEC disclosed that at two locations, pickup trucks of one ton or less were being used as substitutes for passenger-carrying vehicles, thereby releasing passenger motor vehicles for other uses and, in effect, augmenting the vehicle fleet. At one location, five pickup trucks were purchased for the apparent purpose of replacing five passenger sedans assigned to newly established functions. The following details are offered:

1. At the Savannah River Operations Office (SROO), Aiken, South Carolina, we noted that about 130 pickup trucks of some 185 reviewed were being used as substitutes for passenger-carrying vehicles rather than for normal trucking

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purposes. Because there were no trip tickets or comparable utilization records maintained for these vehicles, we interviewed the appropriate operating contractor personnel to obtain information relative to the need for and utilization of these vehicles. There were 94 one-half ton pickup trucks assigned to the Construction Division which were being used by supervisory personnel for routine transportation purposes related to supervisory functions, and not for trucking or hauling requirements. Furthermore, union regulations prohibited the hauling of equipment or materials without a union driver. In addition, about 36 Operations Division pickup trucks were being used solely for the transportation of personnel. We noted also that five one-half ton pickup trucks had been requisitioned during fiscal year 1961 with the justification that they were required to support five personnel counselor positions in the personnel department. The record showed that the duties and responsibilities of these counselors necessitated personal travel of a type which could be carried out through the use of passenger sedans. Subsequently, five one-half ton pickup trucks were purchased to replace five sedans drawn from the motor pool and assigned to the personnel counselors.

2. At the Nevada Operations Office (NOO), Las Vegas, Nevada, we reviewed the usage of about 320 AEC-owned pickup trucks assigned to the operating contractor, and noted that about 58 vehicles were being used in place of sedans solely for the purpose of carrying passengers. This conclusion was based on an evaluation of the specific requirements for each vehicle, and was confirmed by discussions with responsible AEC and contractor officials. The 58 vehicles were assigned to a number of departments, including such varied functions as equipment maintenance, truck transport, housing, tunnel operations, and drilling. There were no materials or equipment being carried in these pickup trucks, and we were advised, in a number of cases, that passenger vehicles would be more suitable.

We were informally advised by AEC officials at both locations that the acquisition and/or use of pickup trucks in place of sedans was the result of the limitation on funds for the acquisition of passenger-carrying vehicles.

We requested comments on the use of pickup trucks at SROO in a letter to the Manager, Savannah River Operations Office from the Regional Manager, Atlanta, dated January 26, 1962 (Exhibit 1). In response to our request, the Manager,

Savannah River Operations Office advised us by letter dated March 13, 1962 (Exhibit 2) that they followed the policy at SROO of using all automotive equipment in accordance with the provisions of law, regulation, and Commission rules in the most economical and efficient manner consistent with normal industrial and construction procedures to accomplish the assigned work. Also, they believed that their use of pickup trucks was appropriate and not in circumvention of the congressional limitation on the number of passenger vehicles to be purchased.

We were orally informed by responsible contractor officials at the Nevada Operations Office that the use of pickup trucks is encouraged because they are cheaper to purchase and maintain, can take harder use, and have a greater resale value in Nevada. The Assistant Manager, Administration, Nevada Operations Office, agreed that pickup trucks were being used for passenger-carrying purposes, but stated that a differentiation is made in the congressional limitation between passenger-carrying vehicles and field-type equipment. He cited the use of a pickup truck by a timekeeper in any of the work areas, although used solely for carrying a passenger, as an example of a field-type assignment, and stated that he considered the use of a pickup truck under such circumstances to be a good economical practice. We are not aware of any distinction made in the congressional limitation between passenger-carrying vehicles and field-type equipment, nor does the AEC budget presentation for fiscal year 1963 contain any reference to this distinction.

We do not question that it may be more practicable under some circumstances for AEC to use pickup trucks rather than sedans for passenger-carrying purposes. We believe, however, that such use and the corresponding effective augmentation of the vehicle fleet resulting therefrom may well constitute a circumvention of the congressional limitation on the number of passenger motor vehicles which may be acquired by AEC during a fiscal year. It would, in any event, appear to be inconsistent with the intent of the congressional limitation.

Our review of decisions by the Comptroller General relating to the congressional limitation on passenger motor vehicles did not indicate that the specific question raised in this letter had been previously considered, although we noted various references to the classification of vehicles

for limitation purposes. For example, 33 Comp. Gen. 539 (B-118903, dated May 4, 1954), dealing with the proper classification of one-ton panel trucks altered for use as ambulances, included the following statement.

"While it long has been held that the design and construction of a vehicle rather than the purpose for which it is intended to be used by the agency acquiring it is the determining factor in its classification (21 Comp. Dec. 116; 23 id. 19; 26 id. 879; 3 Comp. Gen. 900; 8 id. 636; A-27490, June 8, 1929; A-36376, April 28, 1931; B-30391, April 20, 1943) \* \* \* ."

In a later decision (37 Comp. Gen. 305, B-133974 dated November 6, 1957), dealing with the proper classification of trucks with station wagon bodies, it was held that vehicles constructed primarily for trucking purposes with an auxiliary or secondary ability to carry passengers need not be regarded or classified as station wagons subject to the congressional limitation.

In our opinion, the decisions cited deal with only one aspect of this question, that is, the classification of the vehicles. We believe that it may also be appropriate to consider the intent of the Congress in establishing a limitation on the number of passenger motor vehicles to be acquired by AEC during a fiscal year, and to determine if the use of pickup trucks as substitutes for passenger-carrying vehicles is consistent with such intent.

Your advice is requested, therefore, as to whether the augmentation of the AEC motor vehicle fleet by the use of pickup trucks in place of passenger motor vehicles constitutes a circumvention of the congressional limitation on the number of passenger motor vehicles which may be acquired by AEC during a fiscal year.

Oye V. Stovall

Oye V. Stovall  
Deputy Director

Enclosures:

- Exhibit 1 - Letter from Regional Manager, Atlanta to Manager, Savannah River Operations Office, dated January 26, 1962
- Exhibit 2 - Copy of reply by Manager, Savannah River Operations Office, dated March 13, 1962, to Regional Manager, Atlanta

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Indorsement

Director, Civil Accounting and Auditing Division

Returned, In construing section 5 of the act of July 25, 1911, as amended, 5 U.S.C. 78(a), prohibiting the purchase of passenger motor vehicles under appropriations not specifically providing therefor, we have held that the question whether a vehicle is a passenger vehicle must be determined from the character of the vehicle as shown by its construction and design, and not from its intended use. See 14 Comp. Gen. 367. Consequently, since in the instant case there appears to be no question but that the vehicles involved are trucks rather than passenger vehicles the purchase of such trucks was not prohibited by the provisions of 5 U.S.C. 78(a) even though they may have been purchased primarily to transport personnel.

In the absence of any restriction on the purchase of pickup trucks (see 18 Comp. Gen. 226) we do not believe that their purchase for use solely or primarily to transport personnel necessarily can be viewed as an unlawful evasion of the limitation on the purchase of passenger vehicles. Particularly, would this seem to be true where a need exists for a means of motor transportation for which a truck type vehicle is more practical than a passenger vehicle. Of course, if an agency sought authority from the Congress to purchase 500 passenger vehicles but was granted authority to purchase only 400 vehicles and it then proceeded to purchase 100 pickup trucks to fill the need for the 100 passenger vehicles which the Congress refused to authorize, we believe that such purchase properly could be regarded as being contrary to the intent of the Congress in the matter.

In view of the foregoing and because of the conflict between the reasons given by the Savannah River Operations Office as compared to those given by local officials for the purchase of the pickup trucks here involved, we cannot conclude that their purchase constitutes an improper augmentation of the passenger vehicle fleet. However, there would appear no objection to your reporting the matter to the Congress for its information as to the effectiveness of the statutory limitation on the purchase of passenger motor vehicles.

FRANK E. WENZEL

Assistant Comptroller General  
of the United States

Attachment