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## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

### PART 511—POSITION CLASSIFICATION UNDER THE CLASSIFICATION SYSTEM

### PART 534—PAY UNDER OTHER SYSTEMS

#### Vocational Rehabilitation Counseling Residents

Section 511.201(b) is amended to show exclusion from Part 511 and from classification under the General Schedule of Vocational Rehabilitation Counseling Residents, U.S. Public Health Service Hospital, Carville, La. Section 534.202(b) is amended to add the maximum stipend for these positions.

1. Effective October 27, 1971, the following item is added to paragraph (b) of § 511.201:

§ 511.201 Coverage of and exclusions from the General Schedule.

* * * * *

(b) *Exclusions.* * * *

Vocational Rehabilitation Counseling Residents, approved training after a minimum of 1 year postgraduate training, U.S. Public Health Service Hospital, Carville, La.

* * * * *

(5 U.S.C. 5102)

2. Effective October 27, 1971, the following item is added to paragraph (b) of § 534.202:

§ 534.202 Maximum stipends.

* * * * *

(b) * * *

Vocational Rehabilitation Counseling Residents, U.S. Public Health Service Hospital, Carville, La.: Approved training after a minimum of 1 year post-graduate training..... L-6

(5 U.S.C. secs. 5102, 5351, 5352, 5541)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.71-18952 Filed 12-28-71;8:46 am]

### PART 752—ADVERSE ACTIONS BY AGENCIES

#### National Guard Technicians

Part 752 is amended to delete reference to postal employees and add National Guard Technicians to the list of employees specifically excluded from the coverage of these regulations.

Effective on publication in the FEDERAL REGISTER (12-29-71), subparagraph (4) of paragraph (a) of § 752.103 is amended and a new subparagraph (10) is added and § 752.204 is amended as set out below.

§ 752.103 General exclusions.

(a) *Employees.* The employees covered by this part are shown in Subparts B and C of this part. In no case, however, does any of this part apply to:

* * * * *

(4) An employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the U.S. Senate;

* * * * *

(10) A National Guard Technician.

* * * * *

§ 752.204 Time limit for initial appeal.

(a) Except as provided in paragraph (b) of this section and § 752.205, an employee may submit an appeal at any time after receipt of the notice of adverse decision but not later than 15 days after the adverse action has been effected.

(b) The Commission or the agency, as appropriate, may extend the time limit on appeal to it when the appellant shows that he was not notified of the time limit and was not otherwise aware of it, or that he was prevented by circumstances beyond his control from appealing within the time limit.

(5 U.S.C. 1302, 3301, 3302, 7701, E.O. 10577; 3 CFR, 1954-1958 Comp., p. 218, E.O. 11491; 3 CFR 1969 Comp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.71-18953 Filed 12-28-71;8:46 am]

## Title 9—ANIMALS AND ANIMAL PRODUCTS

### Chapter I—Animal and Plant Health Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

### PART 73—SCABIES IN CATTLE

#### Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, and the Act of July 2, 1962 (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f), the provisions in Part 73, Title 9, Code of Federal Regulations, restricting the interstate movement of cattle because of scabies, are hereby amended as follows:

In § 73.1a a new paragraph (b) is added to read:

§ 73.1a Notice of quarantine.

* * * * *

(b) Notice is hereby given that cattle in certain portions of the State of Oklahoma are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following areas in such State are hereby quarantined because of said disease:

| | |
|---|---|
| (1) Beaver. | (9) Harper. |
| (2) Beckham. | (10) Jackson. |
| (3) Cimarron. | (11) Kiowa. |
| (4) Custer. | (12) Roger Mills. |
| (5) Dewey. | (13) Texas. |
| (6) Ellis. | (14) Tillman. |
| (7) Greer. | (15) Washita. |
| (8) Harmon. | (16) Woodward. |

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707)

*Effective date.* The foregoing amendment shall become effective upon issuance.

The amendment quarantines certain counties in the State of Oklahoma because of the existence of cattle scabies in that State. Counties quarantined are named in the foregoing amendment. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the areas quarantined.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish its purpose in the public interest.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 23d day of December 1971.

F. J. MULHEEN,
*Administrator,*
*Animal and Plant Health Service.*

[FR Doc.71-19005 Filed 12-23-71;8:51 am]

# Title 14—AERONAUTICS AND SPACE

## Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-NW-2]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Designation of Additional Control Area

On October 15, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 20047) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an additional control area between Fortuna, Calif., and the Gateway Hemlock intersection.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 2, 1972, as hereinafter set forth.

Section 71.163 (36 F.R. 2048) is amended by adding the following additional control area:

CONTROL 1416

That airspace within 5 miles each side of the Fortuna, Calif., VORTAC 326° radial and the additional area between lines diverging at angles of 5° each side of the 326° radial, extending from the VORTAC to the Gateway Hemlock INT, excluding the airspace below 5,000 feet MSL which lies outside the continental limits of the United States.

(Secs. 307(a) and 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a) and 1510, Executive Order 10854 (24 F.R. 9565), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on December 21, 1971.

H. B. HELSTROM,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.71-18935 Filed 12-28-71;8:48 am]

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[Airspace Docket No. 71-CE-110]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Transition Area

On page 19616 of the FEDERAL REGISTER dated October 8, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Woodruff, Wisconsin.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., March 2, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on December 9, 1971.

CHESTER W. WELLS,
*Director, Central Region.*

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

WOODRUFF, WIS.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Lakeland Airport (latitude 45°55'38" N., longitude 89°43'53" W.); and that airspace extending upward from 1,200 feet above the surface within a 21-mile radius of Lakeland Airport, excluding the portion which overlies the Rhinelander, Wis., Eagle River, Wis., and Land O'Lakes, Wis., transition areas.

[FR Doc.71-18936 Filed 12-28-71;8:48 am]

# Title 32A—NATIONAL DEFENSE, APPENDIX

## Chapter X—Office of Oil and Gas, Department of the Interior

[Oil Import Reg. 1 (Rev. 5) Amdt. 38]

## OIL IMPORT REG. 1—OIL IMPORT REGULATION

### Canadian Imports, Districts I-IV—Partial Allocations, 1972

Regulations providing for allocations of Canadian imports into Districts I-IV for the allocation period January 1, 1972 through December 31, 1972, will be issued after the proposal published in the FEDERAL REGISTER for December 22, 1971 (36 F.R. 24229) has been considered in the light of comments received within the period specified. Under the final regulations, persons who continue to meet the requirements for eligibility stated in paragraph (b) of section 23 of Oil Import Regulation 1 (Revision 5), 36 F.R. 3525, and who imported Canadian overland imports under allocations made pursuant to paragraph (d) or (e) of section 23 will be eligible for allocations of Canadian imports for the period January 1, 1972 through December 31, 1972. Pending the issuance of the final regulations, a new section 29A, reading as set forth below, is added to Oil Import Regulation 1 (Revision 5) providing for partial allocations to such persons in order to avoid disruptions of their operations. Because such action must be taken promptly if such disruptions are to be avoided, it would not serve the public interest either to give notice of proposed rule making on, or to delay the effective date of, this amendment. Accordingly, this amendment 38 shall become effective immediately.

HOLLIS M. DOLE,
*Assistant Secretary of the Interior.*

DECEMBER 23, 1971.

I concur: December 23, 1971.

HAAKON LUNDJORD,
*Acting Director, Office of Emergency Preparedness.*

A new section 29A, reading as follows, is added to Oil Import Regulation 1 (Revision 5):

Sec. 29A Canadian Imports—Partial Allocations—1972.

(a) As used in this section the term "Canadian imports" means imports from Canada of crude oil which has been produced in Canada and unfinished oils which have been derived from crude oil or natural gas produced in Canada and which have been transported into the United States by overland means or over waterways other than ocean waterways.

(b) For the allocation period January 1, 1972 through December 31, 1972, the Director shall, upon request, make a partial allocation of Canadian imports into Districts I-IV to each person who has in Districts I-IV a facility capable of processing Canadian imports and who received an allocation of Canadian overland imports under paragraph (d) or (e) of section 23 of this regulation and who imported under such allocation. The partial allocation shall not exceed one-half of the amount of the allocation received by that person under paragraph (d) or (e) of section 23. Partial allocations made pursuant to this paragraph (b) will be superseded by regular allocations which will be made later. Licenses issued under a partial allocation will be charged against the superseding regular allocation.

(c) The Director shall issue a license under a partial allocation only upon request and only in an amount sufficient to cover the importation specified in the request. All such licenses shall permit the entry, or withdrawal from warehouse, for consumption of Canadian imports only.

(d) A person who imports Canadian imports under a partial allocation must run the oil in his own facility.

(e) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

(f) If a person holds a partial allocation of Canadian imports under this section and if he also holds an allocation of imports under section 9, 10, or 25 for the period January 1, 1972 through December 31, 1972, he may obtain from the Director a license which will permit him to import Canadian imports in a quantity not exceeding two-thirds of the amount of the allocation made under section 9, 10, or 25. Such licenses shall be charged against the allocation made under section 9, 10, or 25.

[FR Doc.71-19036 Filed 12-27-71;10:32 am]

# Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

## Chapter 8—Veterans Administration

## PART 8-1—GENERAL

### Small Business Concerns

In Part 8-1, Subpart 8-1.7 is revised to read as follows:

Subpart 8-1.7—Small Business Concerns


| Sec. | |
|---|---|
| 8-1.700 | General. |
| 8-1.702 | Small business policies. |
| 8-1.704 | Agency program direction and operation. |
| 8-1.704-1 | Program direction. |
| 8-1.704-2 | Responsibility. |
| 8-1.704-3 | Program operations. |
| 8-1.704-4 | Definitions. |
| 8-1.705 | Cooperation with the Small Business Administration. |
| 8-1.705-7 | Performance of contract by SBA. |
| 8-1.705-50 | Contracting with SBA for supplies, equipment and services other than construction. |
| 8-1.705-51 | Contracting with SBA for construction projects (field stations). |
| 8-1.706 | Procurement set-asides for small business. |
| 8-1.706-1 | General. |
| 8-1.706-2 | Review of SBA set-aside proposals. |
| 8-1.706-3 | Withdrawal or modification of set-asides. |
| 8-1.706-5 | Total set-asides. |
| 8-1.706-6 | Partial set-asides. |
| 8-1.708 | Certificate of competency program. |
| 8-1.708-2 | Applicability and procedure. |
| 8-1.708-3 | Conclusiveness of certificate of competency. |
| 8-1.710 | Subcontracting with small business concerns. |
| 8-1.710-2 | Small business subcontracting program. |
| 8-1.710-4 | Review of subcontracting program. |


AUTHORITY: The provisions of this Subpart 8-1.7 issued under sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c).

### Subpart 8-1.7—Small Business Concerns

#### § 8-1.700 General.

This subpart implements and supplements FPR 1-1.7. It sets forth the Veterans Administration small business program, including unilateral set-asides and minority business participation. It establishes responsibility for making such determinations, reviewing determinations and evaluation of the program.

#### § 8-1.702 Small business policies.

It is the policy of the Veterans Administration to carry out, to the maximum extent feasible, the small business policies of the Government as expressed in the Federal procurement regulations and the Small Business Act.

#### § 8-1.704 Agency program direction and operation.

#### § 8-1.704-1 Program direction.

(a) The Director, Supply Service, Department of Medicine and Surgery, is responsible for the overall supervision of the Veterans' Administration small business program.

(b) The Deputy Director, Supply Service, will develop and manage the Veterans' Administration small business program; advise the Director, Supply Service, and department and staff heads on small business problems; and represent the Veterans' Administration before other Government agencies on matters affecting small business.

(c) The Deputy Assistant Administrator for Construction will develop and coordinate the agency small business program as it affects construction projects with the Deputy Director, Supply Service.

(d) The Chief Benefits Director, Manager, Administrative Services, Director, Canteen Service, and Manager, VA Marketing Center, will designate an employee of their respective organizations to serve as a small business officer. The name, telephone number, and mail routing symbol of each designee will be forwarded to the Deputy Director, Supply Service. The small business officer will serve, in addition to his other duties, as liaison between his organization, the Deputy Director, Supply Service, and the SBA (Small Business Administration) on small business problems affecting his organization.

#### § 8-1.704-2 Responsibility.

(a) Except as provided in paragraphs (b), (c), (d), and (e) of this section, the Director, Supply Service, is responsible for the purchasing and contracting aspects of this program in connection with the procurement of supplies, equipment, and services. He is responsible for the compilation and submission of all reports required by the program.

(1) The Chief, Purchase and Contract Division, Supply Service, Central Office, is responsible for the purchasing, contracting and reporting aspects of this program as they apply to contracts and purchases made by his division. He is also responsible for advising and counseling field station contracting officers in the various facets of the small business program.

(2) The Manager, VA Marketing Center; Managers, VA Supply Depots; Executive Officer, VA Supply Subdepot, Bell, California; and the Chiefs Supply and Business Services Divisions, at Veterans Administration field stations are responsible for the purchasing, contracting and reporting aspects of this program at their respective installations.

(b) The Assistant Administrator for Construction is responsible for the purchasing and contracting aspects of this program as they apply to (1) contracts awarded by a contracting officer assigned to his office, and (2) construction projects assigned by him to the Chief Medical Director for solicitation, award and administration of the resulting contract by a field station.

(c) The Manager, Administrative Services, is responsible for the purchasing and contracting aspects of this program as they apply to contracts to be awarded by (1) Building and Supply Service, Central Office; and (2) Publications Service.

(d) The Chief Benefits Director is responsible for the purchasing and contracting aspects of this program as they apply to contracts to be awarded by the Department of Veterans Benefits.

(e) The officials named in paragraphs (b), (c), and (d) of this section are responsible for assuring that the semiannual reports required by FPR 1-16.804-3 and § 8-16.804-3 are prepared and submitted on the dates specified.

(f) Personnel authorized by Central Office directives and manuals, other than Chapter 8, Title 41, Code of Federal Regulations, to procure services are responsible for assuring that all such purchases are routed through their Supply or Business Services Division, for inclusion in the semiannual reports required by FPR 1-16.804-3 and § 8-16.804-3.

#### § 8-1.704-3 Program operations.

Each Veterans Administration contracting officer delegated contracting authority by Chapter 8, Title 41, Code of Federal Regulations, a Central Office directive or other Veterans Administration Manual will take positive action to encourage participation in the program by small business entities. He will actively seek the names of possible contractors from the appropriate SBA regional office and consult with local business associations and large contractors who utilize such small business entities as subcontractors.

#### § 8-1.704-4 Definitions.

As used in this subpart the following terms have the following meanings:

(a) "Small business" means those firms meeting the criteria established in FPR 1-1.701 through 1-1.705, and those designated as small by the SBA.

(b) "Head of procuring activity" means the Chief, Purchase and Contract Division, Central Office; Project Directors, Office of the Assistant Administrator for Construction; Director, Building and Supply Service, Central Office; Director, Publications Service, Central Office; Chiefs, Marketing Divisions, VA Marketing Center; and the Chief, Supply or Business Services Division, at a field station.

(c) "Principal procurement officer" means the contracting officer in each procuring activity who has been delegated contracting authority in accordance with § 8-75.101(b), another VA Manual or Central Office directive.

(d) "Minority" means those people who are (1) Negro or Black, (2) American Indian, (3) Oriental, (4) Aleut, (5) Eskimo, (6) Mexican American, (7) Puerto Rican, (8) Cuban or (9) of Central or South American origin.

(e) "Minority owned business" means a domestic business 50 percent of which is owned by minority group members, or in the case of a publicly owned business, 51 percent of the stock is owned by minority group members. (If the race or descent of the stock holders is unknown, use the five highest officers of the company to determine the proper category.)

**§ 8–1.705 Cooperation with the Small Business Administration.**

**§ 8–1.705–7 Performance of contract by SBA.**

The Administrator, in implementation of the desires of the President and Congress to enhance the sharing of the Nation's minorities in the free enterprise system, has pledged the full participation of the Veterans Administration in achieving this goal. He has, through his Committee on Minority Business Enterprise, established dollar goals to be achieved by this agency in the award of contracts during the current and succeeding years. To achieve these goals, it is essential that each contracting officer exercise his best efforts to determine which of his requirements can be channeled into this program.

(a) Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) authorizes the Veterans Administration to enter into contracts with the SBA. The latter agency is, in turn, authorized to enter into subcontracts with minority small business entities who are capable of performing these contracts. When a determination is made that a station's requirements can be handled under this program, the contracting officer will make this fact known to the proper official of the appropriate SBA regional office.

(b) To assure the widest participation of the Veterans Administration in this program, the head of each procuring activity will contact local business and social organizations composed of minority groups, to secure the names of companies owned or operated by minority groups or individuals who are capable of and willing to participate in the program. He will instruct these people in the proper manner to register as suppliers with the SBA and take positive steps to assure that such minority businesses are given an opportunity to bid on Veterans Administration requirements either directly or through SBA.

(c) Minority businesses disclosed by the actions set forth in paragraph (b) of this section will be furnished Standard Forms 129, on which the following will be inscribed:

The business entity submitting this offer (is) (is not) a minority owned business. This certification is furnished for statistical purposes only and is not a condition for bidding nor a restriction upon eligibility for award.

The above certification shall also be included in all invitations for bids, requests for quotations and requests for proposals.

(d) No contract will be entered into with SBA under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) unless a certification is made by the Administrator of that agency, or his designee, that SBA is competent to perform the contract.

(e) When it is determined that the requirements of the Veterans Administration are appropriate for inclusion in this program, the contracting officer will make this fact known to the proper official of the SBA regional office serving his area. If the certification required by paragraph (d) of this section is received, the Veterans Administration contracting officer will secure from SBA the name(s) and location(s) of their subcontractor(s) and the unit price(s) to be paid. Should these prices be within a range acceptable to the Veterans Administration, the contracting officer will enter into negotiations with SBA to determine the terms and conditions of the contract.

(f) The contract will be made between the Veterans Administration and SBA and will be administered by the Veterans Administration. Funds will be obligated prior to execution of the contract and payment will be made direct to the SBA subcontractor(s).

**§ 8–1.705–50 Contracting with SBA for supplies, equipment and services other than construction.**

(a) Contracts for supplies, equipment and services other than construction will be prepared on Standard Form 33, Solicitation, Offer, and Award, and Standard Form 36, Continuation Sheet, in the same manner as any other prime contract. However, the following changes will be made in these forms:

(1) Standard Form 33, Block 6, enter "15 U.S.C. 637(a)".

(2) Standard Form 36, insert the following clause:

It is agreed that the provisions of the "Termination for Convenience of the Government", "Changes", "Disputes" and "Default" clauses which are included in the contract between the Small Business Administration and the Veterans Administration shall be invoked against the subcontractor in appropriate cases when requested by the Veterans Administration Contracting Officer. If the Small Business Administration does not agree with the Contracting Officer's request, the case shall be referred to the Deputy Director, Supply Service, for resolution.

(b) The Veterans' Administration contracting officer will forward the prime contract to the SBA in sufficient numbers to furnish two copies to SBA and one copy to each subcontractor.

(c) The SBA will prepare and submit to its subcontractor(s) for signature Standard Form 26, Award/Contract. They will furnish two signed copies of the Standard Form 26, to the Veterans' Administration contracting officer for filing and distribution.

**§ 8–1.705–51 Contracting with SBA for construction projects (field stations).**

Station level construction projects which have been selected by the Administrator's Committee on Minority Business Enterprise, or which have been identified by the station contracting officer for inclusion in this program, will be contracted for as provided in this section.

(a) The contracting officer will submit, for each project so identified, the complete project listing including technical specifications, drawings and wage rates to the proper official of the appropriate SBA regional office. Should SBA select a competent subcontractor capable of performing the work, they will so certify to the Veterans' Administration contracting officer. They will furnish him the name and complete address of the subcontractor(s), the project involved and the price(s) quoted. If the price quoted is within the range acceptable to the Veterans' Administration, the station contracting officer will enter into negotiation with SBA to determine the terms and conditions of the contract. For the purpose of this program Standard Form 23, regardless of the cost involved, will be used for both the prime contract with SBA and the subcontract with the subcontractor selected by SBA.

(b) Standard Forms 23, 25, and 25A will be prepared and forwarded to the SBA regional office for completion by that agency and its subcontractor. In addition sufficient copies of Standard Forms 19A, 19B, and 23A will be attached to the original and each copy of both the prime contract and subcontract. Prior to the release of these forms to SBA the following will be inserted in the Standard Form 23.

(1) *Prime Contract*—(i) *Administrative Data.* The parties agree that _____[1] (hereinafter called the Subcontractor) shall for and in the stead of the Small Business Administration fulfill and perform all of the requirements of the Prime Contract for the consideration stated therein. The Subcontractor acknowledges that he has read and is familiar with each and every part of the Prime Contract (see reverse).

(ii) *Alterations.* (A) By subcontracting, pursuant to the provisions of section 8(a) of the Small Business Act, as amended, the Small Business Administration (hereinafter called SBA) agrees to furnish the materials and services set forth in this contract according to the specifications hereof.

(B) SBA has delegated to the Veterans' Administration (hereinafter called the VA) the responsibility for administering its subcontract hereunder. This includes issuance of orders, inspection, and acceptance by VA representatives and direct payment by VA.

(2) *Subcontract*—(i) *Administrative data.* The Small Business Administration has delegated to the Veterans' Administration (hereinafter called VA) the responsibility for administering its subcontract hereunder. This includes issuance of orders, inspection, and acceptance by VA representatives and direct payment by VA.

(ii) *Alterations.* (A) The Small Business Administration (hereinafter called SBA) has entered into contract _____[2] (hereinafter called the Prime Contract) with the Veterans' Administration (hereinafter called VA) for the performance of the work required under this subcontract.

(B) The parties to the Prime Contract hereby agree that _____[3] (hereinafter called the Subcontractor) shall for and in the stead of SBA, fulfill and perform all the requirements of the Prime Contract. The Subcontractor acknowledges that he has read and is familiar with each and every part of the Prime Contract and that he agrees to perform all work required under the provisions of this contract for the consideration stated herein. A copy of the Prime Contract is attached hereto and made a part hereof.

(C) Payment shall be made directly to the Subcontractor by VA.

(D) The Subcontractor further understands and agrees that the responsibility for

administering the subcontract has been delegated to the VA.

NOTE

[1] Enter name and complete address of the Subcontractor.

[2] Enter contract number.

[3] Enter name of Subcontractor.

(c) On receipt of the Standard Forms 23 signed by both the SBA and the subcontractor, and the performance and payment bonds, the contracting officer will forward a notice to proceed to the subcontractor.

(d) In the event SBA or the contracting officer cannot locate a minority small business contractor, capable of and willing to perform the work, the provisions of § 8-1.706-5 will be complied with.

### § 8-1.706 Procurement set-asides for small business.

### § 8-1.706-1 General.

Each Veterans Administration contracting officer will exercise his best efforts to identify those commodities or services required by the Veterans Administration, that are capable of being furnished or rendered by a small business entity. He will determine in cooperation with an SBA representative, where possible, whether or not a particular procurement or class of procurements will be set aside, in whole or in part, for exclusive small business participation. In the event an SBA representative is not available, a unilateral determination will be made by the contracting officer. Each determination will be reviewed by the head of the specific procuring activity and either approved or disapproved. Should there be a difference of opinion on such determinations the matter will be referred to the Deputy Director, Supply Service, for resolution. The Deputy Director will, when necessary, refer the matter to SBA as provided in FPR 1-1.706-2.

### § 8-1.706-2 Review of SBA set-aside proposals.

When a recommendation is made by an SBA representative to set aside either an individual procurement or a class of procurements, the contracting officer will either accept or reject the recommendation. If rejected, the reasons therefor will be documented and submitted to the head of the procuring activity for review. If the rejection is upheld by the reviewing authority his decision, reduced to writing, will be transmitted to the SBA representative for necessary action in accordance with FPR 1-1.706-2. Pending resolution of the dispute, procurement action will be suspended except as provided in FPR 1-1.706-2(a) (2).

### § 8-1.706-3 Withdrawal or modification of set-asides.

Contracting officers may withdraw or modify an individual or class set-aside, only after compliance with the provisions of FPR 1-1.706-3.

### § 8-1.706-5 Total set-asides.

(a) When a total small business set-aside is made, one of the following statements, as applicable, will be placed on the face of the solicitation for bids:

(1) Notice of total small business set-aside, page _____, applies to all items in this solicitation.

(2) Notice of total small business set-aside, page _____, applies to items _____ through _____ in this solicitation.

(b) Each proposed procurement for construction, including alteration, maintenance, and repairs, in excess of $2,000 and under $500,000 shall be considered individually as though SBA had initiated a set-aside request. When, in the judgment of the contracting officer, a particular project falling within these dollar limits is determined unsuitable as a set-aside for exclusive small business participation pursuant to FPR 1-1.7 of this title, he shall notify the Director, Supply Service, of his decision. Unless the Director, Supply Service, or his designee, disagrees with the contracting officer's decision, the contracting officer shall proceed to process the procurement on an unrestricted basis.

### § 8-1.706-6 Partial set-asides.

When, in accordance with the provisions of FPR 1-1.706-6, it is determined that a particular procurement will be partially set-aside for exclusive small business participation, the solicitation for bids will have, whichever of the following statements is applicable, placed on the face page.

(a) Notice of partial small business set-aside, page _____, applies to Item _____ through Item _____ in this solicitation.

(b) Notice of partial small business set-aside, page _____, applies to all items in this solicitation.

### § 8-1.708 Certificate of competency program.

### § 8-1.708-2 Applicability and procedure.

The higher authority referred to in FPR 1-1.708-2(a) (1) will be the following individuals in the Veterans Administration:

(a) The head of the station at field stations.

(b) Manager, VA Marketing Center, for the Marketing Center.

(c) Director, Supply Service for the Purchase and Contract Division, Supply Service, Central Office.

(d) Manager, Administrative Services, for the Building and Supply Service and Publications Service, Central Office.

(e) Assistant Administrator for Construction, for construction contracts excluding those for maintenance and repair entered into by a field station.

(f) Manager, VA Supply Depot at Somerville, N.J., and Hines, Ill., and the Executive Officer, VA Subdepot, Bell, Calif.

### § 8-1.708-3 Conclusiveness of certificate of competency.

When a certificate of competency has been issued by the SBA and the contracting officer, as provided for in FPR 1-1.708-2(a) (5), has substantial doubts as to the ability of the prospective contractor to perform, he shall document his reasons therefor and submit the matter to the Deputy Director, Supply Service. The Deputy Director, Supply Service, will resolve the matter with SBA. If, in his opinion, the contracting officer's reasons are valid he may request SBA to withdraw the certificate of competency. The contracting officer will be advised as to the action he is to take.

### § 8-1.710 Subcontracting with small business concerns.

### § 8-1.710-2 Small business subcontracting program.

(a) In addition to the Utilization of Small Business Concerns clause required by FPR 1-1.710-3(a), solicitations (invitations for bids and requests for proposals) for supplies, equipment and services, other than construction, expected to result in a contract in excess of $100,000 but not in excess of $500,000 and which offer subcontracting possibilities will contain the following:

(1) The offeror represents and certifies as part of his offer that if his offer results in a contract in excess of $100,000 but not in excess of $500,000 that he ☐ accepts ☐ does not accept the Small Business Subcontracting Program clause set forth below.

(2) Enter the Small Business Subcontracting Program clause contained in FPR 1-1.710-3(b).

(b) The appropriate representation and clauses for this program to be used in soliciting invitations for bids for construction projects are contained in section G, General Conditions of the proposed contract.

### § 8-1.710-4 Review of subcontracting program.

Responsibility for reviewing and reporting on the prime contractor's subcontracting program is assigned to:

(a) Manager, VA Marketing Center, or his designee, for all contracts entered into by the marketing divisions of the center.

(b) The Assistant Administrator for Construction, or his designee, for all contracts entered into by contracting officers assigned to his office.

(c) The Chief, Purchase and Contract Division, Central Office, or his designee, for all contracts entered into by that division.

(d) The Chief, Supply or Business Services Division, or his designee, for contracts entered into by field station contracting officers.

These regulations are effective January 21, 1972.

Approved: December 21, 1971.

By direction of the Administrator.

FRED B. RHODES,
*Deputy Administrator.*

[FR Doc.71-18930 Filed 12-23-71;8:49 am]

## Chapter 18—National Aeronautics and Space Administration

### MISCELLANEOUS AMENDMENTS TO CHAPTER

The following revisions to Chapter 18 of Title 41 are prescribed as set forth below. These revisions to Chapter 18 covering changes made by Revision 3 of the NASA Procurement Regulation were effective 60 days from October 18, 1971, except for interim changes made by Procurement Regulation Directives.

### PART 18-1—GENERAL PROVISIONS

1. Section 18-1.113-2 is revised to read as follows:

**§ 18-1.113-2 Organizational conflicts of interest.**

(a) It is NASA policy to avoid situations in the procurement process where, by virtue of work or services performed for NASA, or as the result of data acquired from NASA or from industry, a particular company:

(1) Is given an unfair competitive advantage over other companies in respect to future NASA business;

(2) Is placed in a position to affect Government actions under circumstances in which there is danger that the company's judgment may be biased; or

(3) Otherwise finds that a conflict exists between the performance of work or services for the Government in an impartial manner and the company's own self-interest.

(b) It has been NASA's experience that conflicts of this type occur most frequently in circumstances where onsite contractors provide support services involving either (1) the preparation of specifications or statements of work to be incorporated into a solicitation of bids or proposals on subsequent procurements, or (2) access to the proprietary data of other companies. In such circumstances, the following clause shall be used in both the solicitation and the ensuing contract:

LIMITATION ON FUTURE CONTRACTING (JULY 1971)

(a) It is agreed by the parties to this contract that the Contractor will be restricted in its future contracting with NASA to the manner described below. Except as specifically provided in this clause, the Contractor shall be free to compete for NASA business on an equal basis with other companies.

(b) If the Contractor, under the terms of this contract, or through the performance of tasks pursuant to this contract, is required to develop specifications or statements of work and such specifications or statements of work are to be incorporated into a solicitation, the contractor shall be ineligible to perform the work described within that solicitation as a prime or first tier subcontractor under an ensuing NASA contract. Such restrictions shall remain in effect for 3 years following the date of the initial solicitation. It is further agreed that NASA will not unilaterally require the Contractor to prepare such specifications or statements of work under this contract.

(c) To the extent that the work under this contract requires access to proprietary, business confidential, or financial data of other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure and agrees not to use it to compete with such companies.

(d) The restrictions of paragraph (b) above may be waived by the Contracting Officer if it is determined that such restrictions would be detrimental to the NASA program.

The waiver provision in paragraph (d) of the clause may be exercised by the contracting officer only after receiving written approval from the Director of Procurement, NASA Headquarters. Unless the circumstances of paragraphs (b) or (c) of the clause are present, the fact that a contractor will perform research and development work under a support service contract is not reason for inclusion of the clause: *Provided*, That if the circumstances of paragraphs (b) or (c) of the clause are introduced by a task order which is to be issued under a contract whose general scope would not have otherwise required the clause, the clause will be incorporated in the basic contract prior to issuance of the task order.

(c) In those cases where the contracting officer determines that a potential organizational conflict of interest exists which is not covered by the above clause, he shall prepare a written analysis of the facts of the case, clearly indicating the area of concern and the nature of the potential conflict, together with a proposed clause appropriately restricting subsequent contracting. The proposed clause and supporting written analysis shall be forwarded to the Procurement Officer for approval in those cases where the installation has final authority for contractor source selection, and to the Director of Procurement, NASA Headquarters (Code KDR) in those cases where NASA Headquarters retains such authority. When approved, the clause shall be included in the solicitation and in the resulting contract.

(d) The rules for avoidance of organizational conflict, as such, do not impose any contractual obligation on the contractor. Such obligation is imposed only by the contract clause designed to carry out such rules. The contracting officer shall not impose restrictions on any contractor in reliance on these rules in the absence of a specific contractual agreement with the contractor.

(e) In no case shall the contract contain a provision deferring the determination of the applicability of these rules to a time after the contract has been awarded, and no contract shall contain an exclusion affecting subsequent contracting which is not terminated on a specific date, or an event certain.

2. Section 18-1.307 is revised in its entirety as follows:

**§ 18-1.307 Priorities, allocations, and allotments.**

**§ 18-1.307-1 NASA program.**

(a) *General.* In the interest of maintaining a minimum priorities and allocations system as a mobilization preparedness measure, it is national policy to require contractors to use ratings and allotment authority to support NASA procurement, to the extent required by the Bureau of Domestic Commerce (BDC). In addition to the procurement and construction of the Department of Defense, the Office of Emergency Preparedness has authorized the BDC to provide priorities authority for all procurement and construction programs of NASA. The Department of Defense is the claimant agency to the Office of Emergency Preparedness for NASA.

(b) *Implementation.* Department of Defense implementation of all rules and regulations published by BDC with respect to which the Department of Defense is delegated administrative responsibility, is contained in the DOD Priorities and Allocations Manual. NASA implementation is published in Part 18-52.

(c) *Operating responsibility.* NASA installations shall comply with the priorities and allocations program, including the Defense Materials System, as set forth in:

(1) The DOD Priorities and Allocations Manual;

(2) The rules and regulations published by BDC; and

(3) Instructions set forth in Part 18-52.

**§ 18-1.307-2 Required use of priorities, allocations, and allotments clause.**

The clause set forth below shall be inserted in or attached to all ratable contracts, except that no such clause need be attached to those purchase orders of less than $500 which are not rated. Ratable contracts are those contracts for supplies which are required to be supported with rating and allotment authority (see the DOD Priorities and Allocations Manual).

PRIORITIES, ALLOCATIONS, AND ALLOTMENTS (OCTOBER 1971)

The contractor shall follow the provisions of DMS Reg. 1 and all other applicable regulations and orders of the Bureau of Domestic Commerce in obtaining controlled materials and other products and materials needed to fill this order.

**§ 18-1.307-3 Inadequate response to solicitations.**

(a) In accordance with the policies and procedures of the Priorities and Allocations System rated contracts and purchase orders or Authorized Controlled Material Orders may be placed on selected suppliers when adequate response to a solicitation is not received. Therefore, when there are no bids or proposals received as a result of a solicitation or if the bids or proposals received do not cover the entire requirement, normal procurement procedures shall be followed in attempting to locate sources, to the extent exigencies of the procurement will permit. If such efforts are unsuccessful, and it is determined at this point in time that the procurement must be accomplished, then rated orders in the form of rated contracts, rated purchase orders or an Authorized Controlled Material Order shall be presented, to one or

more (as appropriate) selected suppliers or manufacturers qualified to produce the item or material. This will be accomplished by a cover letter signed by the contracting officer, citing the requirements of the Defense Production Act and BDC Regulation 2, and requesting timely acceptance thereof by the contractor. The letter shall also request that any reasons for rejection be promptly furnished in writing, as required by the BDC Regulations. Rated orders will be placed pursuant to appropriate negotiation authority. Contracts and purchase orders shall contain, as a minimum, the following information in addition to normal contractual requirements to be a valid rated order:

(1) DO or DX rating on contracts or purchase orders as appropriate;

(2) DMS allotment number on Authorized Controlled Material Orders;

(3) Certification "Certified for National Defense Use Under DMS Reg. 1 or BDC Reg. 2 (as appropriate);"

(4) Delivery schedule; and

(5) Signature.

(b) Rated orders or Authorized Controlled Material Orders which are rejected by suppliers shall be forwarded to BDC through appropriate priorities assistance channels, for such action as BDC considers appropriate.

3. Section 18-1.308 is revised to read as follows:

### § 18-1.308 Documentation of Procurement Actions; Maintenance and Disposition of Contract Files.

(a) Each office performing procurement and contract administration functions shall maintain official records of all actions with respect to solicitations and contracts in accordance with the provisions of this § 18-1.308, except that the application of these provisions to small purchases and other simplified procurements covered by Subpart 18-3.6, is optional. The Procurement Officer shall be responsible for the establishment, currency, completeness, and review of this documentation, and for its final disposition, in accordance with Supplement 2 of this chapter entitled "Contract File Maintenance, Closeout, and Disposition."

(b) The combination of official contract files listed in S2.101 shall contain documentation of all actions taken with respect to the contract, including final disposition, sufficient to constitute a full history of the transaction and permit ready reconstruction of all stages of the transaction, for the purposes of (1) providing a complete background to assure informed decisions at each step in the procurement, (2) supporting actions taken by personnel in the procurement cycle, (3) providing information for reviews and investigations conducted by the field installations, NASA Headquarters, the General Accounting Office, or others, and (4) furnishing essential facts in the event of litigation or Congressional inquiries.

### § 18-1.319-3 [Amended]

3a. In § 18-1.319-3(a) delete subparagraph (9)XIV.

4. Section 18-1.320 is revised to read as follows:

### § 18-1.320 Security Requirements.

When NASA contractors or their employees, subcontractors, vendors, or suppliers require access to classified information, or originate classified information, at any stage in the performance of NASA contracts, the NASA installation shall follow the security procedures set forth in NASA Management Instruction 1650.1, "Industrial Security Policies and Procedures", which implements, within NASA, the Department of Defense Industrial Security Regulation (DOD 5220.22) and its companion publication, the Department of Defense Industrial Security Manual for Safeguarding Classified Information (DOD 5220.22M).

5. Section 18-1.327 is revised in its entirety as follows:

### § 18-1.327 Use of excess aluminum in national stockpile.

### § 18-1.327-1 General.

It has been determined to be in the public interest to establish a Government Use Program requiring, to the maximum practicable extent, purchase of excess aluminum in the Government stockpile by Government contractors, directly or through subcontractors or suppliers, equal in weight to the weight of aluminum products defined in § 18-1.327-2, purchased by the Government or used in the production of items delivered under Government contracts. In implementation of this program, all contracts in the categories listed below, shall contain the clause in § 18-1.327-2, or, in the case of construction contracts, the clause as modified in § 18-1.327-3:

(a) Purchases in the amount of $500 or more of aluminum products as defined in § 18-1.327-2.

(b) Purchases of supplies of construction in the amount of $25,000 or more where the aluminum products used in the production of items delivered under the contract or in the production of items incorporated in construction performed under the contract are estimated by the contracting officer to approximate 10,000 pounds or more.

These provisions do not apply to procurements of supplies or construction effected by purchasing activities located outside, for use outside, the United States, its possessions, and Puerto Rico. These provisions are applicable to new procurements that are effected by modifications to an existing contract. In such cases, only the new procurement portion of the total contract is considered in determining whether the clause is required and, if required, the extent of its applicability.

### § 18-1.327-2 Contract clause.

REQUIRED SOURCE FOR ALUMINUM INGOT (OCTOBER 1971)

(a) As used in this clause (i) the term "aluminum products" means aluminum or aluminum alloy in its last commercial form delivered by the producer, mill, or foundry as an end item under this contract, or used to produce an end item under this contract, such as by way of example (but not limited to) wrought aluminum products; forgings and castings; rolled bar, rod, structural shapes, and bare wire; aluminum conductor steel reinforced and bare aluminum cable; insulated or covered wire or cable; extruded bar, rod, shapes and tube (extruded, drawn and welded tube); sheet, strip and plate; pig or ingot; granular or shot; slab; foil; and powder, flake or paste; and (ii) the term "supplier" includes vendors, materialmen, warehousemen, distributors or manufacturers of aluminum products or other items containing aluminum in any form.

(b) Except as provided in (c) below, the Contractor (or subcontractor or supplier, where applicable) shall purchase from the General Services Administration (GSA) a quantity of aluminum pig or ingot equal in weight to the gross weight of aluminum products constituting, or used in the production of, the items to be delivered under this contract. Such purchase shall be in accordance with the terms and conditions of sale prescribed therefor by GSA. Each order placed with GSA pursuant to this clause shall state that it is placed in accordance therewith and shall be sent to:

Director, Stockpile Disposal Division, Property Management and Disposal Service, General Services Administration, Washington, DC 20405.

Aluminum purchased pursuant to this clause may be used in any manner the Contractor desires and need not be earmarked in any way after delivery to the Contractor, nor physically incorporated in the items to be delivered hereunder.

(c) To the extent the Contractor (or subcontractor or supplier, where applicable) places subcontracts or purchase orders for aluminum products or for items other than aluminum products and containing aluminum in any form, he is not required with respect to such subcontracts or purchase orders to purchase aluminum from the GSA. However, he agrees to incorporate this clause:

(i) In any such subcontract or purchase order for aluminum products in the total amount of $500 or more, or

(ii) In any such subcontract or purchase order in the total amount of $25,000 or more for any items containing aluminum in any form where the quantity of aluminum products used in the production of such items is estimated to be 10,000 pounds or more.

(d) The requirements of this clause are not intended to preclude basic agreements or other arrangements between the parties to any contracts (subcontracts or purchase orders) subject to this clause that will permit reference in such contracts to the applicability of the requirements of this clause, without the need for physically incorporating this clause in its entirety in each affected subcontract or purchase order.

(e) In placing subcontracts and purchase orders subject to the clause, the Contractor and all subcontractors and suppliers are authorized and encouraged to consolidate aluminum product purchases hereunder with other rated order purchases (ACM, DO, or DX) and other identifiable Government orders so as to apply the requirements of this clause to the total purchase. Otherwise, it is required either that aluminum product purchases subject to this clause be separately made, or, if consolidated with other aluminum product purchases, that the quantities (by weights) of aluminum products subject to this clause be separately set forth in the purchase document and identified as subject to this clause.

(f) Required purchases of aluminum from GSA by Contractors, subcontractors, or suppliers, shall be made within 90 days from the date (i) of final delivery pursuant to a contract, subcontract, or purchase order containing the requirements of this clause, or (ii) when the Contractor, subcontractor or supplier, has completed deliveries of aluminum products aggregating 100,000 pounds whichover is earlier: *Provided, however,* That any Contractor, subcontractor or supplier, may defer required purchases of aluminum for the purpose of consolidating purchases to meet the requirement of two or more contracts, subcontracts or purchase orders containing this clause until 90 days after the aggregate purchase requirements of such contracts, subcontracts or purchase orders equal the minimum order quantities established by GSA (approximately 10,000 pounds or more). Successive consolidated purchases thereafter may be made at any time within 90-day intervals. The 90-day limitations may be extended upon approval in writing by the GSA.

(g) Certain producers of aluminum have entered into contracts with GSA effective as of November 1, 1965, under which they have made long term commitments to purchase certain minimum and maximum quantities of aluminum from that Agency. The obligations of such producers under this clause shall be governed by the provisions of those contracts to the extent of any inconsistency.

(h) All purchases made pursuant to this clause, other than from GSA, are required to be rated (ACM, DO, or DX) in accordance with DMS Regulation 1, DMS Order 3, and DPS Regulation 1, and are subject to the provisions of those regulations concerning the maintenance of records, rights of inspection and audit, and the penalty provisions contained therein for willful noncompliance.

### § 18-1.327-3 Construction.

The clause contained in § 18-1.327-2 shall be modified by deletion of paragraph (c) thereof and substitution of the following paragraph in all contracts for construction:

(c) To the extent the Contractor or subcontractor or supplier, where applicable places subcontracts or purchase orders for aluminum products, or for items other than aluminum products and containing aluminum in any form, or for construction where the subcontractor is to furnish materials containing aluminum in any form, he is not required with respect to such subcontracts or purchase orders to purchase aluminum from the GSA. However, he agrees to incorporate this clause, except paragraph (d):

(i) In any such subcontract or purchase order for aluminum products in the total amount of $500 or more, or

(ii) In any such subcontract or purchase order in the total amount of $25,000 or more for any items containing aluminum in any form where the quantity of aluminum products used in the production of such items is estimated to be 10,000 pounds or more, or

(iii) Construction, where the materials are to be supplied by the subcontractor and the total value of such materials containing aluminum (in any form) is estimated to be $25,000 or more, and where the quantity, of aluminum products used in the production of such items is estimated to be 10,000 pounds or more.

6. Section 18-1.361 is added:

### § 18-1.361 Contractor cost reduction programs.

Many aerospace contractors conduct independent Cost Reduction Programs similar to the NASA Cost Reduction Program. The cost saving achievements of these programs are of significant benefit to the Government. NASA installations should encourage contractors to report significant cost reductions which are related to individual NASA contracts. NASA Form 1105 or a brief narrative statement may be used by contractors to report cost reduction program achievements. Contractors should forward reports which they desire to be included in the NASA Cost Reduction Report to the President, directly to the Director of Procurement, NASA Headquarters (Code KDP-3).

7. Section 18-1.701-1 is revised to read as follows:

### § 18-1.701-1 Small business concern.

(a) (1) *General definition.* A small business concern is a concern that is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and with its affiliates, can further qualify under the criteria set forth in subparagraphs (2) and (3) of this paragraph. "Concern" means any business entity organized for profit with a place of business in the United States, its possessions, Puerto Rico, or the Trust Territory of the Pacific Islands, including but not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of a procurement of a product or service that could be classified into two or more industries with different size standards, the size standard to be used in determining a bidder's size status shall be that for the industry whose definition best describes the principal nature of the product or service being procured.

(2) *Industry small business size standards.* In addition to being independently owned and operated, and not dominant in the field of operation in which it is bidding on Government contracts, a small business concern in order to qualify as such must meet the criteria established for the industries set forth below. "Annual receipts" means the gross income (less returns and allowances, sales of fixed assets and interaffiliate transactions) of a concern (and its affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived, as entered on its regular books of account for its most recently completed fiscal year (whether on a cash, accrual, completed contracts, percentage of completion, or other acceptable accounting basis) and reported or to be reported to the U.S. Treasury Department, Internal Revenue Service, for Federal income tax purposes. If a concern has been in business less than 1 year, its annual receipts shall be computed by determining its average weekly receipts for the period in which it has been in business and multiplying such figure by 52. If a concern has 50 percent or more of its annual receipts attributable to business activity within Alaska, then whenever the size criterion of "annual receipts" is used in any size definition contained in this subpart, the stated dollar limitation for the purpose of qualifying as a small business concern shall be increased by 25 percent of the indicated amount.

(i) *Construction industries.* For construction, alteration, or repair (including painting and decorating), of buildings, bridges, roads, or other real property, the average annual receipts of the concern and its affiliates for its preceding 3 fiscal years must not exceed $7,500,000. For dredging, the average annual receipts of the concern and its affiliates for its preceding 3 fiscal years must not exceed $5 million. Also, in order to be eligible for a small business set-aside award on dredging contracts, the firms must perform the dredging of at least 40 percent of the yardage advertised in the plans and specifications with dredging equipment owned by the bidder or obtained from another small business dredging concern.

(ii) *Manufacturing industries*—(a) *Food canning and preserving industry.* For food canning and preserving, the number of employees of the concern and its affiliates must not exceed 500 persons, exclusive of "agricultural labor" as defined in 26 U.S.C. 3306(k).

(b) *Refined petroleum products.* Any concern bidding on a contract for a refined petroleum product other than paving mixture and blocks, asphalt felts and coatings, lubricating oils and greases, or products of petroleum and coal, not elsewhere classified, is classified as small if (1) (i) its number of employees does not exceed 1,000 persons; (ii) it does not have more than 30,000 barrels-per-day crude oil or bona fide feed stock capacity from owned or leased facilities or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product for refined product basis), or a throughput or other form of processing agreement with the same effect as though such facilities had been leased; and (iii) the product to be delivered in the performance of the contract will contain at least 90 percent components refined by the bidder from either crude oil or bona fide feed stocks: *Provided, however,* That a petroleum refining concern which meets the requirements in (i) and (ii) of this (b) (1) may furnish the product of a refinery not qualified as small business if such product is obtained pursuant to a bona fide exchange agreement, in effect on the date of the bid or offer, between the bidder or offeror and the refiner of the product to be delivered to the Government which require exchanges in a stated ratio on a refined petroleum product for a refined petroleum product basis, and precludes a monetary settlement, and that the products exchanged for the products offered and to be delivered to the Government meet the requirement in (iii) of this (b) (1): *And, provided further,* That the exchange of products for products to be delivered to the Government will be completed within 90 days after expiration of the delivery period under the Government contract and that any product furnished pursuant to a bona fide exchange

agreement must be for delivery in the same Petroleum Administration for Defense (PAD) District as that in which the small refinery is located; or (2) its number of employees does not exceed 500 persons and the product to be delivered to the Government has been refined by a concern which qualifies under (b)(1).

(c) *Pneumatic tires.* For passenger cars, motorcycles, truck, bus, and off-the-road pneumatic tires, a concern is classified as small when bidding on a contract for the above listed items: *Provided,* That (1) the value of the above types of pneumatic tires which it manufactured in the United States during the preceding calendar year is more than 50 percent of the value of its total worldwide manufacture, (2) the value of these pneumatic tires which it manufactured worldwide during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during said period, and (3) the value of the principal products which it manufactured or otherwise produced or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period. This section does not apply to procurements for the repairing and/or retreading of pneumatic aircraft tires which, by reason of the extent and nature of the equipment and operations required, is considered for size standards purposes to be manufactured within the meaning of Standard Industrial Classification Industry No. 3011, Tires and Inner Tubes.

(d) *Passenger cars.* A company is classified as small if it is bidding on a contract for passenger cars: *Provided,* That (1) the value of the passenger cars which it manufactured or otherwise produced in the United States during the preceding calendar year is more than 50 percent of the value of its total worldwide manufacture or production of such passenger cars, (2) the value of the passenger cars which it manufactured or otherwise produced during the preceding calendar year was less than 5 percent of the total value of all such cars manufactured or produced in the United States during the said period, and (3) the value of the principal products which it manufactured or otherwise produced or sold during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

(e) *Rebuilding of machinery on a factory basis.* Any concern bidding on a contract for the rebuilding of machinery or equipment on a factory basis is classified as small business provided, the purpose of the rebuilding is to restore such machinery or equipment to as serviceable and as like new condition as possible and the number of employees does not exceed the number of employees specified for the classification code applicable to the manufacturer of the original item. The size standard is not limited to concerns who are manufacturers of the original item but is applicable to all bidders or offerors. The term "rebuilding on a factory basis" as used in this subsection does not include ordinary repair services such as those involving minor repair and/or preservation operations.

(f) *Manufacturing industries listed in § 18-1.701-4.* For a product classified within an industry listed in § 18-1.701-4, the number of employees of the concern and its affiliates must not exceed the small business size standard established therein for that industry.

(g) *Manufacturing industries not listed in § 18-1.701-4.* For a product classified within an industry not set forth in this paragraph or in § 18-1.701-4, the number of employees of the concern and its affiliates must not exceed 500 persons.

(iii) *Nonmanufacturing industries.* For a product not manufactured by the concern submitting a bid or proposal, other than for a construction or service contract, the number of employees of that concern must not exceed 500 persons, and in the case of a procurement set aside for small business (see § 18-1.706) or involving equal low bids (see § 18-2.407-6), or otherwise involving the preferential treatment of small business, it must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its possessions, Puerto Rico, or the Trust Territory of the Pacific Islands by small business concerns. However, if the goods to be furnished are wool, worsted, knitwear, duck, or webbing, nonmanufacturers (dealers and converters), shall furnish such products which have been manufactured or produced by a small weaver (small knitter for knitwear) and, if finishing is required, by a small finisher. If the product to be furnished is thread, nonmanufacturers (dealers and converters) shall furnish thread which has been finished by a small finisher. (Finishing of thread is defined as all dyeing, bleaching, glazing, mildew proofing, coating, waxing, and other applications required by the pertinent specification, but excluding mercerizing, spinning, throwing, or twisting operations.)

(iv) *Service industries.* (a) For services not elsewhere defined in this subpart the average annual receipts of the concern and its affiliates for the preceding 3 fiscal years must not exceed $1 million.

(b) Any concern bidding on a contract for engineering services (other than marine engineering services), motion picture production, or motion picture services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(c) Any concern bidding on a contract for naval architectural and marine engineering services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $6 million.

(d) Any concern bidding on a contract for janitorial and custodial services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(e) Any concern bidding on a contract for base maintenance is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million. Base maintenance is defined in footnote 7 at the end of § 18-1.701-4.

(f) Any concern bidding on contracts for marine cargo handling services is classified as small if its annual receipts do not exceed $5 million for the preceding 3 fiscal years.

(g) Any concern bidding on a contract for food services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(h)(1) Any concern bidding on a contract for laundry services including linen supply, diaper services, and industrial laundering, is classified small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(2) Any concern bidding on a contract for cleaning and dyeing including rug cleaning services is classified small if its average annual receipts for its preceding 3 fiscal years do not exceed $1 million.

(i) Any concern bidding on a contract for computer programing services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(j) Any concern bidding on a contract for flight training services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(k) Any concern bidding on a contract for motorcar rental and leasing services or truck rental and leasing services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(l) Any concern bidding on a contract for tire recapping services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(m) Any concern bidding on a contract for data processing services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(n) Any concern bidding on a contract for computer maintenance services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(v) *Transportation industries*—(a) *General.* Except as provided in (b) and (c) of this subdivision (v), for passenger or freight transportation the number of employees of the concern and its affiliates must not exceed 500 persons.

(b) *Air transportation.* For air transportation, the number of employees of the concern and its affiliates must not exceed 1,000 persons.

(c) *Trucking (local and long distance), warehousing, packing and crating, and/or freight forwarding.* For trucking (local and long distance), warehousing, packing and crating, and/or freight forwarding, the annual receipts of the concern and its affiliates must not

exceed $5 million. No such concern, however, will be denied small business status for the purpose of Government procurement solely because of its contractual relationship with a large interstate van line if the concern's annual receipts have not exceeded $5 million during its most recently completed fiscal year.

(vi) *Research, development or testing industries.* For research, development, or testing, which requires delivery of a manufactured product, a concern must—

(*a*) Qualify as a small business manufacturer within the meaning of subdivision (ii) of this subparagraph for the industry in which the product is classified, or

(*b*) Qualify as a small business nonmanufacturer within the meaning of *c* above. For research, development, or testing, which does not require delivery of a manufactured product, the number of employees of the concern and its affiliates must not exceed 500 persons.

(3) *Small business subcontractors.* In connection with subcontracts, of $2,500 or less, any concern will be considered a small business concern if it, with its affiliates, employs not more than 500 employees. In connection with subcontracts exceeding $2,500, any concern shall be considered a small business concern if it qualifies as such under subparagraphs (1) and (2) of this paragraph.

(b) *Dominance in field of operations.* A concern "is not dominant in its field of operations" when it does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration is given to all appropriate factors including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents and license agreements, facilities, sales territory, and nature of business activity.

(c) *Affiliates.* Business concerns are affiliates of each other when either directly or indirectly (1) one concern controls or has the power to control the other or (2) a third party controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships: *Provided, however,* That restraints imposed on a franchisee by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his effort, commensurate with ownership, and bears the risk of loss or failure.

(d) *Number of employees.* In connection with the determination of small business status, "number of employees" means the average employment of any concern, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary, or any other basis during the pay period ending nearest the last day of the third month in each calendar quarter for the preceding four quarters. If a concern has not been in existence for four calendar quarters, "number of employees" means the average employment of such concern and its affiliates during the period such concern has been in existence based on the number of persons employed during the pay period ending nearest the last day of each month.

(e) *Small business certificate.* A small business certificate is a certificate issued by SBA pursuant to the authority contained in sections 3 and 8(b)(6) of the Small Business Act certifying that the holder of the certificate is a small business concern for the purpose of Government procurement and in accordance with the terms of the certificate.

8. Section 18–1.1402–3 is revised to read as follows:

**§ 18–1.1402–3 Procedures.**

(a) In each procurement which may involve the ocean transportation of supplies subject to the requirements of the Cargo Preference Act, the contracting officer shall obtain assistance from the transportation officer of the field installation in developing appropriate shipping instructions and delivery terms for inclusions in the invitations for bids or requests for proposals.

(b) *Contract clause.* All contracts which may involve the ocean transportation of supplies subject to the requirements of the Cargo Preference Act shall contain the following clause except where the ocean transportation will be procured by the Government:

PREFERENCE FOR U.S.-FLAG VESSELS (OCTOBER 1971)

(a) After the date of award of this contract, the Contractor shall use U.S.-flag services, and no others, in the overseas transportation by ocean of any supplies to be furnished hereunder: *Provided, however,* That if such services are not available for timely shipment at fair and reasonable rates, the Contractor shall so notify the Contracting Officer and request authorization in writing to ship by foreign-flag ocean carriers or for designation of available U.S.-flag services. The contract price shall be equitably adjusted to reflect the difference in cost to the Contractor, if any, between shipping by U.S.-flag services and by foreign-flag services.

(b) Promptly after each shipment the contractor will furnish the Contracting Officer one copy of the applicable shipping document indicating for each shipment made under this contract the name and nationality of the vessel and the measurement tonnage (40 cubic feet equals 1 measurement ton) of dry cargo, or long tons (2,240 pounds equals 1 long ton) of bulk liquid cargo shipped on such vessels.

(c) The Contractor shall include the substance of this clause, including this paragraph (c) in each subcontract or purchase order hereunder which may involve ocean transportation.

(c) In the event of notification by the contractor in accordance with the clause set forth in paragraph (b) of this section that a private U.S. vessel is not available, the contracting officer will seek assistance from the transportation officer of the field installation.

(d) For purposes of determining the availability of private U.S. vessels at fair and reasonable rates, rates filed and published in accordance with the requirements of the Federal Maritime Commission shall be accepted as fair and reasonable. When applicable rates are not named in published tariffs, a determination as to whether the rates are fair and reasonable shall be obtained from the U.S. Maritime Administration.

(e) If shipment by foreign-flag commercial vessel is authorized by the contracting officer in accordance with the clause set forth in paragraph (b) of this section, the contracting officer shall ensure that, where appropriate, the contract price is equitably adjusted.

(f) A register will be established and maintained by the transportation officer in each field installation to reflect adherence to the Cargo Preference Act. Where there is no transportation officer available, it will be maintained by the procurement office. Such registers shall contain pertinent details of ocean shipments, including, but not limited to, the countries of origin and destination of shipments, commodity descriptions, and gross weight maintained separately by category of vessel (dry bulk carrier, dry cargo liner, and tanker). Registers shall be maintained on a current basis and organized so that adherence to the Cargo Preference Act can be ascertained at all times. Insofar as practicable, compliance with the 50 percent minimum requirements of the Cargo Preference Act shall be maintained on a quarter-year basis. Any deficiencies to maintain such compliance shall be corrected by the end of the fiscal year.

(g) On the basis of the registers maintained in accordance with paragraph (f) of this section, reports reflecting actual ocean shipments (except any shipments via the Military Sea Transportation Service) shall be submitted to the Operating Agreements and Traffic Division, Maritime Commission, Department of Commerce, Washington, D.C. 20235, on a quarterly basis. Such report will be made by the transportation officers and contracting officers responsible for maintaining the registers described in paragraph (f) of this section. The format to be used is set forth below:

Report of carriage of NASA cargo for the quarter.....to.....

Carrier: ( ) Dry bulk, in L/T; ( ) Dry cargo liner, in M/T; ( ) Tanker in L/T

| From [1] | To [1] | Total | Private U.S. vessels | Government vessels | | Foreign flag vessels | |
|---|---|---|---|---|---|---|---|
| | | | | Used due to non-availability of private U.S. vessels. | Other | Used due to non-availability of private U.S. vessels. | Other |

[1] Identify by Roman numeral corresponding to geographic areas listed in § 18-1.1402-1(d).

## PART 18-2—PROCUREMENT BY FORMAL ADVERTISING

1. Section 18-2.201-1(a) is revised to read as follows:

### § 18-2.201-1 Supply and service contracts.

(a) *Supply and service contracts, including construction.* For supply and service contracts, including construction, invitation for bids shall contain the following information if applicable to the procurement involved.

(1) Invitation number.

(2) Name and address of issuing installation.

(3) Date of issuance.

(4) Date, hour, and place of opening. (Prevailing local time shall be used. See § 18-2.202-1 concerning bidding time.) The exact location of the bid depository, including the room and building numbers, and a statement that hand-carried bids must be deposited therein.

(5) Number of pages.

(6) Requisition or other purchase authority and appropriation and accounting data.

(7) A description of supplies or services to be furnished under each item, in sufficient detail to permit full and free competition. Reference to specifications shall include identification of all amendments or revisions thereof, applicable to the procurement and dates of both the specifications and the revisions (see § 18-1.1201(a)). Such description shall comply with Subpart 18-1.12, relating to specifications.

(8) The time of delivery or performance (see § 18-1.305).

(9) Permission, if any, to submit telegraphic bids (see § 18-2.202-2).

(10) Permission, if any, to submit alternate bids, including alternate materials or design and the basis upon which award will be made in such case.

(11) The "Patent Royalties" clause set forth in § 18-9.102-2(f)(1).

(12) Bid guarantee, performance bond, and payment bond requirements, if any (see Subpart 18-10.1, and § 18-16.805). If a bid bond or other form of bid guarantee is required, the solicitation shall include the provisions required by § 18-10.102-4.

(13) Any offer by the Government to provide Government production and research property for the performance of the contract, and any special provisions relating thereto (see Subpart 18-13.3).

(14) Description of the procedures to be followed in obtaining permission to use Government production and research property and in eliminating competitive advantage from the rent-free use thereof (see Subparts 18-13.4 and 18-13.5).

(15) When considered necessary by the contracting officer, a requirement that all bids must allow a period for acceptance by the Government of not less than a minimum period stiplated in the invitation for bids, and that bids offering less than the minimum stipulated acceptance period will be rejected. The minimum period so stipulated should be no more than reasonably required for evaluation of bids and other preaward processing. To accomplish the foregoing, a paragraph substantially as follows may be included in the schedule or other appropriate place in the Invitation for Bids:

BIDS ACCEPTANCE PERIOD (JULY 1965)

Bids offering less than _____ days for acceptance by the Government from the date set for opening of bids will be considered nonresponsive and will be rejected.

In construction contracts, a 30-day bid acceptance period is normal, but may be less, and in unusual circumstances a period of 60 days may be specified.

(16) In unusual cases, where bidders are required to have special technical qualifications due to the complexity of the equipment being purchased or for some other special reason, a statement of such qualifications.

(17) Any authorized special provisions, necessary for the particular procurement, relating to such matters as progress payments, patent licenses, liquidated damages, "Buy American Act," etc.

(18) Any additional contract clauses, provisions, or conditions required by law or this chapter.

(19) Any applicable wage determinations of the Secretary of Labor (in the case of procurements of supplies which also involve the performance of construction, alteration or repair work, see § 18-12.402; in the case of service contracts, see Subpart 18-12.11).

(20) A statement of the exact basis upon which bids will be evaluated and award made, to include any Government costs or expenditures (other than bid prices) to be added or deducted, or any provision for escalation as factors for evaluation.

(21) If the schedule contains a price escalation clause, the following provision:

Evaluation of bids subject to escalation. Not withstanding the provisions of the clause entitled "Price Escalation," bids shall be evaluated on the basis of quoted prices without the allowable escalation being added. Bids which provide for a ceiling lower than that stipulated in the clause will also be evaluated on this basis. Bids which provide for escalation that may exceed the maximum escalation stipulated in the clause, or which limit or delete the downward escalation stipulated in the clause shall be rejected as nonresponsive. (July 1963)

(22) Where Standard Form 33 (Solicitation, Offer, and Award) is not used and where not contained elsewhere in the invitation, a provision as follows:

ORDER OF PRECEDENCE (JULY 1963)

In the event of an inconsistency between provisions of this Invitation for Bids, the inconsistency shall be resolved by giving precedence in the following order: (a) The Schedule; (b) Bidding Instructions, Terms and Conditions of the Invitation for Bids; (c) General Provisions; (d) other provisions of the contract, whether incorporated by reference or otherwise; and (e) the Specifications.

(23) When considered necessary by the contracting officer to prevent practices prejudicial to fair and open competition, such as improper kinds of multiple bidding, a requirement that each bidder submit with his bid an affidavit concerning his affiliation with other concerns. To accomplish the foregoing, a paragraph substantially as follows may be included in the Schedule or other appropriate place in the invitation for bids:

AFFILIATED BIDDERS (JULY 1963)

(a) Business concerns are affiliates of each other when either directly or indirectly (i) one concern controls or has the power to control the other, or (ii) a third party controls or has the power to control both.

(b) Each bidder shall submit with his bid an affidavit containing information as follows:

(i) Whether the bidder has any affiliates;

(ii) The names and addresses of all affiliates of the bidder; and

(iii) The names and addresses of all persons and concerns exercising control or ownership of the bidder and any or all of his affiliates, and whether as common officers, directors, stockholders holding controlling interest, or otherwise.

Failure to furnish such an affidavit may result in rejection of the bid.

Failure to furnish such an affidavit shall be treated as a minor informality or irregularity (see § 18-2.405).

(24) Directions for obtaining copies of any documents, such as plans, drawings, and specifications, which have been incorporated by reference (see § 18-1.1203).

(25) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a requirement for inclusion of "county" as part of bidder's address will be inserted.

(26) A provision covering the required source for jeweled bearings (see § 18-1.315).

(27) [Reserved]

(28) Information regarding bidding material which shall include Instructions to Bidders, the Bid Form, the Contract Form, the General Provisions, any conditions, the specifications and drawings (see § 18-1.1203).

(29) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a

provision covering parent company and employer identification number (see § 18-1.114).

(30) If the contract is to be conditioned on the availability of funds, a clear statement of such condition (see § 18-1.318).

(31) [Reserved]

(32) In accordance with § 18-1.1208, a provision concerning the use of new material (except in the case of construction) and a provision concerning the use of former Government surplus property.

(33) The Certificate of Independent Price Determination as required by § 18-1.115.

(34) Quality assurance requirements applicable to the procurement in accordance with Subpart 18-1.50.

(35) [Reserved]

(36) A statement that prospective bidders may submit inquiries by writing or calling (collect calls not accepted) (insert name and address; telephone area code, number, and extension).

(37) When using Standard Form 33, on the face thereof or on a cover sheet, a brief description of the items being procured, unless the contracting officer considers such to be unnecessary or impractical.

(38) A statement that prospective bidders should indicate in the bid the address to which payment should be mailed, if such address is different from that shown for the bidder. (Contracting officers shall include this information in all resultant contracts which are to be administered by a Defense Contract Administration Services Regional Office.)

(39) A provision covering the required source for aluminum (see § 18-1.327).

(40) [Reserved]

(41) Time of delivery or performance requirements (see § 18-1.305).

(42) A statement that the "Contract Work Hours Standards Act—Overtime Compensation" clause is not applicable to contracts if the aggregate amount of the bid is $2,500 or less (see § 18-12.302-2).

(43) [Reserved]

(44) In procurements involving total set-asides for small business, the notice set forth in § 18-1.706-5(c).

(45) In procurements involving partial set-asides for small business, the notice requirements as set forth in § 18-1.706-6(c).

(46) In procurements involving partial set-asides for labor surplus area concerns, the notice requirements as set forth in § 18-1.804-2(b).

(47) When the procurement involves a set-aside for small business concerns, the following provision:

This is a _____ percent set-aside for small business concerns.

(48) When the procurement involves a set-aside for labor surplus area concerns, the following provision:

This is a _____ percent set-aside for labor surplus area concerns.

(49) If the resulting contract is expected to exceed $100,000, the "Contractor and Subcontractor Certified Cost or Pricing Data" clause (see § 18-3.807-4).

(50) Statement that the selected contractor will or will not require access to classified information (see NASA Management Issuance 1650.1, paragraph 12).

(51) Statement that special instructions for waived inventions will not be applied (see § 18-9.101-3(a)).

(52) If leases are involved, the "Facilities Nondiscrimination" clause set forth in §§ 18-1.350-2 and 18-1.350-4.

(53) If the "Equal Employment" clause is not applicable to the proposed procurement (see § 18-12.803), or if the proposed procurement is exempted from the clause (see § 18-12.804), include a statement substantially as follows:

Representation No. 6, "Equal Opportunity" of Standard Form 33 is not applicable to this Procurement. (July 1965)

(54) A reference prominently placed in the invitation to paragraph 8 entitled, "Late Offers and Modifications or Withdrawals", of Standard Form 33A.

(55) The "Certification of Nonsegregated Facilities" set forth in § 18-12.802-4(c).

(56) The notice regarding the requirement for "Certification of Nonsegregated Facilities" as prescribed in § 18-12.802-4(b).

(57) Where Standard Form 33 (Solicitation, Offer, and Award) or Standard Form 19-B (Representations and Certifications) (Construction Contract) is not used, insert the "Equal Opportunity" representation set forth in § 18-12.802-4(a).

(58) Invitations for Bid which will result in the placement of rated orders or Authorized Controlled Material Orders shall contain the following statement:

Contracts or purchase orders to be awarded as a result of this solicitation shall be assigned a (DX or DO as appropriate) rating or DMS allotment number (as appropriate) in accordance with the provisions of BDC Regulation 2 and/or DMS Regulation 1.

* * * * *

## PART 18-3—PROCUREMENT BY NEGOTIATION

1. Section 18-3.401 and 18-3.402 are revised to read as follows:

### § 18-3.401 Types of contracts.

(a) To provide the flexibility needed in the purchase of a large variety and volume of complex equipment, supplies, and services, including research and development, a wide selection of types of contracts is available to the contracting parties. The respective contract types vary as to (1) the degree and timing of responsibility assumed by the contractor for the costs of performance, and (2) the amount and type of profit incentive offered the contractor to achieve or exceed specified standards or goals. With regard to degree of cost responsibility, the various types of contracts may be arranged in order of decreasing contractor responsibility for the costs of performance. At one end is the firm fixed-price contract under which the parties agree that the contractor assumes full cost responsibility. At the other end of this range is the cost-plus-a-fixed-fee contract where profit, rather than price, is fixed and the contractor's cost responsibility is therefore minimal. In between are the various incentive contracts which provide for varying degrees of contractor cost responsibility, depending upon the degree of uncertainty involved in contract performance.

(b) Pursuant to the authority of 10 U.S.C. 2306, a contract negotiated under this Part 18-3 may be of any type or combination of types described herein which will promote the best interests of the Government, subject to the restrictions described below. Types of contracts not described herein shall not be used, unless pursuant to a deviation under § 18-1.109. The cost-plus-a-percentage-of-cost system of contracting shall not be used. Accordingly, all prime contracts (including letter contracts) on other than a firm fixed-price basis shall prohibit cost-plus-a-percentage-of-cost subcontracts by an appropriate clause.

### § 18-3.402 Basic principles for use of contract types.

(a) *General.* (1) Profit, generally, is the basic motive of business enterprise. Both the Government and its contractors should be concerned with harnessing this motive to work for the truly effective and economical contract performance required in the national interest. To this end, the parties should seek to negotiate and use the contract type best calculated to stimulate outstanding performance. The objective should be to insure that outstanding effective and economical performance is met by high profits, mediocre performance by mediocre profits, and poor performance by low profits or losses. The proper application of these objectives on a contract by contract basis should normally result in a range of profit rates.

(2) Success in harnessing the profit motive begins with the negotiation of sound performance goals and standards. This objective is met if the contractor either benefits or loses in relation to achieving or failing to achieve realistic targets. Where award is based on effective price competition, there is reasonable assurance that the contract price represents a realistic pricing standard, including a profit factor which reflects an appropriate return to the contractor for the financial risk assumed in undertaking performance at the competitive price. In the absence of competitive forces, however, the contract type selected should provide for a profit factor that will tie profits to the contractor's efficiency in controlling costs and meeting desired standards of performance, reliability, quality, and delivery. Therefore, in noncompetitive situations, the degree to which available cost estimates are realistic, and the degree of uncertainty affecting the work to be performed, should be carefully considered in determining which type of contract should be selected and how it should be used—especially where the contractor is to assume substantial cost responsibility.

(3) The policies in subparagraphs (1) and (2) of this paragraph require that the contractor assume a reasonable degree of cost responsibility as early in contract performance as is possible. This can be achieved only through vigorous contract administration and effort on the part of both parties to assure timely pricing. Particularly in fixed-price type contracts providing for price revisions, delays in pricing actions by either party may distort the type of contract which has been agreed upon, and such delays must be avoided.

(4) Where a contract type providing for a reasonable degree of contractor cost responsibility cannot be negotiated on a timely basis, due to the contractor's unwillingness to assume reasonable risk, profits should be negotiated so as to reflect this fact (see § 18-3.808).

(5) Notwithstanding the validity of profit as a motivating factor in general, there are situations, particularly in the early stages of research and development, in which the profit motive may be secondary. Harnessing the profit motive at the early stages of such procurements may not be consistent with achieving desired technical objectives. The contracting officer's objective should still be "effective and economical performance," but the relative weight of these factors must be kept in balance. Of course, outstanding performance can still be rewarded under a research and development contract, by proper application of incentive techniques.

(b) *Preferred contract types.* (1) The firm fixed-price contract is the most preferred type for harnessing the profit motive because the contractor accepts full cost responsibility, and the relationship between cost control and profit dollars is established at the outset of the contract. Accordingly, whenever a reasonable basis for firm pricing exists (see § 18-3.404-2), the firm fixed-price contract shall be used, because its use under these circumstances will provide the contractor with a maximum profit incentive to control the costs of performance. However, the contracting officer must be alert to the fact that in certain situations the use of special contract incentive provisions may be more appropriate. While maximum incentive to a contractor exists in a firm fixed-price contract, the basis for the application of firm fixed-price is the knowledge that the price has been arrived at either through competition or through sound pricing techniques which keep pricing uncertainties to a minimum. In those situations in which price competition is not present, and (i) where the cost or pricing data available does not permit sufficiently realistic estimates of the probable cost of performance, or (ii) where uncertainties surrounding the contract performance cannot be sufficiently identified to evaluate their impact on price, the use of a type of contract other than firm fixed-price should be considered. For example, a profit incentive to control costs can be achieved through use of the fixed-price incentive contract, and to a lesser degree, the cost-plus-incentive-fee contract, where appropriate target costs and incentive arrangements can be negotiated.

(2) In many procurement situations, particularly in research and development and sometimes in production, objectives other than cost control may also be significant. Such objectives may be (i) performance with a view toward a better or more reliable product; (ii) delivery when supplies or services are urgently required to meet operational needs; or (iii) a combination of any of the objectives of cost, performance, and delivery (see § 18-3.407). A contractual arrangement can be used to provide incentive to obtain these objectives in addition to effective cost control. Thus, by providing for increased profit for exceeding predetermined target levels and decreased profit for failing to meet target levels, an additional incentive is created for maximum effort on the part of the contractor to accomplish the desired objectives. When additional objectives are made a part of the various types of incentive contracts described in this Subpart 18-3.4 (§§ 18-3.404-4, 18-3.405-4, and 18-3.405-5), particular care must be taken by the contracting officer to maintain an appropriate balance between the various incentives, by weighting incentive objectives to apportion the total incentive profits or fee in accordance with the emphasis desired by, and maximum benefit to, the Government. Without proper balancing of the incentive objectives, the Government may receive at unwarranted expense, a product of greater quality than desired or delivery before needed. Additional guidance on the selection, approval and administration of incentive contract provisions is set forth in § 18-3.450.

2. Sections 18-3.404-1 through 18-3.404-4 are revised to read as follows:

### § 18-3.404 Fixed-price contracts.

### § 18-3.404-1 General.

Fixed-price contracts are of several types so designed as to facilitate proper pricing under varying circumstances. The fixed-price type contracts provide for a firm price, or under appropriate circumstances may provide for an adjustable price, for the supplies or services which are being procured. In providing for an adjustable price, the contract may fix a ceiling price or target price (including target cost). Unless otherwise provided in the contract, any such ceiling or target price is subject to adjustment only if required by the operation of any contract clause which provides for equitable adjustment, escalation, or other revision of the contract price upon the occurrence of an event or a contingency.

### § 18-3.404-2 Firm fixed-price contract.

(a) *Description.* The firm fixed-price contract provides for a price which is not subject to any adjustment by reason of the cost experience of the contractor in the performance of the contract. This type of contract, when appropriately applied as set forth below, places maximum risk upon the contractor. Because the contractor assumes full responsibility, in the form of profits or losses, for all costs under or over the firm fixed price, he has a maximum profit incentive for effective cost control and contract performance. Use of the firm fixed-price contract imposes a minimum administrative burden on the contracting parties.

(b) *Application.* The firm fixed-price contract is suitable for use in procurements when reasonably definite design or performance specifications are available and whenever fair and reasonable prices can be established at the outset, such as where:

(1) Adequate competition has made initial proposals effective;

(2) Prior purchases of the same or similar supplies or services under competitive conditions or supported by valid cost or pricing data provide reasonable price comparisons;

(3) Cost of pricing information is available permitting the development of realistic estimates of the probable costs of performance;

(4) The uncertainties involved in contract performance can be identified and reasonable estimates of their possible impact on costs made, and the contractor is willing to accept a firm fixed price at a level which represents assumption of a reasonable proportion of the risk involved; or

(5) Any other reasonable basis for pricing can be used consistent with the purpose of this type of contract.

The firm fixed-price contract is particularly suitable in the purchase of standard or modified commercial items, or aerospace items for which sound prices can be developed.

### § 18-3.404-3 Fixed-price contract with escalation.

(a) *Description.* The fixed-price contract with escalation provides for the upward and downward revision of the stated contract price upon the occurrence of certain contingencies which are specifically defined in the contract. The risks in a fixed-price contract are reduced by the inclusion of escalation provisions in which the parties agree to revise the stated price upon the happening of a prescribed contingency. Where escalation is agreed upon, upward adjustments shall be limited by the establishment of a reasonable ceiling, and provisions will be included for downward adjustments in those instances where the prices or rates fall below the base levels provided in the contract. In the establishment of the base levels from which escalation will operate, contingency allowances shall be eliminated from the base to be set forth in the contract to the extent that escalation is provided for any particular contingency. Generally, escalation provisions are of two broad types:

(1) Price escalation provides for adjustment of the contract price on the basis of increases or decreases from an agreed upon level in published or established prices of specific items or in price levels of the contract end items.

(2) Labor and material escalation provides for adjustment of the contract price on the basis of increases or decreases from agreed standards or indices in wage rates, specific material costs, or both.

(b) *Application.* Use of this type of contract is appropriate where serious doubt exists as to the stability of market and labor conditions which will exist during an extended period of production and where contingencies which would otherwise be included in a firm fixed-price contract are identifiable and can be covered separately by escalation. Its usefulness is limited by the difficulties inherent in its administration. To the extent possible, escalation should be restricted to industrywide contingencies, and labor and material escalation should be limited to contingencies beyond the normal control of the contractor.

(c) *Clause.* One of the clauses set forth in § 18-7.106 or § 18-7.107 shall be used in accordance with the instructions contained therein. If none of these clauses is applicable, an escalation clause approved by the Procurement Officer concerned may be included.

**§ 18-3.404-4 Fixed-price incentive contracts.**

(a) *Description*—(1) *General.* The fixed-price incentive contract is a fixed-price type contract with provision for adjustment of profit and establishment of the final contract price by a formula based on the relationship which final negotiated total cost bears to total target costs.

(2) *Firm target.* Under this type of incentive contract there is negotiated at the outset a target cost, a target profit, a price ceiling (but not a profit ceiling or floor), and a formula for establishing final profit and price. After performance of the contract, the final cost is negotiated and the final contract price is then established in accordance with the formula. Where the final cost is less than target cost, application of the formula results in a final profit greater than the target profit; conversely, where final cost is more than target cost, application of the formula results in a final profit less than the target profit, or even a net loss. Thus, within the price ceiling, the formula provides for the Government and the contractor to share the responsibility for costs greater or less than those originally estimated, as determined by a comparison of negotiated final cost with target cost. Because the profit resulting from application of the formula is in inverse relationship to costs, the formula provides the contractor in advance with a calculable profit incentive to control costs. To provide an incentive consistent with the circumstances, the formula should reflect the relative risks involved in contract performance. Thus, it is appropriate in certain procurements to establish a formula which provides for contractor assumption of a considerable or major share of total cost responsibility. In such circumstances, when a major share of total cost responsibility is assumed by the contractor, every consideration will be given to establishing target profits which reflect assumption of such responsibility.

(3) *Successive targets.* Under this type of incentive contract, there is negotiated at the outset an initial target cost, an initial target profit, a price ceiling, a formula for fixing the firm target profit, and a production point at which the formula will be applied. Generally, the production point will be prior to delivery or shop completion of the first item. This formula does not apply for the life of the contract but simply is used to fix the firm target profit for the contract. The initial formula shall also provide for a ceiling and floor on the firm target profit. To provide an incentive consistent with the circumstances, the formula for fixing the firm target profit should reflect the relative risk involved in establishing an incentive arrangement where cost and pricing information were not sufficient to permit the negotiation of firm targets at the outset (see paragraph (b)(3) of this section). Thus it normally will not provide for as great a degree of contractor cost responsibility as would a formula for establishing final profit and price. When the production point for applying the formula is reached, the firm target cost is then negotiated, consideration being given to experienced cost and all other pertinent factors, and the firm target profit is automatically determined in accordance with the formula. At this point, two alternatives are possible. First, a firm fixed price may be negotiated using as a guide the firm target cost plus the firm target profit. Second, if use of the firm fixed price is determined to be inappropriate, a formula for establishing final profit and price may be negotiated, using the firm target profit and the firm target cost. As in the firm target type of contract described in subparagraph (2) of this paragraph, the final cost is negotiated at the completion of the contract and the final contract price is then established in accordance with the formula for establishing final profit and price.

(4) *Billing price.* In either of the above types of contract, a billing price will be established as an interim basis for payment. This billing price may be adjusted within the ceiling limits, upon request of either party to the contract, when it becomes apparent that final negotiated costs will be substantially different from the target cost.

(b) *Application.* (1) Fixed-price incentive contracts are appropriate for use when design, specifications and performance requirements are reasonably firm, end item performance levels and scheduled deliveries are known to be attainable without extensive research and development effort or advancement of the state of the art, but cost and production experience are insufficient for the establishment of reasonable firm fixed prices, and the supplies or services being procured are of such a nature that assumption of a degree of cost responsibility by the contractor is likely to provide him with a positive profit incentive for effective cost control and contract performance. It may also be appropriate to negotiate additional incentive provisions covering performance levels and more timely delivery (see § 18-3.407-2). Contract performance requirements must be such that there is reasonable opportunity for the incentive provisions to have a meaningful impact on the manner in which the contractor manages the work.

(2) The firm target type of incentive contract, described in paragraph (a)(2) of this section, is appropriate for use whenever a firm target and a formula for establishing final profit and price can be negotiated at the outset which will provide a fair and reasonable incentive.

(3) The successive targets type of incentive contract, described in paragraph (a)(3) of this section, is appropriate for use whenever available cost and pricing information is not sufficient to permit the negotiation of realistic firm targets at the outset. However, enough information should be available to permit negotiation of initial targets, and there should be reasonable assurance that additional reliable information will be available at an early point in the performance of the contract so as to permit negotiation of either a firm fixed price, or firm targets and a formula for establishing final profit and price, which will provide a fair and reasonable incentive. The additional information need not in all cases come from experience under the contract itself, but may be drawn from experience on any other contracts for the same or similar items.

(c) *Limitations.* Fixed-price incentive contracts shall not be used unless the contractor's accounting system is adequate for price revision purposes and permits satisfactory application of the profit and price adjustment formulas. In no case should such contracts be used where (1) cost or pricing information adequate for firm targets is not available at the time of initial contract negotiation or at a very early point in performance, or (2) the sole or principal purpose is to shift substantially all cost responsibility to the Government. In no case shall the firm target profit or the formula for final profit and price be established independently. Simultaneous, not sequential, agreement will be reached on all the elements of the pricing agreement. Neither type of fixed-price incentive contract shall be used unless a determination has been made, in accordance with the requirements of Subpart 18-3.3 that:

(i) Such method of contracting is likely to be less costly than other methods, or

(ii) It is impractical to secure supplies or services of the kind or quality required without the use of such type of contract.

Additional guidance on the selection, approval and administration of incentive contract provisions is set forth in § 18-3.450.

3. Section 18-3.501 is revised to read as follows:

**§ 18-3.501 Preparation of request for proposals or request for quotations.**

(a) Forms used for requesting proposals or quotations on negotiated procurements shall be in accordance with Part 18-16 (see also § 18-1.309).

(b) Generally, requests for proposals or quotations shall be in writing. Solicitations shall contain the information necessary to enable a prospective offeror to prepare a proposal or quotation properly. Written requests shall be as complete as possible and normally should contain the following information if applicable to the procurements involved:

(1) Request for proposals or request for quotations number and date of issuance;

(2) Title and/or number of the program or project (e.g., "Apollo S-1C Instrumentation");

(3) Name and address of procurement office issuing the request; identification of the individual responsible for supplying additional information or answering inquiries; complete address of person to receive proposals; number of copies of proposal required to be submitted;

(4) Closing date and time;

(5) With respect to late proposals or modifications, include the provision set forth in § 18-3.802-4(c) (this provision will be appropriately modified in the case of request for quotations); where Standard Form 33 (Solicitation, Offer, and Award) is used, the following notice shall be prominently set forth in the request for proposals:

NOTICE TO OFFERORS—LATE OFFERS AND MODIFICATIONS (JULY 1968)

Paragraph 8, "Late Offers and Modifications or Withdrawals," of Standard Form 33A does not apply to this solicitation. See the special provision in this solicitation entitled, "Late Proposals."

(6) Requirement for stipulation of a time within which the Government may accept the proposal;

(7) Number of pages and list of enclosures;

(8) Item description or statement of work;

(9) Type of contract contemplated (see § 18-3.803);

(10) Requirement for statement on contingent fees (see § 18-1.506(c));

(11) Statement on Buy American Act (§ 18-6.104-2) and requirement for Buy American Certificate (§ 18-6.104-3);

(12) Requirement that the offeror state whether he operates as an individual, partnership, or corporation (showing State where incorporated);

(13) Statement that the selected contractor will or will not require access to classified information (see NASA Management Instruction 1650.1, "Industrial Security Policies and Procedures");

(14) Time of delivery or performance requirements (see § 18-1.305);

(15) Requirement that the proposal or quotation state the intended place of performance, including the street address, and the names and addresses of owner and operator of producing facilities, if other than offeror, when it is reasonably expected that such facilities will be used in the performance of the contract;

(16) Place and method of delivery;

(17) Provisions to be made for reliability assurance (see § 18-1.5105);

(18) A description of the quality assurance system to be used (see § 18-1.5003);

(19) Place, method, and conditions of inspection, test, and acceptance (see § 18-14.101 et seq.);

(20) Identification of the special factors, such as Government cost or other expenditures, including reliability and maintainability requirements, which will be considered in evaluating the proposals, together with an indication of the relative importance to be given these factors, where applicable (see § 18-3.804-2);

(21) Method and format of price quotation desired (fixed-price or cost type, if known at the time), including a reference to the necessity for cost or price breakdown (see § 18-3.501(c)(2)(ix));

(22) Description of information required to support proposed prices; e.g., subcontract structure, purchasing system, royalty, and cost and price information (see Subparts 18-3.8 and 18-3.9, Subpart 18-9.1 and Part 18-23);

(23) Information as to requirements for Certificate of Current Cost or Pricing Data (see § 18-3.807-3);

(24) Statement that special instruction for waived inventions will not be applied, or requirement for statement as to waived inventions (see § 18-9.101-3(a) or § 18-9.101-3(e));

(25) Notice to offerors of the Government's desires as to the use of incentive considered applicable, objectives of the incentive performance goals, schedule milestones, critical delivery parameters, and similar information intended to elicit contractor response to the procurement objectives but without premature disclosures prejudicial to the Government's prenegotiation position (see § 18-3.450);

(26) Notice to offerors of the possibility that award may be made without discussion of proposals (see § 18-3.102);

(27) The Certification of Independent Price Determination required by § 18-1.115;

(28) Contract clauses required by law or this chapter, copies of applicable standard or NASA forms which will form a part of the contract, and any report forms or handbooks required to be used or followed in complying with the terms of the contract;

(29) Directions for obtaining copies of any documents, such as plans, drawings and specifications, which have been incorporated by reference (see § 18-1.1201);

(30) Instructions for disposition of drawings and specifications supplied with the request for proposals or request for quotations;

(31) Statement of information required to facilitate evaluation of technical and financial capabilities and a statement covering special technical capabilities which offerors must possess (see § 18-3.804);

(32) Instruction reflecting desirability of a separation between the contractor's "Business Management Quotation" and "Technical Quotation." For evaluation purposes separate quotations, where time permits, should be received; therefore, the format should be flexible enough to permit separate requirements (see § 18-3.802-4(a));

(33) List of any Government-furnished property (showing location and condition) including Government-owned tooling, which will be furnished for the performance of the contract, and any special provisions relating thereto;

(34) Requirement that information be furnished with respect to any Government-owned facilities, industrial equipment, or special tooling intended to be used in the performance of the contract, the value thereof, identification of the Government contract under which acquired, rental provisions, and other relevant information;

(35) Requirement that additional facilities to be provided by the Government be described and identified by category, such as "Land," "Buildings," "Machinery," "Equipment," etc. (see § 18-13.5105 for format);

(36) Requirement that additional special test equipment to be provided by the Government be described and its intended use, estimated cost, and proposed location be shown;

(37) Clear statement of option provisions (see Subpart 18-1.15 and § 18-12.1050);

(38) Requirement for the contractor to furnish data, when the requirement for data is known in advance of making the contract and delivery of data is definitely to be required in the performance of the contract (see Subpart 18-9.2 for detailed instructions and required clauses; see also § 18-3.852-3);

(39) Special provisions necessary for the particular procurement relating to such matters as patents, data, copyrights (see Part 18-9); liquidated damages (see § 18-1.310); progress payments (see § 18-7.104-35);

(40) Requirement for information to be furnished on management engineering and consultant services specified in § 18-4.5205-2;

(41) When the NASA PERT System is to be applicable to the procurement (see § 18-7.204-55), inclusion of the following provision:

NASA PERT SYSTEM (APRIL 1962)

A proposed time schedule for performance of the work should be set out by phases or parts of the project, and show interrelationships among phases. This proposed schedule should be supported by an accompanying PERT network, prepared in general conformity with the instructions of the NASA PERT Handbook.

Prospective contractors are advised that the successful contractor will be required to implement the NASA PERT System and report program progress biweekly.

(42) A statement as follows:

UNNECESSARILY ELABORATE CONTRACTOR'S PROPOSALS (NOVEMBER 1965)

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective proposal are

not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate art work, expensive paper and bindings and expensive visual or other presentation aids are neither necessary nor desired.

The above statement shall be appropriately modified where included in a request for quotations;

(43) If the contract is to be conditioned on the availability of funds, a clear statement of such condition (see § 18-1.318);

(44) Requirement for submission of a proposed "Make or Buy" program (see subpart 18-3.9);

(45) In accordance with the policy of § 18-1.304-2(d), the following statement and legend shall be included in all requests for proposals:

The proposal submitted in response to this request may contain technical data which the offeror, or his subcontractor offeror, does not want used or disclosed for any purpose other than evaluation of the proposal. The use and disclosure of any such technical data may be so restricted, provided the offeror marks the cover sheet of the proposal with the following legend, specifying the pages of the proposal which are to be restricted in accordance with the conditions of the legend:

Technical data contained in pages ------ of this proposal shall not be used or disclosed, except for evaluation purposes: *Provided*, That if a contract is awarded to this submitter as a result of or in connection with the submission of this proposal, the Government shall have the right to use or disclose this technical data to the extent provided in the contract. This restriction does not limit the Government's right to use or disclose any technical data obtained from another source without restriction.

The Government assumes no liability for disclosure or use of unmarked data and may use or disclose the data for any purpose. (October 1969)

(46) Requests for proposal which will result in the placement of rated orders or Authorized Controlled Material Orders (see § 18-1.307) shall contain the following statement:

Contracts or purchase orders to be awarded as a result of this solicitation shall be assigned a (DX or DO as appropriate) rating or DMS allotment number (as appropriate) in accordance with the provisions of BDC Regulation 2 and/or DMS Regulation 1.

(47) Requirement for furnishing the equal opportunity representation (see § 18-12.802-4);

(48) If leases are involved, the facilities nondiscrimination paragraph set forth in §18-1.350-4;

(49) When the use of Automatic Data Processing Equipment is applicable to the procurement (see § 18-3.804-2(c)(2) and Subpart 18-3.11), inclusion of the following provision:

"The Government reserves the right to require the preparation and submission of feasibility and lease versus purchase studies by the successful contractor if the use of Automatic Data Processing Equipment is proposed."

(50) [Reserved]

(51) Statement as to requirement for jewel bearings (see § 18-1.315);

(52) Requirements set forth in § 18-1.351, if the procurement includes the furnishing of electrosensitive initiating devices (squibs) or any other item or component designated in the procurement request as a potentially hazardous item;

(53) Requirement for representation as to small business and statement whether or not the offeror has previously been denied a Small Business Certificate (see § 18-1.903);

(54) Instructions that offeror promptly acknowledge receipt of the request for proposal or request for quotation and advise whether he intends to submit a proposal or offer;

(55) Statement that this request for proposal or request for quotation does not commit the Government to award a contract, the Government reserving the right to reject any or all proposals, or to negotiate separately with any source considered qualified; and that the contracting officer is the only individual who can legally commit the Government to the expenditure of public funds in connection with the proposed procurement (see § 18-3.801);

(56) Statement that this request for proposal or request for quotation does not commit the Government to pay any costs incurred in the submission of the quotation or in making necessary studies or designs for the preparation thereof, nor to procure or contract for services or supplies. Further, no costs may be incurred in anticipation of a contract with the exception that any such costs incurred at the proposer's risk may later be charged to any resulting contract to the extent that they would have been allowable if incurred after the date of the contract and to the extent authorized by the contracting officer (See § 18-15.205-30);

(57) The following provision shall be included in all requests for proposals to be evaluated pursuant to NASA Source Evaluation Board procedures, when award of a cost-reimbursement type contract (with or without incentive arrangements) is contemplated:

Once the prospective contractor has been selected, the estimated costs submitted with its proposal shall not be subject to increase, except for changes in certified cost or pricing data submitted with the proposal, unless changes are made in the requirements of the request for proposals. Furthermore, increases shall be considered only in regard to those requirements that are actually affected by the changes (whether the changes result in an increase or decrease in the requirements and whether they are initiated by the Government or the offeror), and then only to the extent that such changes are specifically identified and justified. Negotiation of such increases will be conducted separately, and not as part of a combined overall negotiation of the estimated cost and fee of the proposed contract. (February 1967)

(58) A statement requesting prospective offerors to list the names and telephone numbers of persons authorized to conduct negotiations;

(59) Requirements for performance and payment bonds (see Subpart 18-10.1).

(60) Requests for proposals and requests for quotations for contracts in excess of $1 million, where the conduct of research, experimental, design, engineering, or developmental work is contemplated, and in such contracts of lesser dollar value if deemed appropriate by the contracting officer and the technology utilization officer of the installation concerned, shall contain the following requirement:

PLAN FOR NEW TECHNOLOGY REPORTING (JUNE 1966)

Each offeror shall submit with his proposal a plan which he proposes to use in carrying out the provisions of the "New Technology" clause of the contracts. The plan shall describe:

(a) The size and nature of the scientific and technological efforts in which inventions, discoveries, improvements and innovations may be expected. Include the scientific disciplines involved in these efforts, and summarize the technical problems to be solved which you feel are most likely to generate new technology.

(b) The emphasis given to new technology reporting by the top levels of management of the organization, and the specific means (e.g., company directives, newsletters, briefings) to be used to communicate such emphasis to the organization.

(c) The organizational placement and qualifications of (i) the individual(s) assigned as Company Technology Utilization/New Technology Representative(s), and their staffs, and of (ii) any others having substantial and specific responsibilities for new technology reporting. Describe all significant organizational relationships.

(d) Plans for both the initial and the continuing indoctrination of senior project personnel, supervision, and of other appropriate technical personnel in the benefits, responsibilities and details of new technology reporting.

(e) The plans for conducting the "frequent periodic reviews" required by the "New Technology" clause. Include plans for supplementing existing Company invention reporting system(s) to insure reporting of that "new technology," which does not constitute invention (any new or improved products, devices, materials, processes, methods, scientific or technical computer programs, techniques, compositions, systems, machines, apparatuses, articles, fixtures, and tools, are reportable, whether or not they constitute invention).

(f) The details of actual documentation of reportable items, and the methods by which they will be reported. Include plans for (i) submission of sufficient detail to permit evaluation of the novelty and potential usefulness of the reportable items, (ii) avoiding unnecessary redocumentation by inclusion of existing documents or abstracts therefrom.

(g) Level of effort anticipated. (Quarterly/monthly rates and estimated disclosure output rates are desirable.)

(61) [Reserved]

(62) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a statement as follows:

ORDER OF PRECEDENCE (JULY 1968)

In the event of an inconsistency between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following order: (a) The Schedule; (b) Terms and Conditions of the solicitation; (c) General Provisions; (d) other provisions

of the contract, where attached or incorporated by reference; and (e) the Specifications.

The foregoing statement may be modified to change the order or to add or delete items to meet the needs of a particular procurement;

(63) Where neither Standard Form 33 (Solicitation, Offer, and Award) nor Standard Form 18 (Request for Quotations) is used, a statement that prospective offerors may submit inquiries by writing or calling (collect calls not accepted) (insert name and address, telephone area code, number, and extension);

(64) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a statement on the first sheet or on a cover sheet of the Request for Proposals that:

Proposals Must Set Forth Full, Accurate, and Complete Information as Required by This Request for Proposal (Including Attachments). The Penalty for Making False Statements in Proposals Is Prescribed in 18 U.S.C. 1001.

This statement shall be suitably modified when Quotations are requested;

(65) Where neither Standard Form 33 (Solicitation, Offer, and Award) nor Standard Form 18 (Request for Quotations) is used, a requirement for inclusion of "county" as part of quoter's/offeror's address will be inserted;

(66) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a statement that prospective offerors should indicate in the offer the address to which payment should be mailed, if such address is different from that shown for the offeror (Contracting officers shall include this information in all resultant contracts which are to be administered by a Defense Contract Administration Services Regional Office.);

(67) Any applicable wage determination of the Secretary of Labor (for construction contracts, see Subpart 18-12.4; for service contracts, see Subpart 18-12.11);

(68) [Reserved]

(69) Requirement for the offeror to: (i) Furnish the date of the last review by the Government of his property control and accounting system and describe actions taken to correct any deficiencies found; (ii) state that he has reviewed, understands and can comply with all property management and accounting procedures set forth in the RFP, Appendix B to the NASA PR and NASA Handbook 9500.2; and (iii) state whether or not the costs associated with subdivision (ii) of this subparagraph are included in his cost proposal.

(70) The "Patent Royalties" clause set forth in § 18-9.102-2(f)(2);

(71) To insure timely distribution of Material Inspection and Receiving Reports (DD Form 250), include distribution instructions in the Schedule or as an attachment to the contract (see Appendix I);

(72) The "Certification of Nonsegregated Facilities" set forth in § 18-12.802-4(c);

(73) The notice regarding the requirment for "Certification of Nonsegregated Facilities" as prescribed in § 18-12.802-4(b);

(74) Where Standard Form 33 (Solicitation, Offer, and Award) or Standard Form 19-B (Representations and Certifications) (Construction Contract) is not used, insert the "Equal Opportunity" representation set forth in § 18-12.802-4(a);

(75) If the contract involves performance of services on a Government installation, the following provision:

SITE VISIT (JULY 1968)

Offerors are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the contract, to the extent such information is reasonably obtainable. In no event will a failure to inspect the site constitute grounds for a claim after award of the contract.

(76) When the procurement involves a set-aside for small business concerns, the following provision:

This is a _____ percent set-aside for small business concerns.

(77) When the procurement involves a set-aside for labor surplus area concerns, the following provision:

This is a _____ percent set-aside for labor surplus area concerns.

(c) In addition to the information specified in paragraph (b) of this section, for contracts in excess of $1 million the request for proposal should contain requirements for the following information to be furnished by the offeror in his proposal, if applicable. This information may be required in the request for proposal for inclusion in contracts of lesser dollar value if deemed appropriate.

(1) *Technical proposal.* (i) Method by which offeror proposes to solve the technical problems of the project; descriptions, sketches, and plans of attack in sufficient detail to permit engineering evaluation of the proposal;

(ii) Specification of exceptions to proposed technical requirements;

(iii) Statement of background experience in fields relating to the procurement;

(iv) Names and résumés of experience of key technical personnel who will be employed on the project and extent to which each will participate in the performance of the project; an organization chart of the segment of offeror's organization which will be directly assigned to the project, listing names and job categories;

(v) Description and location of the company-owned research, test and production equipment and facilities which will be available for use on the project; separate list of any additional facilities or equipment required in the performance of the work; separate list of existing Government facilities available to the contractor and required for use on the project; and

(vi) Hourly time estimates (without pricing information) by labor class for each phase or segment of the project; extent to which these estimates are based on the use of employees presently on the offeror's payrolls who will be available for the work as required; indication of number and types of personnel necessary to be hired and arrangements made to obtain them.

(2) *Business management proposal.* (i) Organization proposed for carrying out the project, including organization charts showing interrelationship of business management, technical management and subcontract management; indication of all levels of operation and management, from lower levels through intermediate management to top level management.

(ii) Résumé of experience of all key personnel who will conduct the managerial affairs of the project;

(iii) Contractual procedures proposed for the project to effect administrative and engineering changes, describing differences from existing procedures;

(iv) Extent to which offeror has invested corporate funds in research and development work in the project area or directly related areas and plans for future expenditures for such work; extent, if any, to which offeror is willing to participate in the cost of the project (see § 18-3.405-3);

(v) Statement as to capacity at which company-owned research, test, and production equipment and facilities required in the performance of the work are currently working; extent to which such facilities and equipment could handle the additional workload imposed by this project; cost of any additional facilities or equipment required in the performance of the work with information as to whether such additional facilities or equipment will be contractor-furnished or Government-furnished; statement of value of existing Government facilities available to offeror and required for use on the project, showing the Government agencies and facilities contracts involved;

(vi) Statement of past performance and experience including:

(*a*) List of Government contracts in excess of $1 million received in past 3 years or currently in negotiation involving mainly research and development work, showing each contract number, Government agency placing the contract, type of contract, and brief description of the work;

(*b*) For each cost-type contract, specify amounts of cost overruns or underruns, reasons therefor, and percentage of fixed fee;

(*c*) For each contract, give record of contract completion as against completion date anticipated at time of entering into contract, giving explanations for completion delays;

(*d*) Identify and explain any terminations for default or Government convenience;

(vii) Balance sheet for offeror's last fiscal year, accompanied by profit and loss statement;

(viii) Detailed cost or price proposal, furnished as a separate, detachable element of the business management proposal;

(ix) In soliciting proposals for support services requiring price quotations for a cost reimbursement type contract the request for proposals should set forth available data respecting the quantity and quality of supplies and services required. These data should be set forth in terms of man-hours of identifiable categories of labor, including experience and related qualifications, and in terms or quantities of supplies, all exclusive of costs. To be responsive, a proposer must submit a detailed cost or price proposal based on the effort described or estimated in the request for proposals. If the proposer feels that the work can be accomplished more efficiently with organizational plans, staffing, management, or equipment other than those indicated in the request for proposal, he may also submit an alternate proposal, supported by a detailed cost or price proposal;

(d) Requests for proposals, which are subject to the review and approval of a Source Evaluation Board, should be developed in accordance with the above paragraphs and the requirements of paragraph 512 of the NASA Source Evaluation Board Manual (NPC 402).

(e) Request for proposals for procurements which are subject to title VI of the Civil Rights Act of 1964 (Public Law 88-352; 42 U.S.C. 2000d-1), shall include a requirement for obtaining an "Assurance of Compliance" (NASA Form 1206) in accordance with the provisions of § 18-1.355.

4. Section 18-3.802-3(e) is revised to read as follows:

**§ 18-3.802-3 Noncompetitive procurement.**

* * * * *

(e) The "Justification for Noncompetitive Procurement" will be attached to the Procurement Plan in accordance with § 18-3.852-3 and will be made a part of the contract file (see § 18-1.308 and Supplement 2).

5. Section 18-3.802-4(b) is revised to read as follows:

**§ 18-3.802-4 Requests for proposals.**

* * * * *

(b) *Information copies of requests for proposals.* Two copies of each request for proposals and each amendment thereto, where the Administrator is expected to be the source selection official, shall be forwarded to the Director of Procurement, NASA Headquarters (Code KDR), immediately following the closing date for the receipt of the proposal.

* * * * *

6. Section 18-3.804-2(c) is revised to read as follows:

**§ 18-3.804-2 Evaluation procedures not involving Source Evaluation Board.**

* * * * *

(c) *Business evaluation*—(1) *Price and cost analysis.* Each proposal requires some form of price or cost analysis. The contracting officer must exercise judgment in determining the extent of analysis in each case. On high-dollar value procurements, particularly where effective competition has not been obtained, the analysis should be thorough, and the record carefully documented to disclose the extent to which the various elements of costs, fixed fee, or profit contained in the contractor's proposals were analyzed. The negotiation memorandum should also reflect the consideration given to the recommendations of the price analyst and the basis for nonacceptance or departure from the recommendations during the course of negotiations.

(2) *Automatic data processing equipment.* In evaluating proposals containing a significant amount of cost for Automatic Data Processing Equipment (ADPE) the contracting officer should obtain from the prospective contractor a feasibility study and a lease-versus-purchase study covering the acquisition of such equipment or service. The contracting officer will obtain the recommendations of the price analyst and appropriate ADPE technical personnel as to the adequacy of the studies and the prospective contractor's determinations resulting from the studies. Particular attention should be given to those proposals containing a high dollar amount for rental of ADPE or complete systems to be used solely for performance of the contract. Current Bureau of the Budget criteria (NASA Handbook 2410.1A, "Management Procedures for Automatic Data Processing Equipment") should be used, where applicable, as a guide in evaluating the contractor's studies (also see Subpart 18-3.11). Prospective contractors should be encouraged to:

(i) Use ADPE machine time available within a reasonable geographic distance;

(ii) Use tele-communications links to remote Government-owned or leased ADPE systems, and

(iii) Purchase ADPE in preference to leasing the equipment where the financial advantage is the sole or overriding factor.

(3) *Other factors.* The contracting officer must appraise the management capability of the offeror to perform the required work in a timely manner. In making this appraisal, he must consider such factors as the company's management organization, past performance, reputation for reliability, availability of the required facilities, ability to control, maintain and account for any property provided by the Government, and cost controls.

7. Section 18-3.805-1(b) is revised to read as follows:

**§ 18-3.805 Conduct of negotiations.**

**§ 18-3.805-1 General.**

* * * * *

(b) Procurement personnel, as well as other personnel concerned with the procurement, shall insure that contract negotiations are completed expeditiously. However, all details of the negotiation must be completed before the contract is actually placed. This includes, to the extent applicable:

(1) Arrangements regarding Government-furnished property, including the contractor's responsibility for controlling, maintaining and accounting for such property;

(2) Determination that the prospective contractor is responsible, including completion of preaward surveys where required;

(3) Arrangements with other Government agencies for the use of facilities under their control;

(4) Where the contract will be administered by another Government agency, any necessary arrangements with the responsible activity of that agency;

(5) Where the contract will involve access to classified information, verification that required security clearance has been obtained;

(6) The requirement for the furnishing of data by the contractor in the performance of the contract, both for technical evaluation and for competitive reprocurement where follow-on procurement is probable, in those situations where the appropriate technical office has requested that the contracting officer obtain such data; and

(7) If the offeror's proposal contains technical data marked with a restrictive legend, whether the Government desires rights to use such data (§§ 18-3.109, 18-9.202-6).

* * * * *

8. Section 18-3.807-5(a) is revised to read as follows:

**§ 18-3.807-5 Defective cost or pricing data.**

(a) Where any price to the Government must be negotiated largely on the basis of cost or pricing data submitted by the contractor, it is essential that the data be accurate, complete and current and in appropriate cases so certified by the contractor (see §§ 18-3.807-3 and 18-3.807-4). If such certified cost or pricing data is subsequently found to have been inaccurate, incomplete or noncurrent as of the effective date of the certificate, the Government is entitled to an adjustment of the negotiated price, including profit or fee, to exclude any significant sum by which the price was increased because of the defective data. Paragraph (g) of the Contractor and Subcontractor Certified Cost of Pricing Data clause set forth in § 18-3.807-4 gives the Government in such case an enforceable contract right to a price adjustment, that is, to a reduction in the price to what it would have been if the contractor had submitted accurate, complete and current data. In arriving at a price adjustment under this clause, the contracting officer should, after review of the record of the contract negotiation (see § 18-3.811), consider the following:

(1) The time when cost or pricing data was reasonably available to the contractor: Certain data such as overhead expenses and production records may not be reasonably available except on normal periodic closing dates. Also, the data on numerous minor material items each of

which by itself would be insignificant may be reasonably available only as of a cutoff date prior to agreement on price because the volume of transactions would make the use of any later date impracticable. Furthermore, except where a single item is used in substantial quantity, the net effect of any changes to the prices of such minor items would likely be insignificant. Closing or cutoff dates should be included as a part of the data submitted with the contractor's proposal and should be updated by the contractor to the latest closing or cutoff dates, preceding agreement on price, for which such data is available. The contracting officer and contractor are encouraged to reach a prior understanding on criteria for establishing closing or cutoff dates, and to the extent possible the understanding should relate to an approved estimating system. Notwithstanding the foregoing, matters which are significant to contractor management and to Government and any related data, would be expected to be current on the date of agreement on price and therefore will be treated as reasonably available as of that date. Although changes in the labor base or in prices of major material items are generally significant matters, no hard and fast rule can be laid down since what is significant can depend upon such circumstances as the size and nature of the procurement.

(2) In establishing that the defective data caused an increase in the contract price, the contracting officer is not expected to reconstruct the negotiation by speculating as to what would have been the mental attitudes of the negotiating parties if the correct data had been submitted at the time of agreement on price. In the absence of evidence to the contrary, the natural and probable consequence of defective data is an increase in the contract price in the amount of the defect plus related burden and profit or fee; therefore, unless there is a clear indication that the defective data was not used, or was not relied upon, the contract price should be reduced in that amount.

(3) In determining the amount of an adjustment in the contract price because of defective cost or pricing data, the contracting officer shall consider any understated cost or pricing data submitted in support of price negotiations for the same pricing action (e.g., for the initial pricing of the same contract or for pricing the same change order), up to the amount of the Government's claim for overstated cost or pricing data arising out of the same pricing action. Such offsets, however, need not be in the same cost groupings (e.g., material, labor or overhead).

* * * * *

## PART 18-5—INTERDEPARTMENTAL PROCUREMENT

1. Section 18-5.504-1 is revised to read as follows:

### § 18-5.504 Procurement procedure.

### § 18-5.504-1 Through National Industries for the Blind.

When procurement of blind-made supplies is to be effected through the NIB, such procurement shall be made by submitting directly to the National Industries for the Blind, 1511 K Street NW., Washington, DC 20005, a request, in letter form, for an allocation. Upon receipt of the request, requirements will be allocated by NIB, and the procurement office will be notified of the name and location of the agency designated to manufacture the requirements. Upon receipt of such notification, a purchase order shall be issued to the designated agency for the blind and a copy thereof will be forwarded to the NIB. Such orders may be issued without limitation as to dollar amount. A certification of fund availability must be obtained before an order may be issued.

## PART 18-7—CONTRACT CLAUSES

1. Section 18-7.104-15 is revised to read as follows:

### § 18-7.104-15 Examination of records.

Insert the clause set forth below in all contracts, unless excepted under § 18-6.1001.

EXAMINATION OF RECORDS BY COMPTROLLER GENERAL (OCTOBER 1971)

(a) This clause is applicable if the amount of this contract exceeds $2,500 and was entered into by means of negotiation, including small business restricted advertising, but is not applicable if this contract was entered into by means of formal advertising.

(b) The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this contract or such lesser time specified in Appendix M of the NASA Procurement Regulation, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(c) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under the subcontract or such lesser time specified in Appendix M of the NASA Procurement Regulation, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (i) purchase orders not exceeding $2,500 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c) above for records which relate to (i) appeals under the "Disputes" clause of this contract, (ii) litigation or the settlement of claims arising out of the performance of this contract, or (iii) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims or exceptions have been disposed of.

2. Section 18-7.203-7 is revised to read as follows:

### § 18-7.203-7 Examination of records.

In accordance with § 18-7.104-15, insert the clause set forth therein.

3. Section 18-7.204-63 is added:

### § 18-7.204-63 Order of precedence.

In accordance with § 18-7.104-56, insert the clause set forth therein.

4. Section 18-302-6 is revised to read as follows:

### § 18-7.302-6 Examination of records.

In accordance with § 18-7.104-15, insert the clause set forth therein.

5. Section 18-7.303-53 is added:

### § 18-7.303-53 Geographic participation in the aerospace program.

In accordance with the requirements of § 18-1.302-51, insert the clause set forth therein.

6. Section 18-7.303-64 is added:

### § 18-7.303-64 Order of precedence.

In accordance with § 18-7.104-56, insert the clause set forth therein.

7. Section 18-7.402-7 is revised to read as follows:

### § 18-7.402-7 Examination of records.

In accordance with § 18-7.104-15, insert the clause set forth therein. In the case of research and development contracts with nonprofit institutions and subcontracts thereunder, and pursuant to procedures approved by the Comptroller General, original documentary evidence in support of costs of the transportation of things will not be required pursuant to said clause.

8. Sections 18-7.403-63 and 18-7.403-65 are added:

### § 18-7.403-63 Order of precedence.

In accordance with § 18-7.104-15, insert the clause set forth therein.

### § 18-7.403-65 Geographic participation in the aerospace program.

In accordance with the requirements of § 18-1.302-51, insert the clause set forth therein.

9. Sections 18-7.451-7 and 18-7.451-15 are revised to read as follows:

### § 18-7.451-7 Examination of records.

In accordance with § 18-7.105-15, insert the clause set forth therein. In the case of research and development contracts with nonprofit institutions and subcontracts thereunder, and pursuant to procedures approved by the Comptroller General, original documentary evidence in support of costs of the transportation of things will not be required pursuant to said clause.

### § 18-7.451-15 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 18-12.605.

10. Section 18-7.452-63 is added:

### § 18-7.452-63 Order of precedence.

In accordance with § 18-7.104-56, insert the clause set forth therein.

11. Sections 18-7.702-12 and 18-7.702-13 are revised to read as follows:

### § 18-7.702-12 Use and charges.

USE AND CHARGES (OCTOBER 1971)

(a) The Contractor may use the Facilities without charge in the performance of:

(i) Prime contracts with the Government which specifically authorize use without charge,

(ii) Subcontract held by the Contractor under Government prime contracts or subcontracts of any tier thereunder if the Contracting Officer having cognizance of the prime contract concerned has authorized use without charge by approving a subcontract specifically authorizing such use or has otherwise authorized such use in writing, and

(iii) Other work with respect to which the Contracting Officer has authorized use without charge in writing.

(b) Subject to the payment of a rental therefor, the Contractor may use all or part of the Facilities in the performance of work other than that specified in paragraph (a) above, as authorized in writing by the Contracting Officer or as specifically provided in the Schedule. Use so authorized shall not be construed to constitute a waiver of any rights the Government may have under this contract to terminate the Contractor's right to use all or any part of the Facilities. The amount of rental to be paid for the right to use the Facilities under this paragraph (b) shall be determined in accordance with the following procedures.

(1) The following bases are or shall be established in writing for the rental computation prescribed in subparagraph (2) below in advance of any use of the Facilities under this paragraph:

(i) The rental rates for the right to use the Facilities shall be those set forth in the Attachment.

(ii) The acquisition cost of the Facilities shall be the total cost to the Government, as determined by the Contracting Officer of each item of the Facilities, including the cost of transportation and installation, if such costs are borne by the Government. When Government-owned special tooling, special test equipment, or accessories are rented with any item of the Facilities, the acquisition cost shall be increased to include the price charged the Government for such tooling, test equipment, or accessories. When any item of the Facilities has been modernized by substantial rebuilding at Government expense so as to enhance its original capability, the acquisition cost for that item shall include the increased value, as determined by the Contracting Officer, that such rebuilding and modernization represent. The determination made by the Contracting Officer under this subparagraph shall be final.

(iii) For the purpose of determining the amount of rental due under subparagraph (2) below, the rental period shall be not less than 1 month nor more than 6 months, as may be mutually agreed to.

(iv) For the purpose of computing any credit under subparagraph (2) below, the measurement unit for determining the amount of use of the Facilities by the Contractor shall be direct labor hours, sales, hours of use, or any other measurement unit which will result in an equitable apportionment of the rental charge, as may be mutually agreed to.

(2) The Contractor shall compute the amount of rentals to be paid for each rental period, using the bases established pursuant to subparagraph (1) above. The rental rates shall be applied to the acquisition cost of such of the Facilities as may have been authorized for use in advance pursuant to this paragraph (b), for each rental period. The full charge for each rental period, so determined, shall be reduced by a credit in the amount of such rental as would otherwise be properly allocable to work with respect to which the use of the Facilities without charge is authorized in accordance with paragraph (a) above. Such credit shall be computed by multiplying the full rental for the rental period by a fraction whose numerator is the amount of use of the Facilities by the Contractor without charge during such period, and whose denominator is the total amount of use of the Facilities by the Contractor during such period.

(3) The Contractor shall submit to the Contracting Officer within ninety (90) days after the close of each rental period a written statement of the use made of the Facilities by the Contractor and the rental due the Government hereunder, and shall make available such records and data as are determined by the Contracting Officer to be necessary to verify the information contained in the statement.

(4) If the Contractor fails to submit the statement within the prescribed ninety (90) day period, the Contractor shall be liable for the full rental for the period in question, subject to the exception stated in subparagraph (5) below.

(5) If the Contractor's failure to submit the statement within the prescribed ninety (90) day period arose out of causes beyond the control and without the fault or negligence of the Contractor, the Contracting Officer shall grant to the Contractor in writing a reasonable extension of time in which to make such submission.

(c) Unless otherwise directed in writing by the Contracting Officer, the Contractor shall give priority in the use of the Facilities to the performance of contracts and subcontracts of the National Aeronautics and Space Administration and shall not undertake any work involving the use of the Facilities which would interfere with the performance of existing Government contracts or subcontracts.

(d) Concurrently with the submission of the written statement prescribed by paragraph (b) (3) above, the Contractor shall pay the rental due the Government under this clause by check made payable to the Treasurer of the United States. Each check shall be mailed or delivered to the Contracting Officer. Receipt and acceptance by the Government of the Contractor's checks pursuant to this paragraph shall constitute an accord and satisfaction of the final amount due the Government hereunder unless the Contractor is notified in writing within one hundred eighty (180) days following such receipt that the amount received is not regarded by the Government as the final amount due.

(e) If the Contractor uses any item of the Facilities without authorization, the Contractor shall be liable for the full monthly rental, without credit, for such item for each month or part thereof in which such unauthorized use occurs: *Provided, however,* That the installation Director (or the Director, Headquarters Administration Office for the Headquarters Contracts Division) may, in writing, waive the Contractor's liability for such unauthorized use if he determines that the Contractor exercised reasonable care to prevent such unauthorized use. In this latter event, the Contractor shall be liable only for the rental that would otherwise be due under this clause. The acceptance of any rental by the Government hereunder shall not be construed as a waiver or relinquishment of any rights it may have against the Contractor growing out of the Contractor's unauthorized use of the Facilities or any other failure to perform this contract according to its terms.

ATTACHMENT

RENTAL RATES

The following rental rates are the rental rates referred to in the clause of this contract entitled "Use and Charges":

(i) For land and land preparation, buildings, building installations, and land installations other than those items specified in (ii) below, a fair and reasonable rental shall be established, based on sound commercial practice.

(ii) For industrial plant equipment of the types covered by the following Federal Supply Classes:

| *Federal Supply Classes* | *Description* |
|---|---|
| 3405, 3408, 3410, 3411 through 3419. | Machine tools. |
| 3441 through 3449 | Secondary metal-forming and cutting machines. |

The following rates shall apply:

| *Age of equipment* | *Monthly rental rate (percent)* |
|---|---|
| 0 to 2 years | 3 |
| Over 2 to 3 years | 2 |
| Over 3 to 6 years | 1.5 |
| Over 6 to 10 years | 1.0 |
| Over 10 years | .75 |

The age of each item of the Facilities shall be based on the year in which it was manufactured, with an annual birthday on January 1, of each year thereafter. On January 1, following the date of manufacture, the item shall be considered 1 year old; and on each succeeding January 1, it shall become 1 year older. For example, if an item of equipment is manufactured on July 15, 1958, it will be considered to be 1 year old on January 1, 1959, 2 years old on January 1, 1960, 3 years old on January 1, 1961, and so forth. The item of equipment will be considered "over 2 years old" on and after January 1, 1960, "over 6 years old" on and after January 1, 1964, and "over 10 years old" on and after January 1, 1968.

(iii) For personal property and equipment not covered in (i) or (ii) above, a rental shall be established at not less than the prevailing commercial rate, if any; or, in the absence of such rate, not less than two percent (2%) per month for electronic test equipment and automotive equipment; and not less than one percent (1%) per month for all other property and equipment.

### § 18-7.702-13 Examination of records.

In accordance with § 18-7.104-15, insert the clause set forth therein.

12. Section 18-7.702-22 is revised to read as follows:

### § 18-7.702-22 Termination of work.

TERMINATION OF WORK (OCTOBER 1971)

(a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever for any reason the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a written Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) Stop work in performance of the contract on the date and to the extent specified in the Notice of Termination;

(ii) Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders of subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) With the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final and conclusive for all purposes of this clause, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this contract;

(vi) Transfer title (to the extent that title has not already been transferred) and, in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government—

(A) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect to the performance of, the work terminated by the Notice of Termination; and

(B) The completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the Government;

(vii) Use his best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (vi) above: *Provided, however,* That the Contractor—

(A) Shall not be required to extend credit to any purchaser, and

(B) May acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: *And provided further,* That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor in which the Government has or may acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining any item of reimbursable cost under this clause. At any time after expiration of the plant clearance period, as defined in Part 8 of the NASA Procurement Regulation, in effect as of the date of this contract, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter the Government will accept such items and remove them or enter into a storage agreement covering the same: *Provided,* That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than 1 year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such 1 year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such 1 year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (c), and subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(e) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (d), as to the amounts with respect to costs to be paid to the Contractor in connection with the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amount determined as follows:

(i) There shall be included therein all costs and expenses reimbursable in accordance with this contract, not previously paid to the Contractor for the performance of this contract prior to the effective date of the Notice of Termination and such of these costs as may continue for a reasonable time thereafter with the approval of or as directed by the Contracting Officer: *Provided, however,* That the Contractor shall proceed as rapidly as practicable to discontinue such costs;

(ii) There shall be included therein so far as not included under (i) above, the cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b)(v) above, which are properly chargeable to the terminated portion of the contract; and

(iii) There shall be included therein the reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of termination inventory.

(f) Costs claimed, agreed to, or determined pursuant to (c), (d), and (e) hereof shall be in accordance with the Part 15 Contract Cost Principles and Procedures of the NASA Procurement Regulation as in effect on the date of this contract.

(g) The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes", from any determination made by the Contracting Officer under paragraph (c) or (e) above, except that if the Contractor has failed to submit his claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (i) If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due the Contractor under this clause there shall be deducted (i) all unliquidated advance or other payments theretofore made to the Contractor, applicable to the terminated portion of this contract, (ii) any claim which the Government may have against the Contractor in connection with this contract, and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

(i) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of six percent (6%) per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(j) Appropriate equitable adjustment may be made in any related procurement contract of the Contractor which so provides and which is affected by a Notice of Termination under this clause. In no event shall the Government be liable to the Contractor for damages or loss of profits by reason of a

Notice of Termination issued pursuant to this clause.

13. Section 18-7.703-11 is revised to read as follows:

**§ 18-7.703-11 Examination of records.**

In accordance with § 18-7.104-15, insert the clause set forth therein.

14. Sections 18-7.704-5 and 18-7.704-33 are revised to read as follows:

**§ 18-7.704-5 Examination of records.**

In accordance with § 18-7.104-15, insert the clause set forth therein.

**§ 18-7.704-33 Audit and records.**

Insert the clause set forth in § 18-7.104-42, except that paragraph (a) thereof shall be modified to read as follows:

(a) The Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly (i) all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract and (ii) the use of, and charges for the use of, the Facilities. The foregoing constitute "records" for the purposes of this clause.

15. Section 18-7.705-16 is added.

**§ 18-7.705-16 Order of precedence.**

In accordance with § 18-7.104-56, insert the clause set forth therein.

16. Section 18-7.901-17 is revised to read as follows:

**§ 18-7.901-17 Examination of records.**

In accordance with § 18-7.104-15, insert the clause set forth therein.

## PART 18-8—TERMINATION OF CONTRACTS

1. Section 18-8.206-2 is revised to read as follows:

**§ 18-8.206-2 Release of excess funds.**

An estimate of funds required to settle the termination claim will be made by the TCO at the earliest practicable date. Except in cases where (a) the contract price of items terminated is $1,000 or less, or (b) the estimated amount of excess funds available is $1,000 or less, funds obligated under the contract in excess of an estimated amount required for settlement will be released to the procurement office within 30 days after issuance of the termination notice by the TCO. Amounts of less than $1,000 shall be released upon request from the procurement office. Continuous surveillance of required funds will be maintained by the TCO to permit timely release of any additional excess funds. In all cases, funds will be released within 10 days after the amount required for settlement has been determined by the TCO. A recommended format for release of excess funds is in § 18-8.807. If it appears that the previous releases of excess funds have resulted in a shortage of the amount which will be required for settlement, the TCO will inform the procurement office and request by letter the reinstatement of funds, which will be provided within 30 days thereafter.

## PART 18-13—TERMINATION OF CONTRACTS

1. Section 18-13.312 is revised to read as follows:

**§ 18-13.312 Items to be screened.**

The items to be screened (see Subpart 18-50) in accordance with §§ 18-13.301(f) and 18-13.306-4 are listed in the following Defense Supply Agency Handbooks:

INDEX OF INDUSTRIAL PLANT EQUIPMENT HANDBOOKS

(NOTE—Handbooks are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20402)

| FSC | Title | DSA |
|---|---|---|
| 6625 | Electrical and Electronic Properties | DSAH 4215.1. |
| | Measuring and Testing Instruments | |
| 3220 | Woodworking Machines | DSAH 4215.2. |
| 3415-3417, 3441-3449. | Production Equipment Directory.[1] D1 Metalworking Machinery 1960. Revision Volumes 1 and 2. | |
| 3415-3417, 3441-3449 3424, 4430. | Supplement to Production Equipment [1] | DSAH 4215.3. |
| | Directory D1 Metalworking Machinery 1960 Revision | |
| | Industrial Furnaces and Ovens Volumes 1 and 2. | DSAH 4215.4. |
| 6635 | Physical Properties Testing Equipment | DSAH 4215.6. |
| 35530, 3625 | Textile Industries Machinery and Industrial Sewing Machines | DSAH 4215.8. |
| 6630 | Environmental Chambers | DSAH 4215.10. |
| 3422, 3426 | Rolling Mills, Drawing Machines and Metal Finishing Equipment | DSAH 4215.12. |
| 3450, 3460, 5220 | Portable Machine Tools and Toolroom Layout Plates and Tables | DSAH 4215.13. |
| 6680, 6685 | Liquid and Gas, Pressure, Temperature, Humidity, and Mechanical Motion Measuring and Controlling Instruments. | DSAH 4215.15. |
| 3635 | Crystal and Glass Industries Machinery | DSAH 4215.16. |
| 4440 | Driers, Dehydrators, and Anhydrators | DSAH 4215.17. |
| 6650, 6670 | Scales, Balances and Optical Instruments | DSAH 4215.18. |
| 3680 | Foundry Equipment | DSAH 4215.19. |
| 6695 | Combination and Miscellaneous Instruments Including Dynamometers | DSAH 4215.21. |
| 4920 | Aircraft Maintenance and Repair Shop Specialized Equipment | DSAH 4215.23. |
| 4330 | Centrifugals, Separators and Filters | DSAH 4215.24. |
| 6630, 6640 | Chemical Analysis and Laboratory Instruments | DSAH 4215.29. |
| 3015, 3060 | Pulp and Paper Industries and Size Reduction Machinery | DSAH 4215.33. |
| 3620 | Rubber and Plastics Working Machinery | DSAH 4215.35. |
| 3011, 3685, 3693, 3694, 3695. | Marking, Metal Container, Assembly, Clean Work Stations, and Miscellaneous Industry Machinery. | DSAH 4215.36. |
| 3650 | Chemical and Pharmaceutical Products Manufacturing Machinery | DSAH 4215.37. |
| 4940 | Miscellaneous Maintenance and Repair Shop Specialized Equipment | DSAH 4215.39. |
| 3690, 4925 | Specialized Ammunition and Ordnance Machinery | DSAH 4215.39. |
| 3405 | Metalworking Saws and Filing Machines | DSAH 4215.40. |
| 3418 | Planers and Shapers (Includes Shapers, formerly Part of FSC 3419) | DSAH 4215.41. |
| 3431, 3432, 3433, 3436, 3438. | Welding, Heat Cutting and Metalizing Equipment | DSAH 4215.42. |
| 3408, 3410 | Machining Centers, Way Type Machines, Electrical and Ultrasonic Erosion Machines. | DSAH 4215.43 |
| 3419 | Miscellaneous Machine Tools | DSAH 4215.44. |
| 3413 | Drilling and Tapping Machines | DSAH 4215.45. |
| 3411, 3412, 3414 | Boring Machines, Broaching Machines, Gear Cutting and Finishing Machines. | DSAH 4215.46. |
| 4910 | Motor Vehicle Maintenance and Repair Shop Specialized Equipment | DSAH 4215.47. |

[1] Production Equipment Directory D1 for sale by Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. For FSC 3418 and 3419, see Handbooks DSAH 4215.41 and 4215.44 respectively.

2. Section 18-13.404 is revised to read as follows:

**§ 18-13.404 Rental rates and policies applicable to the use of Government production and research property.**

(a) Except as provided in paragraph (b) of this section, the rent for all Government production and research property shall be computed in accordance with the "Use and Charges" clause set forth in § 18-7.702-12 for facilities. Rent for machine tools (Federal Supply Classes 3405, 3408, 3410, 3411 through 3419) and secondary metalforming and cutting machines (Federal Supply Classes 3441 through 3449) shall be based on the time such property is available for use. Rent for other classes of Government production and research property is normally charged on the same basis; however, if the Director of Procurement determines it to be in the best interest of the Government, rent may be charged on an actual use or other basis. In such cases, the Use and Charges clause should be appropriately modified.

(b) The rental charge required by paragraph (a) of this section shall not be applicable to:

(1) Wholly Government-owned plants operated by private contractors on a fee basis;

(2) Items of equipment which are of such size or complexity, or have such performance characteristics, that they present unusual problems in relation to the time required for their preparation for shipment, installation, and preparation for operation: *Provided*, That the Office of Emergency Preparedness has approved the general program involving such equipment;

(3) Government production and research property left in place or installed

on contractor-owned property for mobilization or future production purposes of NASA: *Provided,* That a rental charge computed in accordance with paragraph (a) of this section shall apply to so much of such property or its capacity as may be used or authorized for use; or

(4) Such other Government production and research property as may be otherwise excepted by the Office of Emergency Preparedness.

3. Section 18–13.405(a) is revised to read as follows:

§ 18–13.405 Non-Government use of industrial plant equipment (IPE).

(a) The prior written approval of the contracting officer is required for any non-Government use of active Government-owned industrial plant equipment (see B.102–11). Before non-Government use exceeding 25 percent may be authorized, prior approval of the Director of Procurement shall be obtained. In addition, non-Government use of machine tools, and secondary metal-forming and cutting machines (Federal Supply Classes 3405, 3408, 3410, 3411 through 3419 and 3441 through 3449) in excess of 25 percent shall require the advance approval of the Office of Emergency Preparedness which shall be obtained through the Director of Procurement with the concurrence of the Director of Facilities. Requests requiring the approval of the Director of Procurement or the Office of Emergency Preparedness shall be submitted at least 6 weeks in advance of the projected use and shall include:

(1) The total number of active IPE items involved and total acquisition cost thereof; and

(2) An itemized listing of active equipment having an acquisition cost of $25,000 or more, showing for each such item the nomenclature, production equipment code, year of manufacture, and the acquisition cost.

* * * * *

## PART 18–15—CONTRACT COST PRINCIPLES AND PROCEDURES

1. Section 18–15.107 is revised to read as follows:

§ 18–15.107 Advance understandings on particular cost items.

(a) The extent of allowability of the selected items of cost covered in Subparts 18–2 through 18–5 has been stated to apply broadly to many accounting systems in varying contract situations. Thus, as to any given contract, the reasonableness and allocability of certain items of cost may be difficult to determine, particularly in connection with firms or separate divisions thereof which may not be subject to effective competitive restraints. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is desirable that contractors seek advance agreement with the Government as to the treatment to be accorded those special or unusual costs. Such agreements may also be initiated by the Government. Advance agreements may be negotiated either before or during a contract but should be negotiated before incurrence of the cost covered by the agreement. Any such agreement must be in writing, shall be executed by both contracting parties, and shall be incorporated in the present and future contracts to which it is applicable.

(b) The contracting officer is not authorized by this paragraph to agree to a treatment of costs inconsistent with Subpart 18–2 through 18–5. For example, an advance agreement may not provide that, notwithstanding § 18–15.205–17, interest shall be allowable.

(c) An advance agreement entered into in accordance with this paragraph shall contain a suitable statement of its intended applicability and duration. The absence of an advance agreement on any element of cost will not, in itself, affect the reasonableness or allocability of that element.

(d) Advance agreements may be negotiated to affect only a single contract, a group of contracts, or may be broad enough to affect all the contracts of a single procurement office, all NASA procurement offices, or of another Government agency. An advance agreement which affects only one contract, or class of contracts from a single procurement office, shall be negotiated by the contracting officer or his authorized representative.

(e) Advance agreements, other than those negotiated by the contracting officer in accordance with paragraph (d) of this section, shall be negotiated by the Procurement Office, NASA Headquarters (Code KDP–2), or such other office as may be designated by the Procurement Office, NASA Headquarters.

(f) Prior to undertaking negotiation of an advance agreement under paragraph (e) of this section, the Procurement Office, NASA Headquarters or its designee shall (1) determine whether there are other NASA installations or Government agencies that have a significant unliquiated dollar balance in contracts with the same contractor, (2) inform any such Government agency of the cost item(s) or other matters to be negotiated, and (3) invite the Government agency to participate in prenegotiation discussions, or in the subsequent negotiations as appropriate. The results of the negotiation will be binding upon all NASA procurement offices. At the completion of the negotiation, the Procurement Office, NASA Headquarters or its designee will prepare and distribute copies of the fully executed agreement to all NASA procurement offices and other Government agencies affected by the negotiation.

(g) Examples of cost on which advance agreements may be particularly important are:

(1) Compensation for personal services including but not limited to allowances for offsite pay, incentive pay, location allowances, hardship pay and cost of living differential;

(2) Use charge for fully depreciated assets;

(3) Deferred maintenance costs;

(4) Precontract costs;

(5) Independent research and development costs;

(6) Royalties;

(7) Selling and distribution costs;

(8) Travel costs, as related to special or mass personnel movements;

(9) Idle facilities and idle capacity;

(10) Automatic data processing equipment;

(11) Bid and proposal costs; and

(12) Severance pay to employees on support service contracts.

2. Section 18–15.205–6 is revised to read as follows:

§ 18–15.205–6 Compensation for personal services.

(a) *General.* (1) Compensation for personal services includes all remuneration paid currently or accrued, in whatever form and whether paid immediately or deferred, for services rendered by employees to the contractor during the period of contract performance (except as otherwise provided in § 18–15.205–6 (f)). It includes, but is not limited to, salaries, wages, directors', and executive committee members' fees, bonuses (including stock bonuses), incentive awards, employee stock options, employee insurance, fringe benefits, and contributions to pension, annuity, and management employee incentive compensation plans, allowances for offsite pay, incentive pay, location allowances, hardship pay and cost of living differential. Except as otherwise specifically provided in this § 18–15.205–6, such costs are allowable to the extent that the total compensation of individual employees is reasonable for the services rendered and they are not in excess of those costs which are allowable by the Internal Revenue Code and regulations thereunder.

(2) Compensation is reasonable to the extent that the total amount paid or accrued is commensurate with compensation paid under the contractor's established policy and conforms generally to compensation paid by other firms of the same size, in the same industry, or in the same geographic area, for similar services. In the administration of this principle, it is recognized that not every compensation case need be subjected in detail to the above test. Such test need be applied only to those cases in which a general review reveals amounts or types of compensation which appear unreasonable or otherwise out of line. However, certain conditions give rise to the need for special consideration and possible limitation as to allowability for contract cost purposes where amounts appear excessive. Among such conditions are the following:

(i) Compensation to owners of closely held corporations, partners, sole proprietors, or members of the immediate families thereof, or to persons who are contractually committed to acquire a substantial financial interest in the contractor's enterprise. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of profits.

(ii) Any change in a contractor's compensation policy resulting in a substantial increase in the contractor's level of compensation, particularly when it was concurrent with an increase in the ratio of Government contracts to other business, or any change in the treatment of allowability of specific types of compensation due to changes in Government policy.

(iii) The contractor's business is such that his compensation levels are not subject to the restraints normally occurring in the conduct of competitive business.

(3) Compensation in lieu of salary for services rendered by partners and sole proprietors will be allowed to the extent that it is reasonable and does not constitute a distribution of profits.

(4) Notwithstanding any other provisions of this § 18-15.205-6, costs of compensation are not allowable to the extent that they result from provisions of labor-management agreements that, as applied to work in the performance of Government contracts, are determined to be unreasonable either because they are unwarranted by the character and circumstances of the work or because they are discriminatory against the Government. The application of the provisions of a labor-management agreement designed to apply to a given set of circumstances and conditions of employment (for example, work involving extremely hazardous activities or work not requiring recurrent use of overtime) is unwarranted when applied to a Government contract involving significantly different circumstances and conditions of employment (for example, work involving less hazardous activities or work continually requiring use of overtime). It is discriminatory against the Government if it results in individual personnel compensation (in whatever form or name) in excess of that being paid for similar non-Government work under comparable circumstances. Disallowance of costs will not be made under this paragraph (a) (4) unless:

(i) The contractor has been permitted an opportunity to justify the costs; and

(ii) Due consideration has been given to whether unusual conditions pertain to the Government contract work, imposing burdens, hardships, or hazards on the contractor's employees, for which compensation that might otherwise appear unreasonable is required to attract and hold necessary personnel.

(5) In addition to the general requirements set forth in subparagraphs (1) through (4) of this paragraph (a), certain forms of compensation are subject to further requirements as specified in paragraphs (b) through (i) of this section.

(b) *Salaries and wages.* Salaries and wages for current services include gross compensation paid to employees in the form of cash, products, or services, and are allowable. However, premiums for overtime, extra-pay shifts, and multishift work are allowable to the extent approved pursuant to § 18-12.102.

(c) *Cash bonuses and incentive compensation.* Incentive compensation for management employees, cash bonuses, suggestion awards, safety awards, and incentive compensation based on production, cost reduction, or efficient performance are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the contractor and the employees before the services were rendered, or pursuant to an established plan followed by the contractor so consistently as to imply, in effect, an agreement to make such payment (but see § 18-15.107). Bonuses, awards, and incentive compensation when any of them are deferred are allowable to the extent provided in paragraph (f) of this section.

(d) *Bonuses and incentive compensation paid in stock.* Costs of bonuses and incentive compensation paid in the stock of the contractor or of an affiliate are allowable to the extent set forth in paragraph (c) of this section (including the incorporation of the principles of paragraph (f) of this section for deferred bonuses and incentive compensation), subject to the following additional requirements:

(1) Valuation placed on the stock transferred shall be the fair market value at the time of transfer, determined upon the most objective basis available; and

(2) Accruals for the cost of stock prior to the issuance of such stock to the employees shall be subject to adjustment according to the possibilities that the employees will not receive such stock and their interest in the accruals will be forfeited.

Such costs otherwise allowable are subject to adjustment according to the principles set forth in paragraph (f) (3) of this section (but see § 18-15.107).

(e) *Stock options.* The cost of options to employees to purchase stock of the contractor or of an affiliate is unallowable.

(f) *Deferred compensation.* (1) As used herein, deferred compensation includes all remuneration, in whatever form, for which the employee is not paid until after the lapse of a stated period of years or the occurrence of other events as provided in the plans, except that it does not include normal end of accounting period accruals. It includes (i) contributions to pension, annuity, stock bonus, and profit-sharing plans; (ii) contributions to disability, withdrawal, insurance, survivorship, and similar benefit plans; and (iii) other deferred compensation, whether paid in cash or in stock.

(2) Deferred compensation is allowable only to the extent that:

(i) It is, together with all other compensation paid to the employee, reasonable in amount; and

(ii) It is paid pursuant to an agreement entered into in good faith between the contractor and employees before the services are rendered, or pursuant to a plan established and consistently applied thereafter by the contractor; and either—

(*a*) It is deductible for the same fiscal year for Federal income tax purposes under section 404 (excluding subsection (a) (5)) of the Internal Revenue Code of 1954 as amended and the regulations of the Internal Revenue Service: *Provided,* That—

(*1*) Normal costs of pension plans incurred subsequent to the effective date of this paragraph, not funded in the year incurred, shall not be allowable in subsequent years (except that a payment made to a fund by the time set for filing of the Federal income tax return for any taxable year shall be deemed to have been made during such taxable year);

(*2*) Allowable costs of contributions for past service or supplementary pension or annuity credits (including contributions for the equivalent of interest that would have been earned on previously unfunded costs, sometimes called "freezing payments") shall not exceed, for any year, amounts required to systemically amortize the actuarial liability annually over not less than 10 or more than 40 years beginning with the year that the liability was first assumed, either by announcement, agreement, regular practice or other means which would reasonably inform employees that continuing service would result in retirement benefits based in part on the previously unfunded past service (but see (*3*) of this subdivision (ii) (*a*));

(*3*) Pension costs of previous years which have not been funded as of the effective date of this paragraph are allowable to the extent they are systematically funded over not less than 10 years, provided the contractor can demonstrate that pension costs were allocated to Government contracts on a funding rather than an accrual basis in the accounting periods previous to the effective date of this paragraph and also provided that the systematic funding starts no later than the contractor's first full fiscal year after the effective date of this paragraph:

(*4*) The determination of allowable costs shall take into consideration unrealized, as well as realized appreciation in the market value of the fund assets, established on a rational and systematic basis. This recognition shall include unrealized appreciation on equity securities taking into account both the investment policy and prior growth experience of the fund. The appreciation to be recognized for equity securities generally shall be the amount by which 80 percent of the market value exceeds the total adjusted book value. The adjusted book value is defined as the acquisition cost adjusted for appreciation or depreciation previously recognized whether or not actually recorded in the asset account. Unrealized depreciation of equity securities may be recognized to the extent of unrealized appreciation previously recognized, but the total of value of all equity securities in a fund shall not be depreciated below the acquisition cost. Initial recognition of accumulated unrealized appreciation may be spread over a period of time not to exceed 10 years. Ordinarily, appreciation and depreciation need not be recognized for debt securities expected to be held to maturity and redeemed at face value;

(*5*) Abnormal forfeitures, due to significant reduction in the contractor's

level of employment, that are foreseeable and which can be currently evaluated with reasonable accuracy, by actuarial or other sound computation, shall be reflected by an adjustment of costs otherwise allowable; where abnormal forfeitures were not taken into account previously, appropriate credit shall be given to the Government pursuant to § 18-15.201-5;

(6) Any amount paid or funded and deductible in any year under section 404 (excluding section 404(a)(5)) of the Internal Revenue Code of 1954 as amended prior to the time it becomes allowable under this subdivision (a) shall be applied to future years, in order of time, as if actually paid and deductible in such years;

or

(b) It is deductible in the same fiscal year for Federal income tax purposes under section 404(a)(5) of the Internal Revenue Code of 1954 as amended and the regulations of the Internal Revenue Service, except that the costs of unfunded pension and retirement benefits paid directly to, or on behalf of, former employees shall be allowable only to the extent the contractor demonstrates that such costs, together with any pension and retirement costs allowed pursuant to (a) above, do not exceed the amount that would be allowable under (a) above if the contractor were providing for equivalent benefits on an actuarial basis in the current period.

(g) *Fringe benefits.* Fringe benefits are allowances and services provided by the contractor to his employees as compensation in addition to regular wages and salaries. Costs of fringe benefits, such as pay for vacations, holidays, sick leave, military leave, employee insurance, and supplemental unemployment benefit plans are allowable to the extent required by law, employer-employee agreement, or an established policy of the contractor.

(h) *Severance pay.* See § 18-15.205-39.

(i) *Training and education expenses.* See § 18-15.205-44.

3. Section 18-15.205-16 is revised to read as follows:

**§ 18-15.205-16 Insurance and indemnification.**

(a) Insurance includes insurance which the contractor is required to carry, or which is approved, under the terms of the contract; and any other insurance which the contractor maintains in connection with the general conduct of his business.

(1) Costs of insurance required or approved, and maintained, pursuant to the contract, are allowable.

(2) Costs of other insurance maintained by the contractor in connection with the general conduct of his business are allowable subject to the following limitations:

(i) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances;

(ii) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of profit;

(iii) Costs of insurance or of any provision for a reserve covering the risk of loss of or damage to Government property are allowable only to the extent that the contractor is liable for such loss or damage and such insurance or reserve does not cover loss or damage which results from willful misconduct or lack of good faith on the part of any of the contractor's directors or officers, or other equivalent representatives, who has supervision or direction of (a) all or substantially all of the contractor's business, or (b) all or substantially all of the contractor's operations at any one plant or separate location in which the contract is being performed, or (c) a separate and complete industrial operation in connection with the performance of the contract;

(iv) Provisions for a reserve under an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks except that provisions for known or reasonably estimated self-insured liabilities, such as liabilities for workmen's compensation, which do not become payable for more than 1 year after such provision is made, shall not exceed the present value of the liability, determined by using a rate of 6 percent, compounded annually; and

(v) Costs of insurance on the lives of officers, partners, or proprietors are allowable only to the extent that the insurance represents additional compensation (see § 18-15.205-6).

(3) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the contract, except:

(i) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice, are allowable; and

(ii) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of doing business, are allowable.

(b) Indemnification includes securing the contractor against liabilities to third persons and any other loss or damage not compensated by insurance or otherwise. The Government is obligated to indemnify the contractor only to the extent expressly provided for in the contract, except as provided in paragraph (a)(3) of this section.

4. Sections 18-15.205-33 and 18-15.205-34 are revised to read as follows:

**§ 18-15.205-33 Recruitment costs.**

(a) Subject to paragraphs (b), (c), and (d) of this section, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of help-wanted advertising, operating costs of an employment office neccessary to secure and maintain an adequate labor force, costs of operating aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees are allowable to the extent that such costs are incurred pursuant to a well-managed recruitment program. Where the contractor uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) Cost of help-wanted advertising is unallowable if the advertising:

(1) Is for other than for personnel required for the performance of obligations under a Government contract (see § 18-15.205-1);

(2) Does not describe specific positions or classes of positions;

(3) Is excessive in relation to the number and importance of the positions, or in relation to the practices of the industry;

(4) Includes material that is not relevant for recruitment purposes, such as extensive illustrations or descriptions of the company's products or capabilities;

(5) Is designed to "pirate" personnel from another Government contractor; and

(6) Includes color (in publications).

(c) Costs of excessive salaries, fringe benefits and special emoluments that have been offered to prospective employees, designed to "pirate" personnel from another Government contractor, or in excess of the standard practices in the industry, are unallowable.

(d) Relocation costs incurred incident to recruitment of new employees are subject to § 18-15.205-25. Where such costs have been allowed either as an allocable direct or indirect cost and the newly hired employee resigns for reasons within his control within 12 months after hire, the contractor shall be required to refund or credit such relocation costs to the Government. However, costs of travel to an overseas location shall be considered travel costs in accordance with § 18-15.205-46 and not relocation costs for the purpose of this paragraph (d), if (1) dependents are not permitted at that location for any reason, and (2) such costs do not include costs of transporting household goods.

**§ 18-15.205-34 Rental costs (Including sale and leaseback of facilities).**

(a) This § 18-15.205-34 is applicable to the cost of renting or leasing all property, real and personal, except automatic data processing equipment (ADPE). (See § 18-15.205-48.)

(b) As used in this section, the words and phrases defined in this paragraph (b) shall have the meanings set forth below.

(1) Short-term leasing means leasing where the cumulative term of the use or occupancy (initial term plus additional

terms whether or not pursuant to a renewal option) is 2 years or less for personal property and 5 years or less for real property.

(2) Long-term leasing means leasing where the cumulative term of the use or occupancy (initial term plus additional terms whether or not pursuant to a renewal option) is more than 2 years for personal property and more than 5 years for real property. Leasing with initial terms of more than 2 years for personal property and more than 5 years for real property is long-term leasing as of the effective date. Leasing with initial terms of 2 years or less for personal property and 5 years or less for real property becomes long-term leasing as of the effective date of the document which extends the cumulative term to more than 2 or 5 years and will be treated as short-term leasing prior to such date and long-term leasing on such date.

(3) Anticipated useful life of property may represent the application life (utility in a given function), technological life (utility before becoming obsolete in whole or in part), or physical life (utility before physically wearing out), depending upon the facts and circumstances and the particular property involved. In estimating anticipated useful life under long-term leasing, the starting date shall be the date that the lease qualifies as long-term leasing. The contractor may use application life if he can clearly demonstrate that the property has utility only in a given function and the duration of the function can be determined. Technological life may be used by the contractor if he can demonstrate that existing property must be replaced because of:

(i) Specific program objectives or contract requirements which cannot be accomplished with the existing facilities;

(ii) Cost reductions which will produce identifiable savings in production or overhead costs;

(iii) Increase in workload volume which cannot be accomplished efficiently by modifying or augmenting existing facilities; or

(iv) Consistent pattern of capacity operation (2½–3 shifts) on existing property.

However, technological advances (affecting technological life) per se will not justify replacement of existing property before the end of its physical life if such existing property will be able to satisfy future requirements or demands.

(c) Rental costs under short-term leasing are allowable to the extent that:

(1) The rates are reasonable at the time of the decision to lease in light of such factors as rental costs of comparable property, if any, and market conditions in the area, the type, life expectancy, condition, and value of property leased, alternatives available and other provisions of the agreement; and

(2) They do not give rise to a material equity in the property (such as an option to renew or purchase at a bargain rental or price) other than that normally given to industry at large, but represent charges only for the current use of the property including, but not limited to, any incidental service costs such as maintenance, insurance and applicable taxes.

(d)(1) Rental costs under long-term leasing are allowable only up to the amount the contractor would be allowed had he purchased the property unless he can demonstrate on the basis of facts existent at the time of the decision to lease on a long-term basis, documented in accordance with paragraph (e) of this section, that long-term leasing will result in less cost to the Government over the anticipated useful life of the property. If the contractor can demonstrate that long-term leasing will result in less cost to the Government, the rental costs for the term of the lease shall be subject to the same criteria set forth in paragraph (c) of this section for short-term leasing. However, if he subsequently renews the lease he must again demonstrate that leasing will result in less cost to the Government if he wishes to continue having rental costs evaluated by the criteria in paragraph (c) of this section.

(2) In estimating the least cost to the Government for the anticipated useful life, the cumulative costs that would be allowed if the contractor owned the property should be compared with cumulative costs that would be allowed under the leasing arrangement. For the purposes of this comparison, the costs of property include, but are not limited to, the costs of operation, maintenance, insurance, taxes, depreciation, leasehold improvements, and rental as applicable; and exclude interest, in the case of ownership costs, and other unallowable costs pursuant to Part 18–15 in either case.

(3) In those situations where leasing was formerly classified as short-term leasing, the purchase cost for purposes of cost comparison in subparagraph (2) of this paragraph will be the price at which the property could be acquired on the date that the agreement meets the qualifications for long-term leasing. If purchase is determined to be the method of acquisition which would result in least cost to the Government, such determination shall not be applied to the years when the leasing was classified as short-term leasing.

(e) Contractor's justifications, under paragraph (d) of this section, of his long-term leasing decisions shall consist of, but are not limited to, the following supporting data, prepared prior to leasing:

(1) Analysis of utilization of existing property;

(2) Application of comparative cost criteria in paragraph (d) of this section;

(3) Specific objectives or reqirements;

(4) Solicitation of proposals from available sources; and

(5) Proposals received in response to the solicitation, and reasons for selection of the property chosen and for the decision to lease.

(f) Rental costs under a sale and leaseback arrangement shall be allowable only up to that amount the contractor would be allowed had he retained title to the property, except rental cost may be allowed:

(1) In accordance with paragraphs (b), (c), and (d) of this section where the sale and leaseback immediately followed purchase of the property; or

(2) The sale and leaseback is otherwise in the best interests of the Government and specifically authorized in the contract.

(g) Charges in the nature of rent between any divisions, subsidiaries, or organization under common control are allowable to the extent such charges do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, and maintenance (excluding interest or other unallowable costs pursuant to Part 18–15): *Provided*, That no part of such costs shall duplicate any other allowed costs. However, rental cost of personal property, which is leased from any division, subsidiary, or affiliate of the contractor under common control, which has an established practice of leasing the same or similar property to unaffiliated lessees shall be allowed in accordance with paragraphs (b), (c), and (d) of this section. In addition, where the lessor is also the manufacturer of the personal property, the purchase price for the purposes of paragraph (d)(1) of this section and the cost of ownership for the purposes of paragraph (d)(2) of this section shall be determined in accordance with § 18–15.205–22(e).

(h) Rental costs under long-term leasing entered into prior to the effective date of this § 18–15.205–34 are allowable for the remaining term of the lease (excluding unexercised options) to the extent they would have been allowable under § 18–15.205–34 as of January 1, 1969.

(i) The allowability of rental costs under unexpired leases in connection with terminations is treated in § 18–15.205–42(e).

(j) Allowable rental costs shall not be adjusted by the amount of any investment credit accruing to the contractor by reason of an election made by a lessor of new "section 38" property to treat the contractor as the purchaser of such property pursuant to section 48(d) of the Revenue Act of 1962, as amended.

5. Section 18–15.205–42(g) is revised to read as follows:

§ 18–15.205–42 Termination costs.

* * * * *

(g) Subcontractor claims, including the allocable portion of claims which are common to the contract and to other work of the contractor, are generally allowable. An appropriate share of the contractor's indirect expense may be allocated to the amount of settlements with subcontractors: *Provided*, That the amount allocated is reasonably proportionate to the relative benefits received and is otherwise consistent with §§ 18–15.201–4 and 18–15.203(c). The indirect expense so allocated shall exclude the same and similar costs claimed directly or indirectly as settlement expenses.

6. Section 18–15.205–44 is revised to read as follows:

§ 18-15.205-44 Training and educational costs.

(a) Costs of preparation and maintenance of a program of instruction at noncollege level, including but not limited to on-the-job, classroom and apprenticeship training, designed to increase the vocational effectiveness of bona fide employees, including training materials, textbooks, salaries, or wages of trainees (excluding overtime compensation which might arise therefrom), and (1) salaries of the director of training and staff when the training program is conducted by the contractor, or (2) tuition and fees when the training is in an institution not operated by the contractor, are allowable.

(b) Costs of part-time education, at an undergraduate or postgraduate college level, including that provided at the contractor's own facilities, are allowable only when the course or degree pursued is relative to the field in which a bona fide employee is now working or may reasonably be expected to work, and are limited to—

(1) Training materials;

(2) Textbooks;

(3) Fees charged by the educational institution;

(4) Tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of indirect cost of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution;

(5) Salaries and related costs of instructors who are employees of the contractor; and

(6) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year where circumstances do not permit the operation of classes or attendance at classes after regular working hours.

(c) Costs of tuition, fees, training materials and textbooks (but not subsistence, salary, or any other emoluments) in connection with fulltime education, including that provided at the contractor's own facilities, at a postgraduate (but not undergraduate) college level, are allowable only when the course or degree pursued is related to the field in which a bona fide employee is now working or may reasonably be expected to work, and are limited to a total period not to exceed 1 school year for each employee so trained. In unusual cases where required by space technology, the period may be extended.

(d) Costs of attendance of up to 16 weeks per employee per year at specialized programs specifically designed to enhance the effectiveness of executives or managers or to prepare bona fide employees for such positions are allowable. Such costs include enrollment fees, training materials, textbooks and related charges, employees' salaries, subsistence and travel. Costs allowable under this subparagraph do not include those for courses that are part of a degree oriented curriculum, which are allowable only to the extent set forth in paragraphs (b) and (c) of this section.

(e) Maintenance expense and normal depreciation or fair rental on facilities owned or leased by the contractor for training purposes are allowable to the extent set forth in §§ 18-15.205-9, 18-15.205-20, and 18-15.205-34, respectively.

(f) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, or fellowships, are considered contributions and are unallowable.

7. Sections 18-15.301-2 and 18-15.301-3 are revised to read as follows:

§ 18-15.301-2 *Policy guides.*

The successful application of these principles requires development of mutual understanding between representatives of universities and of the National Aeronautics and Space Administration as to their scope, implementation, and interpretation. It is recognized that—

(a) The arrangements for NASA and institutional participation in the financing of a research and development project are properly subject to negotiation between NASA and the institution concerned in accordance with such Government-wide criteria as may be applicable.

(b) Each college and university, possessing its own unique combination of staff, facilities and experience, should be encouraged to conduct research in a manner consonant with its own academic philosophies and institutional objectives.

(c) Each institution, in the fulfillment of it obligations, should be expected to employ sound management practices.

(d) The application of the principles established herein should require no significant changes in the generally accepted accounting practices of colleges and universities.

(e) All NASA activities involved in negotiating indirect cost rates and auditing should assure that institutions are generally applying the cost principles and standards herein provided on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments should be fully considered during the rate negotiations and audit.

§ 18-15.301-3 Application.

All NASA activities that sponsor research and development work at educational institutions should apply these principles and related policy guides in determining the costs incurred for such work under any type of research and development agreement. These principles should be used also as a guide in the pricing of fixed price contracts or lump sum agreements.

8. Section 18-15.302-1 is revised to read as follows:

§ 18-15.302 Definition of terms.

§ 18-15.302-1 Organized research.

Organized research means all research activities of an institution that are separately budgeted and accounted for.

9. Section 18-15.302-7 is revised to read as follows:

§ 18-15.302-7 Stipulated salary support.

Stipulated salary support is a fixed or a stated dollar amount of the salary of professorial or other professional staff involved in the conduct of research which a Government agency agrees in advance to reimburse an educational institution as a part of sponsored research costs.

10. Section 18-15.303-1 is revised to read as follows:

§ 18-15.303 Basic considerations

§ 18-15.303-1 Composition of total costs.

The cost of a research agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable indirect costs of the institution, less applicable credits as described in § 18-15.303-5.

11. Section 18-15.303-6 is added:

§ 18-15.303-6 Costs incurred by State and local governments.

Costs incurred or paid by State or local governments in behalf of educational institutions for certain personnel benefit programs, such as, pension plans, FICA and any other costs specifically disbursed in behalf of and in direct benefit to the institutions, are allowable costs of such institutions whether or not these costs are recorded in the accounting records of such institutions, subject to the following:

(a) Such costs meet the requirements of §§ 18-15.303-1 through 18-15.303-5.

(b) Such costs are properly supported by cost allocation plans in accordance with Subpart 18-15.7 (see § 18-15.709).

(c) Such costs are not otherwise borne directly or indirectly by the Federal Government.

12. Section 18-15.304 is revised in its entirety as follows:

§ 18-15.304 Direct costs.

§ 18-15.304-1 General.

Direct costs are those that can be identified specifically with a particular research project, an instructional activity or any other institutional activity or which can be directly assigned to such activities relatively easily with a high degree of accuracy.

§ 18-15.304-2 Application to research agreements.

Identifiable benefit to the research work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of research agreements. Typical transactions chargeable to a research agreement as direct costs are the compensation of employees for performance of work under the research agreement, including related staff benefit and pension plan costs to the extent that such items are consistently treated by the educational institution as direct rather than indirect costs; the costs of materials consumed or expended in the performance of such work; and other items of expense incurred for the research agreement, including extraordinary utility

consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of research agreements: *Provided,* Such items are consistently treated by the institution as direct rather than indirect costs and are charged under a recognized method of costing or pricing designed to recover only actual costs and conforming to generally accepted cost accounting practices consistently followed by the institution.

13. Section 18–15.305 is revised in its entirety as follows:

**§ 18–15.305 Indirect costs.**

**§ 18–15.305–1 General.**

Indirect costs are those that have been incurred for common or joint objectives and, therefore, cannot be identified specifically with a particular research project, an instructional activity or any other institutional activity. At educational institutions, such costs normally are classified under the following functional categories: General administration and general expenses; research administration expenses; operation and maintenance expenses; library expenses; and departmental administration expenses.

**§ 18–15.305–2 Criteria for distribution.**

(a) *Base period.* A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

(b) *Need for cost groupings.* The overall objective of the allocation and apportionment process is to distribute the indirect costs described in § 18–15.306 to organized research instruction, and other activities in reasonable proportions consistent with the nature and extent of the use of the institution's resources by research personnel, academic staff, students, and other personnel or organizations. In order to achieve this objective with reasonable precision, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the functional categories of indirect costs referred to in § 18–15.305–1. In general, the cost groupings established within a functional category should constitute, in each case, a pool of those items of expense that are considered to be of like character in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in paragraph (c) of this section. Each such pool or cost grouping should then be distributed individually to the appertaining cost objectives, using the distribution base or method most appropriate in the light of the guides set out in paragraph (d) of this section.

(c) *General considerations on cost groupings.* The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groups (based on account classification or analysis) within a functional category include but are not limited to the following:

(1) Where certain items or categories of expense relate solely to one of the three major divisions of the institution (instruction, organized research or other institutional activities) or to any two but not the third, such expenses should be set aside as a separate cost grouping for direct assignment or selective distribution in accordance with the guides provided in paragraphs (b) and (d) of this section.

(2) Where any types of expense ordinarily treated as general administration and general expenses or Departmental administration expenses are charged to research agreements as direct costs, the similar type expenses applicable to those research agreements and included in the direct cost of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research and other activities at the institution or within the department.

(4) Where organized activities (including identifiable segments of organized research as well as the activities cited in § 18–15.302–4) provide their own purchasing, personnel administration, building maintenance, or similar service, the distribution of general administration and general expenses or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

(5) Where the institution elects to treat as indirect charges the cost of the pension plan and other staff benefits, such costs should be set aside as a separate cost grouping for selective distribution to appertaining cost objectives, including organized research.

(6) The number of separate cost groupings within a functional category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

(d) *Selection of distribution method.* (1) Actual conditions must be taken into account in selecting the method or base to be used in distributing to applicable cost objectives the expenses assembled under each of the individual cost groupings established as indicated under paragraph (b) of this section. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to appertaining cost objectives should be made through use of a selected base which will produce results which are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base: *Provided,* (i) It can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, man-hours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); (ii) it is common to the appertaining cost objectives during the base period.

(2) Results of cost analysis studies may be used when they result in more accurate and equitable distribution of costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if they produce equitable results. Cost analysis studies, however, should (i) be appropriately documented in sufficient detail for subsequent review by the cognizant Federal agency, (ii) distribute the indirect costs to the appertaining cost objectives in accord with the relative benefits derived, (iii) be conducted to fairly reflect the true conditions of the activity and to cover representative transactions for a reasonable period of time, (iv) be performed specifically at the institution at which the results are to be used, and (v) be updated periodically and used consistently. Any assumptions made in the study will be sufficiently supported. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(3) The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to appertaining cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

**§ 18–15.305–3 Administration of limitations on allowances for research costs.**

Research agreements may be subject to statutory or administrative policies that limit the allowance of research costs. When the maximum amount allowable under a statutory limitation or the terms of a research agreement is less than the amount otherwise reimbursable under this subpart, the amount not recoverable under that research agreement may not be charged to other research agreements.

14. Sections 18–15.306–4 and 18–15.306–5 are revised to read as follows:

**§ 18–15.306–4 Library expenses.**

(a) The expenses under this heading are those that have been incurred for

the operation of the library, including the costs of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under § 18–15.303–5. The library expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in the performance of the functions represented thereunder. Costs incurred in the purchase of rare books (museum type books) with no research value should not be allocated to Government-sponsored research.

(b) The expenses included in this category should be allocated on the basis of population including students and other users. Where the results of the distribution made on this basis are deemed to be inequitable to the Government or the institution, the distribution should then be made on a selective basis in accordance with the guides set out in § 18–15.305–2. Such selective distribution should be made through use of reasonable methods which give adequate recognition to the utilization of the library attributable to faculty, research personnel, students, and others. The method used will be based on data developed periodically on the respective institution's experience for representative periods.

§ 18–15.306–5 Departmental administration expenses.

(a) The expenses under this heading are those that have been incurred in the department for the administrative and supporting service operations that jointly benefit the instructional activities and organized research of the department. They include the salaries and expenses of deans or heads, or associate deans or heads, of colleges, schools, departments or divisions, and their immediate secretarial staff together with the salaries and expenses of personnel engaged in supporting activities maintained by the department, such as stockrooms, stenographic pools, and the like: *Provided*, Such supporting services are consistently treated as indirect costs. The salaries of other members of the professorial staff whose academic appointments or formal assignments require the performance of such administrative work may also be included to the extent that the portion so charged to departmental administration expenses is supported as required by § 18–15.309–7(b). The departmental administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the cost of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

(b) The distribution of departmental administration expenses should be made through use of selected bases applied to costs groupings established within this category of expenses in accordance with the guides set out in § 18–15.305–2(d).

15. Section 18–15.307 is revised in its entirety as follows:

§ 18–15.307 Determination and application of indirect cost rate or rates.

§ 18–15.307–1 Indirect cost pools.

(a) Subject to paragraph (b) of this section, indirect costs allocated to organized research should be treated as a common pool, and the costs in such common pool should then be distributed to individual research agreements benefiting therefrom on a single rate basis.

(b) In some instances a single rate basis for use across the board on all Government research at an institution may not be appropriate, since it would not take into account those different enviromental factors which may affect substantially the indirect costs applicable to a particular segment of Government research at the institution. For this purpose, a particular segment of Government research may be that performed under a single research agreement or it may consist of research under a group of research agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of Government research is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have obtained under paragraph (a) of this section, and (2) the volume of research work to which such rate would apply is material in relation to other Government research at the institution.

§ 18–15.307–2 The distribution base.

Indirect costs allocated to organized research should be distributed to applicable research agreements on the basis of direct salaries and wages. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to § 18–15.307–1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the total direct salaries and wages of all research agreements identified with such pool. For the purpose of establishing an indirect cost rate, direct salaries and wages may include that portion contributed to the research by the institution for cost sharing or other purposes. Bases other than salaries and wages may be used provided it can be demonstrated that they produce more equitable results.

§ 18–15.307–3 Negotiated lump sum for indirect costs.

A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained, off-campus, or primarily subcontracted research activities where the benefits derive from an institution's indirect services cannot be readily determined. Such amount negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses before apportionment to instruction, organized research, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

§ 18–15.307–4 Predetermined fixed rates for indirect costs.

Public Law 87–638 (76 Stat. 437) authorizes the use of predetermined fixed rates in determining the indirect costs applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, consideration should be given to the negotiation of predetermined fixed rates for indirect costs in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the contracting parties to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting period.

§ 18–15.307–5 Negotiated fixed rates and carryforward provisions.

When a fixed rate is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation. When the rate is negotiated before the carryforward adjustment is determined due to the delay in audit, the carry forward may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected indirect costs allocable to Government research for the forecast period plus or minus the carry forward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years shall not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the cognizant Federal agency as to whether these differences will be considered in the rate

negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carryforward provision may not subsequently change without prior approval of the cognizant Federal agency. In the event that an institution returns to a postdetermined rate, any over- or under-recovery during the period in which negotiated fixed rates and carryforward provisions were followed will be included in the subsequent postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate. This procedure also applies to rates established for grants and contracts for training and other educational services, but does not apply to cost-type research agreements covering work performed in wholly or partially Government-owned facilities.

16. Section 18-15.308-2 is revised to read as follows:

**§ 18-15.308-2 Abbreviated procedure.**

(a) Establish the total amount of salaries and wages paid to all employees of the institution.

(b) Establish an overhead pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalent:

(1) General administration and general expense (exclusive of costs of student administration and services, student aid, student activities, and scholarships).

(2) Operation and maintenance of physical plant.

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments.

In those cases where expenditures classified under subparagraphs (1) and (2) of this paragraph have previously been allocated to "other institutional activities," they may be included in the overhead pool. The total amount of salaries and wages included in the overhead pool must be separately identified.

(c) Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established under § 18-15.308-2(a) the amount of salaries and wages included under § 18-15.308-2(b).

(d) Establish the indirect cost rate, determined by dividing the amount in the overhead pool, § 18-15.308-2(b), by the amount of the distribution base, § 18-15.308-2(c).

(e) Apply the indirect cost rate established to direct salaries and wages for individual agreements to determine the amount of indirect costs allocable to such agreements.

17. Section 18-15.309-3 is revised to read as follows:

**§ 18-15.309-3 Capital expenditures.**

The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment, are unallowable except as provided for in the research agreement. Government funds shall not be used for the acquisition of land, or any interest therein, except with the specific prior approval of NASA.

18. Section 18-15.309-7 is revised to read as follows:

**§ 18-15.309-7 Compensation for personal services.**

(a) *General.* Compensation for personal services covers all remuneration paid currently or accrued to employees of the institution for services rendered during the period of performance under Government research agreements. Such remuneration includes salaries, wages, staff benefits (see § 18-15.309-39) and pension plan costs (see § 18-15.309-23). The costs of such remuneration are allowable to the extent that the total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the institution consistently applied, and provided that the charges for work performed directly on Government research agreements and for other work allocable as indirect costs to organized research are determined and supported as hereinafter provided.

(b) *Payroll distribution.* Amounts charged to organized research for personal services, except stipulated salary support, regardless of whether treated as direct costs or allocated as indirect costs, will be based on institutional payrolls which have been approved and documented in accordance with generally accepted institutional practices. Support for direct and indirect allocations of personal service costs to (1) instruction, (2) organized research, (3) indirect activities as defined in § 18-15.305-1, or (4) other institutional activities as defined in § 18-15.302-4 will be provided as described in paragraphs (c), (d), (e), and (f) of this section.

(c) *Stipulated salary support.* As an alternative to payroll distribution, stipulated salary support amounts may be provided in the research agreement for professional staff, any part of whose compensation is chargeable to Government-sponsored research. Stipulated salary support may also be provided for any other professionals who are engaged part time in sponsored research and part time in other work. The stipulated salary support for an individual will be determined by the Government and the educational institution during the proposal and award process on the basis of considered judgment as to the monetary value of the contribution which the individual is expected to make to the research project. This judgment will take into account any cost sharing by the institution and such other factors as the extent of the investigator's planned participation in the project and his ability to perform as planned in the light of his other commitments. It will be necessary for those who review research proposals to obtain information on the total academic year salary of the faculty members involved; the other research projects or proposals for which salary is allocated; and any other duties they may have such as teaching assignments, administrative assignments, number of graduate students for which they are responsible, or other institutional activities. Stipulated amounts for an individual must not per se result in increasing his official salary from the institution.

(d) *Direct charges for personal services under payroll distribution.* The direct cost charged to organized research for the personal services of professorial and professional staff, exclusive of those whose salaries are stipulated in the research agreement, will be based on institutional payroll systems. Such institutional payroll systems must be supported by either (1) an adequate appointment and workload distribution system accompanied by monthly reviews performed by responsible officials and a reporting of any significant changes in workload distribution of each professor or professional staff member, or (2) a monthly after-the-fact certification system which will require the individual investigators, deans, departmental chairmen or supervisors having first-hand knowledge of the services performed on each research agreement to report the distribution of effort. Reported changes will be incorporated during the accounting period into the payroll distribution system and into the accounting records. Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

(e) *Direct charges for personal services under stipulated salaries.* The amounts stipulated for salary support will be treated as direct costs. The stipulated salary for the academic year will be prorated equally over the duration of the grant or contract period during the academic year, unless other arrangements have been made in the grant or contract instrument. No time or effort reporting will be required to support these amounts. Special provision for summer salaries, or for a particular "off period" if other than summer, will be required. The research agreements will state that any research covered by summer salary support must be carried out during the summer, not during the academic year, and at locations approved in advance in writing by the granting agency. The certification required in § 18-15.310 will attest to this requirement as well as all others in a given research agreement. Stipulated salary support remains fixed during the funding period of the grant or contract and will be costed at the rate described above unless there is a significant change in performance. For example, a significant change in performance would exist if the faculty member (1) was ill for an extended period, (2) took sabbatical leave to devote effort to duties unrelated to his research, or (3) was required to increase substantially his teaching assignments, administrative duties, or responsibility for more research projects. In the latter event, it will be the responsibility of the educational institution to reduce the charges to the

research agreement proportionately or seek an appropriate amendment. In the case of those covered by stipulated salary support, the auditors are no longer required to review the precise accuracy of time or effort devoted to research projects. Rather, their reviews should include steps to determine on a sample basis that an institution is not reimbursed for more than 100 percent of each faculty member's salary and that the portion of each faculty member's salary charged to Government-sponsored research is reasonable in view of his university workload and other commitments. The stipulated salary method may also be agreed upon for that portion of a professional's salary that represents cost sharing by the institution.

(f) *Indirect personal services costs.* Allowable indirect personal services costs will be supported by the educational institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government officials.

(g) *General guidance for charging personal services.* Budget estimates on a monthly, quarterly, semester, or yearly basis do not qualify as support for charges to federally sponsored research projects and should not be used unless confirmed after the fact. Charges to research agreements may include reasonable amounts for activities contributing and intimately related to work under the agreement, such as preparing and delivering special lectures about specific aspects of the ongoing research, writing research reports and articles, participating in appropriate research seminars, consulting with colleagues and graduate students with respect to related research, and attending appropriate scientific meetings and conferences. In no case should charges be made to federally sponsored research projects for lecturing or preparing for formal courses listed in the catalog and offered for degree credit, or for committee or administrative work related to university business.

(h) *Nonuniversity professional activities.* A university must not alter or waive universitywide policies and practices dealing with the permissible extent of professional services over and above those traditionally performed without extra university compensation, unless such arrangements are specifically authorized by NASA. Where universitywide policies do not adequately define the permissible extent of consultantships or other nonuniversity activities undertaken for extra pay, the Government may require that the effort of professional staff working under research agreements be allocated as between (1) university activities, and (2) nonuniversity professional activities. If NASA should consider the extent of nonuniversity professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case by case basis.

(i) *Salary rates for academic year.* Charges for work performed on Government research by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the practice of the institution concerned, constitutes the basis of his salary. Charges for work performed on research agreements during all or any portion of such period would be allowable at the base salary rate. In no event will the charge to research agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period, and any extra compensation above the base salary for work on Government research during such period would be unallowable. This principle applies to all members of the faculty at an institution and, since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation additional to full-time base salary, the principle also applies to those who function as consultants or otherwise contribute to a research agreement conducted by another faculty member of the same institution: *Provided, however,* That in unusual cases where consultation is across Departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular Departmental load, any charges for such work representing extra compensation above the base salary are allowable provided such consulting arrangement is specifically provided in the research agreement or approved in writing by the sponsoring agency.

(j) *Salary rates for periods outside the academic year.* Charges for work performed by faculty members on Government research during the summer months or other periods not included in the base salary period will be determined for each faculty member at a monthly rate not in excess of that which would be applicable under his base salary and will be limited to charges made in accordance with § 18-15.309-7.

(k) *Salary rates for part-time faculty.* Charges for work performed on Government research by faculty members having only part-time appointments for teaching will be determined at a rate not in excess of that for which he is regularly paid for his part-time teaching assignments. Example: An institution pays $5,000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time (25 percent of his total available time) to Government research. Thus his additional compensation, chargeable by the institution to Government research agreements, would be one-half of $5,000 or $2,500.

19. Section 18-15.309-13 is revised to read as follows:

### § 18-15.309-13 Equipment and other facilities.

The costs of permanent equipment or other facilities are allowable where such purchases are approved by NASA or provided for by the terms of the research agreement. Total expenditures for permanent equipment may not exceed 125 percent of the amount allotted for the permanent equipment category by NASA (through an approved budget or other document) except with approval. The term "permanent equipment" shall mean an item of property which has an acquisition cost of $200 or more and has an expected service life of 1 year or more.

(a) *General purpose equipment.* Approval must be obtained to acquire with Government funds any general purpose permanent equipment, i.e., any items which are usable for activities of the institution other than research, such as office equipment and furnishings, air conditioning, reproduction or printing equipment, motor vehicles, etc., or any automatic data processing equipment.

(b) *Research equipment.* Approval must be obtained to acquire with Government funds any item of permanent research equipment costing $1,000 or more.

20. Section 18-15.309-31 is revised to read as follows:

### § 18-15.309-31 Reconversion costs.

Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of Government research agreement work, fair wear and tear excepted, are allowable. However, costs of restoration or rehabilitation of the institution's facilities resulting from the removal of Government property shall not be allowed except to the extent specifically provided for in the contract. (See paragraph(k) of the clause in § 18-13.707.)

21. Section 18-15.309-37 is revised to read as follows:

### § 18-15.309-37 Specialized service facilities operated by institution.

(a) The costs including amortization by generally accepted accounting practice, of institutional services involving the use of highly complex and specialized facilities such as electronic computers, including the cost of adapting computers for use, wind tunnels, and reactors are allowable provided the charges therefor meet the conditions of paragraph (b) or (c) of this section, and otherwise take into account any items of income or Federal financing that qualify as applicable credits under § 18-15.303-5.

(b) The costs of such institutional services normally will be charged directly to applicable research agreements based on actual usage or occupancy of the facilities on the basis of a schedule of rates that (1) is designed to recover only aggregate costs of providing such services over a long term agreed upon in advance by the cognizant Federal agency on an individual basis, and (2) is applied on a nondiscriminatory basis as between organized research and other work of the institution, including usage by the institution for internal purposes. Commercial or accommodation sales of computer services will be charged at not less than the above rates; however, if the rates

charged for these services are greater, the total amount of charges above the scheduled rates when significant may be considered in revising the schedule of rates. Further, within the constraints of this paragraph, it is not necessary that the rates charged for services be equal to the cost of providing those services during any one fiscal year.

(c) In the absence of an acceptable arrangement for direct costing as provided in paragraph (b) of this section, the costs incurred for such institutional services may be assigned to research agreements as indirect costs, provided the methods used achieve substantially the same results. Such arrangements should be worked out in coordination with all Government users of the facilities in order to assure equitable distribution of the indirect costs.

22. Section 18-15.309-44 is revised to read as follows:

**§ 18-15.309-44 Travel costs.**

(a) Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

(b) Travel costs are allowable subject to paragraphs (c), (d), (e), and (f) of this section, when they are directly attributable to specific work under a research agreement or are incurred in the normal course of administration of the institution or a department or research program thereof.

(c) The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

(d) Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the contracting officer or his authorized representative.

(e) Foreign travel costs are allowable only when the travel has received specific prior approval. Each separate foreign trip must be specifically approved. For purposes of this provision, foreign travel is defined as "any travel outside of Canada and the United States and its possessions and Puerto Rico".

(f) Expenditures for domestic travel may not exceed $500, or 125 percent of the amount allotted for such travel by the sponsoring agency, whichever is greater, except with approval.

23. Section 18-15.709-3 is revised to read as follows:

**§ 18-15.709-3 Instructions for preparation of cost allocation plans.**

The Department of Health, Education, and Welfare, in consultation with the other Federal agencies concerned, will be responsible for developing and issuing the instructions for use by State and local government grantees in preparation of cost allocation plans. This responsibility applies to both central support services at the State and local government level as well as indirect cost proposals of individual grantee departments.

24. Sections 18-15.709-4, 18-15.709-5, and 18-15.709-6 are added:

**§ 18-15.709-4 Negotiations and approval of indirect cost proposals for States.**

(a) The Department of Health, Education, and Welfare, in collaboration with the other Federal agencies concerned, will be responsible for negotiation, approval and audit of cost allocation plans, which will be submitted to it by the States. These plans will cover central support service costs of the State.

(b) At the grantee department level in a State, a single Federal agency will have responsibility similar to that set forth in paragraph (a) of this section for the negotiation, approval and audit of the indirect cost proposal. Cognizant Federal agencies have been designated for this purpose. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

(c) Questions concerning the cost allocation plans approved under paragraphs (a) and (b) of this section should be directed to the agency responsible for such approvals.

**§ 18-15.709-5 Negotiation and approval of indirect cost proposals for local Governments.**

(a) Cost allocation plans will be retained at the local government level for audit by a designated Federal agency except in those cases where that agency requests that cost allocation plans be submitted to it for negotiation and approval.

(b) A list of cognizant Federal agencies assigned responsibility for negotiation, approval and audit of central support service cost allocation plans at the local government level is being developed. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare.

(c) At the grantee department level of local governments, the Federal agency with the predominant interest in the work of the grantee department will be responsible for necessary negotiation, approval and audit of the indirect cost proposal.

**§ 18-15.709-6 Resolution of problems.**

To the extent that problems are encountered among the Federal agencies in connection with §§ 18-15.709-4 and 18-15.709-5, the Office of Management and Budget will lend assistance as required.

25. Section 18-15.806 is revised to read as follows:

**§ 18-15.806 Indirect costs of the instruction activity.**

The indirect costs of the instruction activity as a whole should include its allocated share of administrative and supportive costs determined in accordance with the principles set forth in §§ 18-15.804 and 18-15.306. Such costs may include other items of indirect cost incurred solely for the instruction activity and not included in the general allocation of the various categories of indirect expenses. Costs incurred for the institutions by State and local governments are allowable as provided for in § 18-15.303-6.

26. Section 18-15.808 is revised to read as follows:

**§ 18-15.808 Indirect cost rates for educational service agreements.**

An indirect costs rate should be determined for the educational service agreement pool or pools, as established under § 18-15.807. The rate in each case should be stated as the percentage which the amount of the particular educational service agreement pool is of the total direct salaries and wages of all educational service agreements identified with such pool. Indirect costs should be distributed to individual agreements by applying the rate or rates established to direct salaries and wages for each agreement. When a fixed rate is negotiated in advance of a fiscal year, the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation as in §§ 18-15.307-4 and 18-15.307-5.

27. Section 18-15.809-2 is revised to read as follows:

**§ 18-15.809-2 Compensation for personal services (§ 18-15.309-7).**

Charges to educational service agreements for personal services will normally be determined and supported consistent with the provisions of § 18-15.309-7. However, the provision for stipulated salary support will not be used for educational service agreements. Also, charges may include compensation in excess of the base salary of a faculty member for the conduct of courses outside the normal duties of such member provided that: (a) Extra charges are determined at a rate not greater than the basic salary rate of the member; (b) salary payments for such work follow practices consistently applied within the institution; and (c) specific authorization for such charges is included in the educational service agreement.

## PART 18-16—PROCUREMENT FORMS

1. Section 18-16.001 is revised to read as follows:

### § 18-16.001 Index of procurement forms for NASA use.

Listed below in numerical sequence are NASA forms, U.S. standard forms, DOD forms, and certain miscellaneous forms that are authorized for use by this chapter. The current edition of each form is shown in parentheses under the column headed "Date." References to form numbers in this chapter are to the current editions of the forms identified in the list below, unless otherwise specifically indicated.

(a) *NASA forms.*

| Number | Date | Title |
|---|---|---|
| 147 | 5-63 | Proposal and Acceptance (Negotiated Supply Contract). |
| 246 | 11-70 | General Provisions for Short Form Fixed-Price Contract with Nonprofit Institutions. |
| 247 | 5-71 | General Provisions for Fixed-Price Research and Development Contract. |
| 250 | 11-70 | Additional General Provisions to U.S. Standard Form 32 (6-64 Ed.). |
| 362 | 11-68 | Agreement for Use of NASA Unitary Plan Wind Tunnel Facilities. |
| 401 | 6-63 | Procurement Request. |
| 417 | 11-70 | General Provisions for Cost-Reimbursement Research and Development Contract. |
| 418 | 11-70 | General Provisions for Cost-Plus-a-Fixed-Fee Supply Contract. |
| 419 | 11-70 | General Provisions for Cost-Reimbursement Research and Development Contracts with Educational or Nonprofit Institutions. |
| 446 | 8-69 | Request for Contractor Clearance. |
| 456 | 11-68 | Notice of Contract Costs Suspended and/or Disapproved. |
| 456-1 | 11-68 | Notice of Contract Costs Suspended and/or Disapproved—Continuation Sheet. |
| 507 | 6-63 | Individual Procurement Action Report. |
| 523 | 7-69 | NASA—Defense Purchase Request. |
| 524 | 7-65 | NASA Small Business Subcontracting Program Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns. |
| 533 | 2-67 | Quarterly Contractor Financial Management Report. |
| 533a | 2-67 | Monthly Contractor Financial Management Report. |
| 533b | 2-67 | Contractor Financial Management Report—Contracts Under $500,000. |
| 533c | 2-67 | Contractor Financial Management Report—Support Services Contracts. |
| 534 | 2-67 | Contract Fiscal Year Functional Cost/Hour Report. |
| 534a | 2-67 | Contract Progress Curve Report. |
| 534b | 2-67 | Annual Direct, Relatively Fixed Recurring Costs Report. |
| 543 | 12-70 | Justification for Negotiation. |
| 550 | 1-63 | Negotiated Utility Service Contract. |
| 550S | 1-63 | Negotiated Utility Service Contract (Short Form). |
| 550A | 5-71 | General Provisions for Negotiated Utility Service Contract. |
| 550SA | 5-71 | General Provisions for Negotiated Utility Service Contract (Short Form). |
| 550A-1 | 1-63 | Electric Service Specifications. |
| 550A-2 | 1-63 | Gas Service Specifications. |
| 550A-3 | 1-63 | Water Service Specifications. |
| 550A-4 | 1-63 | Steam Service Specifications. |
| 550A-5 | 1-63 | Sewage Service Specifications. |
| 550B | 1-63 | Signature Page. |
| 551 | 4-62 | Cover Page for Letter Contracts. |
| 551-1 | 4-62 | Letter of Transmittal for Letter Contracts. |
| 551-2 | 9-62 | Schedule Format for Letter Contracts. |
| 551-3 | 1963 | General Provisions for Letter Contracts. |
| 573 | 2-64 | Materials Requirements Report. |
| 604 | 6-71 | Additional General Provisions to U.S. Standard Form 23A (10-60 Ed.). |
| 607 | 11-69 | Report on NASA Subcontracts. |
| 746 | 1-71 | General Provisions (Cost-Reimbursement Facilities Acquisition Contract). |
| 747 | 1-71 | General Provisions (Facilities Use Contract). |
| 748 | 1-71 | General Provisions (Cost-Reimbursement Consolidated Facilities Contract). |
| 778 | 4-68 | Contractor's Release. |
| 779 | 4-64 | Assignee's Release. |
| 780 | 1-63 | Contractor's Assignment of Refunds, Rebates, Credits, and Other Amounts. |
| 781 | 1-63 | Assignee's Assignment of Refunds, Rebates, Credits, and Other Amounts. |
| 811 | 12-62 | Determination for Classification of Property as Scrap or Salvage. |
| 812 | 12-62 | Determination & Authorization to Abandon or Destroy Surplus Property. |
| 1017 | 6-68 | Government-Owned/Contractor-Held Space Hardware Report. |
| 1018 | 6-68 | Analysis of Government-Owned/Contractor-Held Property Other Than Space Hardware. |
| 1057 | 10-69 | Forecast of Propellant Requirements. |
| 1129 | 5-69 | Incentive Contracts Currently Under Administration. |
| 1133 | 5-69 | Incentive Contracts Evaluation of Incentive Effectiveness (Final Report). |
| 1162 | 6-66 | New Technology (May 1966). |
| 1168 | 10-64 | Procurement Plan Contents Checklist: |
| 1206 | 4-65 | Assurance of Compliance with the National Aeronautics and Space Administration Regulation Under Title VI of the Civil Rights Act of 1964. |
| 1333 | 9-66 | Patent License Agreement. |
| 1334 | 2-71 | General Provisions (Time and Material and Labor Hour Contracts): |
| 1350 | 5-67 | NASA Contracting Officer's Certificate of Appointment. |
| 1379 | 9-69 | Order for Supplies or Services. |
| 1379 (Reverse) | 9-68 | Terms and Conditions of Purchase Order. |
| 1379A | 9-68 | Order for Supplies or Services (Continuation Sheet): |
| 1379B | 9-68 | Additional General Provisions, Modification, and Acceptance: |
| 1412 | 9-69 | Termination Authority. |
| 1413 | 9-69 | Termination Docket Checklist. |
| 1430 | 5-70 | Letter of Contract Administration Delegation, General: |
| 1430A | 5-70 | Letter of Contract Administration Delegation, Special Instructions: |
| 1431 | 5-70 | Letter of Acceptance of Contract Administration Delegation. |
| 1432 | 5-70 | Letter of Contract Administration Delegation—Termination: |
| 1433 | 5-70 | Letter of Audit Delegation. |
| 1477 | 4-71 | Contractor and Subcontractor Certified Cost or Pricing Data (October 1969): |

(b) *U.S. Standard Forms.*

| Number | Date | Title |
|---|---|---|
| 18 | 7-66 | Request for Quotations. |
| 19 | 10-69 | Invitation, Bid, and Award (Construction, Alteration, or Repair): |
| 19-A | 10-69 | Labor Standards Provisions Applicable to Contracts in Excess of $2,000. |
| 19-B | 10-69 | Representations and Certifications (Construction Contracts). |
| 20 | 1-61 | Invitation for Bids (Construction Contract). |
| 21 | 12-65 | Bid Form (Construction Contract). |
| 22 | 10-69 | Instructions to Bidders (Construction Contract). |
| 23 | 1-61 | Construction Contract. |
| 23-A | 10-69 | General Provisions (Construction Contract). |
| 24 | 6-64 | Bid Bond. |
| 25 | 6-67 | Performance Bond. |
| 25-A | 7-66 | Payment Bond. |
| 25-B | 6-64 | Continuation Sheet (For Standard Forms 24, 25 and 25-A). |
| 26 | 7-66 | Award/Contract. |
| 28 | 6-66 | Affidavit of Individual Surety. |
| 30 | 7-69 | Amendment of Solicitation/Modification of Contract. |
| 32 | 11-69 | General Provisions (Supply Contract). |
| 33 | 11-69 | Solicitation, Offer, and Award. |
| 33-A | 3-69 | Solicitation Instructions and Conditions. |
| 34 | 6-64 | Annual Bid Bond. |
| 35 | 6-64 | Annual Performance Bond. |
| 36 | 7-69 | Continuation Sheet. |
| 38 | 10-64 | Notice of Nondiscrimination in Employment. |
| 44 | 6-64 | Purchase Order—Invoice—Voucher. |
| 97 | 9-61 | The U.S. Government Certificate of Release of a Motor Vehicle. |
| 97-A | 9-61 | Agency Record Copy of The U.S. Government Certificate of Release of a Motor Vehicle. |
| 63 | 6-66 | Notice of Intention To Make a Service Contract and Response to Notice. |
| 99 | 5-65 | Notice of Award of Contract. |
| 100 | 1-67 | Employer Information Report EEO-1. |
| 119 | 4-68 | Contractor's Statement of Contingent or Other Fees. |
| 120 | 4-57 | Report of Excess Personal Property. |
| 125 | 12-69 | Report of Strategic and Critical Materials. |
| 129 | 1-66 | Bidder's Mailing List Application. |
| 147 | 6-64 | Order for Supplies or Services. |
| 148 | 6-64 | Continuation Sheet for Standard Form 147. |
| 251 | 6-61 | Architect-Engineer Questionnaire. |
| 1034 | Undated | Public Voucher for Purchases and Services Other than Personal. |
| 1034a | Undated | Public Voucher for Purchases and Services Other than Personal—Memorandum Copy. |
| 1035 | Undated | Public Voucher for Purchases and Services Other than Personal, Continuation Sheet. |
| 1035a | Undated | Public Voucher for Purchases and Services Other than Personal, Continuation Sheet—Memorandum. |
| 1080 | Undated | Voucher for Transfers Between Appropriations and/or Funds. |
| 1093 | Undated | Schedule of Withholdings under the Davis-Bacon Act. |
| 1094 | Undated | U.S. Tax Exemption Certificate. |
| 1165 | 3-52 | Receipt for Cash—Subvoucher. |

(c) *Department of Defense Forms.*

| Number | Date | Title |
|---|---|---|
| 250 | 11-63 | Material Inspection and Receiving Report. |
| 250c | 10-66 | Material Inspection and Receiving Report—Continuation Sheet. |
| 254 | 7-67 | Security Requirements Checklist. |
| 346 | 7-52 | Raw (Basic Processed) and Semifabricated Stock Form. |
| 347 | 7-52 | Bill of Materials for Subcontracted Parts—Purchased Parts—Government-Furnished Property. |
| 441 | 5-54 | Security Agreement. |
| 448-2 | 3-61 | Acceptance of MIPR. |
| 492 | 12-69 | Report of Allotments and Authorized Controlled Materials Orders (Cumulative). |
| 520 | 1-60 | Allocation Determination. |
| 530 | 1-60 | Return of Controlled Materials Allocations. |
| 540 | 4-57 | Settlement Proposal (Inventory Basis). |
| 541 | 4-57 | Settlement Proposal (Total Cost Basis). |
| 542 | 6-68 | Inventory Schedule A (Metals in Mill Product Form). |
| 542c | 4-57 | Inventory Schedule A (Continuation Sheet.) |
| 543 | 6-68 | Inventory Schedule B (Raw Materials, Purchased Parts, Finished Components, Finished Products, Miscellaneous). |
| 543c | 4-57 | Inventory Schedule B (Continuation Sheet). |
| 544 | 6-68 | Inventory Schedule C (Work in Process). |
| 544c | 4-67 | Inventory Schedule C (Continuation Sheet). |
| 545 | 6-68 | Inventory Schedule D (Dies, Jigs, Fixtures, etc., and Special Tools). |
| 545c | 4-57 | Inventory Schedule D (Continuation Sheet). |
| 546 | 4-57 | Schedule of Accounting Information. |
| 547 | 4-57 | Settlement Proposal for Cost-Reimbursement Type Contracts. |
| 548 | 7-58 | Application for Partial Payment. |
| 614 | 6-57 | Materials Requirements—Steel and Nickel Alloys. |
| 614-1 | 6-57 | Materials Requirements—Copper and Aluminum. |
| 633 | 4-68 | Contract Pricing Proposal.[1] |
| 633-1 | 4-68 | Contract Pricing Proposal (Technical Services).[1] |
| 633-2 | 4-68 | Contract Pricing Proposal (Technical Publications).[1] |
| 633-3 | 4-68 | Contract Pricing Proposal (Motion Pictures).[1] |
| 633-4 | 4-68 | Contract Pricing Proposal (Research and Development).[1] |
| 633-5 | 4-68 | Contract Pricing Proposal (Change Orders).[1] |
| 783 | 7-61 | Royalty Report (Foreign and Domestic). |
| 784 | 4-59 | Cost and Price Analysis for Contract Price Redetermination. |
| 831 | 4-70 | Settlement Proposal (Short Form). |
| 832 | 3-69 | Termination Inventory Schedule E (Short Form for Use With DD Form 813 Only). |
| 1114 | 10-59 | Instructions for Use of Contract Termination Settlement and Inventory Schedule Forms.[1] |
| 1115 | 6-69 | Instructions in Preparing Inventory Schedules of Contractor Inventory.[1] |
| 1149 | 3-59 | Requisition and Invoice/Shipping Document. |
| 1342 | 2-63 | DOD Property Record. |
| 1419 | 2-68 | DOD Industrial Plant Equipment Requisition. |
| 1521 | 1-66 | Pre-Award Survey of Prospective Contractor—General. |
| 1593 | 2-69 | Contract Administration Completion Record. |
| 1594 | 2-70 | Contract Completion Statement. |
| 1597 | 1-70 | Contract Closeout Checklist.[1] |
| 1598 | 6-69 | Contract Termination Status Report. |
| 1635 | 1-68 | Plant Clearance Case Register. |
| 1636 | 11-70 | Inventory Disposal Report. |
| 1637 | 1-68 | Notice of Acceptance of Inventory. |
| 1639 | 1-68 | Scrap Warranty. |
| 1641 | 1-68 | Disposal Determination/Approval. |
| 1642 | 1-68 | Inventory Verification Survey. |
| 1784 | 11-70 | Small Purchase Pricing Memorandum. |

[1] NASA edition.

(d) *Miscellaneous Forms.*

| Number | Date | Title |
|---|---|---|
| AF-15 | | Monthly Report of Letter Contracts. |
| AF-857 | 8-62 | USAF Propellant Sale, Return Slip. |
| BDSAF-133 | 1-67 | Request for Special Priorities Assistance. |
| CB 16-19 | 2-62 | Construction Contract Award Notification. |
| DB 11 | 7-64 | Request for Determination. |
| DJ 1500 | 6-61 | Identical Bid Report for Procurement. |
| DMS-10 | 7-59 | Allotment of Controlled Materials (Production). |
| DMS-11 | 7-59 | Allotment Decrease (Production). |
| DMS-12 | 7-59 | Applicant's Return of Allotment. |
| DMS-13 | 7-59 | Allotment of Controlled Materials (Construction). |
| DMS-14 | 7-59 | Allotment Decrease (Construction). |
| GSA-457 | 10-66 | Request for Federal Supply Schedules and Contractors' Catalogs. |
| GSA-2084 | | Clearance to Acquire Correspondence Filing Cabinets. |
| PC-13 | 1968 | Combination Letter-Poster re Walsh-Healey Public Contracts Act. |
| PC-16 | 2-68 | Minimum Wage Determinations Under the Walsh-Healey Public Contracts Act. |
| SC-1 | 1969 | Notice to Employees Working on Government Service Contracts. |
| SOL-155 | 7-61 | Wage Rate Information. |
| SOL-184 | | Optional Payroll Forms for Use on Federal Construction Contracts Subject to the Davis-Bacon Act and Related Acts. |
| SOL-185 | | |
| TD 720 | 7-64 | Quarterly Federal Excise Tax Return. |
| TD 1444 | 9-69 | Tax Free Spirits for Use of United States. |
| TD 1486 | 11-69 | Specially Denatured Spirits for Use of United States. |

2. Section 18-16.853 is revised to read as follows:

**§ 18-16.853 Checklist for negotiated contract file content (NASA Form 1098).**

NASA Form 1098, Checklist for Negotiated Contract File Content is to be used in the official contract file of all procurements in excess of $2,500 to provide an index to the documentation contained therein. If additional space is necessary, supplemental pages may be added and the added pages identified in the last spaces of the right hand column of page 2 of the form. This form may be adapted for use with advertised procurements.

3. Section 18-16.869 is added:

**§ 18-16.869 Contract file documentation and closeout forms.**

The forms set forth in this section are prescribed for use, in accordance with Supplement 2 of this chapter, in documenting and closing the files of completed contracts:

(a) Contract Administration Completion Record (DD Form 1593);

(b) Contract Completion Statement (DD Form 1594—NASA Edition); and

(c) Contract Closeout Checklist (DD Form 1597—NASA Edition).

## PART 18-23—SUBCONTRACTING POLICIES AND PROCEDURES

1. Section 18-23.100 is revised to read as follows:

**§ 18-23.100 Scope of subpart.**

(a) This subpart sets forth the requirements for conducting a contractor procurement system review (CPSR). The objectives of the review are to provide:

(1) A means for evaluating the efficiency and effectiveness with which the contractor spends Government funds;

(2) The basis for the contracting officer to grant, withhold, or withdraw approval of the contractor's procurement system;

(3) Reliable current information to the contracting officer on the contractor's procurement system for use in source selection, determining the appropriate type of contract, and establishing profit and fee objectives;

(4) An independent review of the contractor's procurement system to optimize its effectiveness in complying with Government policy, and

(5) Current procurement system information for appropriate NASA activities in areas of Government interest.

(b) CPSR's will normally be conducted by the Department of Defense and the provisions therefore are set forth in §§ 18-23.106 (a), and (c) and 18-23.150. The remainder of this subpart deals with

CPSR's conducted by NASA personnel at NASA cognizant contractor facilities.

(c) Prior to initiating a NASA conducted CPSR, the procurement office shall notify the Director of Procurement, NASA Headquarters (Code KDP-3) who will provide instructions and procedures to be followed in conducting the CPSR and in preparing the CPSR report.

2. Section 18-23.106 is revised to read as follows:

**§ 18-23.106 Distribution of reports, schedules and notifications.**

(a) The Director of Procurement will provide DOD CPSR schedules to installation procurement offices.

(b) Copies of Reports and Notifications concerning Contractor Procurement System Reviews conducted by NASA shall be provided as follows by the NASA contract administration activity:

| | Director of procurement (Code KDP-3) | Office responsible for a current contract held by the contractor in excess of $250,000 which requires consent to subcontracts and to other offices upon request | | NASA management audit office (see NMI 1130.7A) |
|---|---|---|---|---|
| | | Installation procurement offices | DOD purchasing offices | |
| Notifications to contractor in accordance with § 18-23.105(c) | | 1 | 1 | 1 |
| Summary reports and supplements (see § 18-23.100(c)) | 1 | 3 | 3 | 1 |
| Complete reports (see § 18-23.100(c)) | 1 | 3 | ---------- | 1 |

(c) It is DOD procedure to provide NASA with copies of reports and notifications concerning contractor procurement system reviews conducted by DOD as follows:

| | Director of procurement (Code KDP-3) | Installation procurement offices responsible for a current contract in excess of $250,000 which requires consent to subcontracts and to other offices upon request | NASA management audit office (see NMI 1130.7A) |
|---|---|---|---|
| Notifications to Contractor in Accordance with § 18-23.105(c) | | 1 | 1 |
| Summary Reports and Supplements | 1 | 3 | 1 |
| Complete Reports | 1 | ---------- | 1 |

3. Section 18-23.150 is revised to read as follows:

**§ 18-23.150 Contractor procurement system reviews conducted by the Department of Defense (DOD).**

(a) Procedures for delegating the CPSR function are set forth in Subpart 18-51.2. Delegation of the CPSR function shall include authority for the cognizant DOD contracting officer to grant, continue, withhold or withdraw approval of the contractor's procurement system.

(b) NASA installations desiring to participate in a DOD CPSR shall forward a request for such participation to the Director of Procurement, NASA Headquarters (Code KDP-3) for approval.

(c) Contracting officers desiring Contractor Procurement System Reviews which are in addition to those scheduled by DOD, shall forward the requests for such reviews to the Director of Procurement.

(d) Contracting officers will advise the cognizant DOD Contract Administration Officer of weaknesses in a contractor's procurement system that have come to light during the review of subcontracts or from other sources.

(e) Contracting officers are responsible for reviewing DOD Summary Reports (which include present system status, comments, conclusions, recommendations and significant changes effected since the review) and notifications to the contractors; and when there is a determination that is at variance with the Summary Report or actions taken by DOD, the contracting officer will forward a request for approval of alternate actions, with justification, to the Director of Procurement. Similarly, a contracting officer desiring the withdrawal of a DOD approval of a contractor procurement system on the basis of a determination that there has been a deterioration of the contractor's procurement system, or to otherwise protect the interests of the Government shall forward a request for such withdrawal to the Director of Procurement with appropriate justification.

## PART 18-26—CONTRACT MODIFICATIONS

1. Section 18-26.101 is revised to read as follows:

**§ 18-26.101 Policy.**

(a) Contract modifications, which are defined in § 18-1.205 shall be effected only by the use of Standard Form 30, Amendment of Solicitation/Modification of Contract (see § 18-16.103). Contract modifications are of three general types:

(1) Administrative changes (These changes, such as a change in paying office and appropriation data, do not affect the substantive rights of the contracting parties and do not require the contractor's acceptance),

(2) Change orders (see Subpart 18-26.2), and

(3) Supplemental agreements (see Subpart 18-26.3).

(b) The price of contract modifications shall be negotiated prior to their execution if this can be done without adversely affecting the interests of the Government. This includes changes which could be issued unilaterally pursuant to the contract. If a significant cost increase could result from a modification and time does not permit negotiation of a price, at least a maximum price shall be negotiated unless to do so would be clearly impracticable.

(c) Only contracting officers, as defined in § 18-1.206, acting within the scope of their authority are empowered to execute modifications on behalf of the Government. Other Government personnel shall not:

(1) Execute modifications;

(2) Act in such a manner as to cause the contractor to believe that they have authority to bind the Government; or

(3) Direct or encourage the contractor to perform work which should be the subject of a modification.

## PART 18-50—ADMINISTRATIVE POLICIES AND PROCEDURES

1. Section 18-50.102 is revised to read as follows:

**§ 18-50.102 Research contracts resulting from unsolicited proposals.**

Where, as the result of an unsolicited proposal, a contract is selected as the research support instrument (see paragraph 204 of the NASA Grant Handbook, NHB 5800.1) and the proposed contractor is a nonprofit institution of higher education or a nonprofit institution closely affiliated with a university, the procurement office will forward to the Office of University Affairs, NASA Headquarters (Code PY) the following information:

(a) A copy of the procurement request with work statement;

(b) A copy of the supporting justification for acceptance of the unsolicited proposal as required by § 18-4.402-4(b); and

(c) Identification of the assigned unsolicited proposal number.

The procurement office will not delay negotiation and award of the contract pending the receipt of a response from the Office of University Affairs.

2. Sections 18-50.105 and 18-50.106 are revised to read as follows:

**§ 18-50.105 Approval of contracts and supplemental agreements.**

(a) *General.* All contractual documents, regardless of dollar value, require a complete review by the contracting officer, notwithstanding that further review and approval may be required.

(b) *Contracts and supplemental agreements.* Proposed contracts and supplemental agreements in the following categories shall be submitted to the Director of Procurement, NASA Headquarters (Code KDR) for approval:

(1) For utility services when an areawide contract is not used and either (i),

the annual cost of the services to be procured is estimated by the using installation, at the time of the initiation of the service or annual renewal of the expenditure, to exceed $50,000; or (ii) when, except for communication services, a proposed connection charge, termination liability, or any other facilities charge to be paid (whether or not refundable) is estimated to exceed $5,000.

(2) For architect-engineer services when:

(i) The total dollar value is $250,000, or

(ii) The work to be performed under a cost-plus-fixed-fee or fixed-price contract includes services of the type described in § 18-4.201(b) (2), (3), or (4), and the fee, inclusive of the architect-engineer's costs, to be paid to the architect-engineer for the performance of such services exceeds 6 percent of the estimated cost of the related construction project, exclusive of the amount of such fee.

(3) Providing facilities having a total acquisition value exceeding $250,000, or providing real property regardless of amount (see § 18-13.302(b)); and

(4) Each negotiated definitive contract or supplemental agreement, which by itself would equal or exceed the dollar value set forth in subdivision (iii) of this subparagraph for the installation making the award, except for termination settlement agreements (see Part 18-8). This includes:

(i) A contract or supplemental agreement which contains an option provision, as authorized by Subpart 18-1.15, when the total dollar value, including the option(s), equals or exceeds the dollar value set forth in subdivision (iii) of this subparagraph for the installation making the award.

(ii) A supplemental agreement (except one which provides only for the addition or deletion of funds for incremental funding purposes) which:

(*a*) Definitizes either one or more debit change orders or one or more credit change orders when the total dollar value of either the debit change order(s) or credit change order(s) equals or exceeds the dollar value set forth in subdivision (iii) of this subparagraph for the installation making the award;

(*b*) Definitizes and consolidates one or more debit and one or more credit change orders when the total dollar value of either the debit change order(s) or the credit change order(s) before consolidation equals or exceeds the dollar value set forth in subdivision (iii) of this subparagraph for the installation making the award, or

(*c*) Adds new work and definitizes and consolidates one or more debit and one or more credit change orders when the total dollar value of either the new work and debit change order(s), or either the new work or the credit change order(s) equals or exceeds the dollar value set forth in subdivision (iii) of this subparagraph for the installation making the award.

(iii) (*a*) $500,000:

Flight Research Center.
Wallops Station.

(*b*) $1 million:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(*c*) $2,500,000:

Ames Research Center.
Goddard Space Flight Center.
Langley Research Center.
Lewis Research Center.
Manned Spacecraft Center.
Marshall Space Flight Center.
Space Nuclear Systems Office (Germantown).

(c) *Letter contracts.* All letter contracts require advance authorization for issuance by the Administrator or Deputy Administrator, NASA Headquarters. Requests for authority to issue letter contracts shall be processed in accordance with the procedures set forth in § 18-3.408.

(d) *Leases.* Leases, and extensions thereto, for the rental of real property by the Government where the annual rental is more than $25,000 or where a Certificate of Necessity under 40 U.S.C. 278b is required shall be submitted to the Director of Procurement for approval.

(e) *Approval provisions.* All negotiated definitive instruments which require the approval of the Director of Procurement, pursuant to this section, shall contain the clause set forth in § 18-7.104-51.

### § 18-50.106 Information to be furnished when requesting approval of contracts and supplemental agreements.

(a) *General.* Requests for approval of contracts and supplemental agreements submitted to Headquarters for approval by the Director of Procurement, in accordance with § 18-50.105 shall include the information set forth in this section and shall be forwarded in sufficient time to allow a minimum of fifteen (15) days for review. The official contract file will be submitted with the request for approval and will include NASA Form 1098, "Checklist for Negotiated Contract File Content". Where Headquarters Legal Counsel review is required, a duplicate copy of the file should, if practical, be forwarded in order to expedite review. A list of contracts requiring such legal review will be published periodically. NASA Form 1098 will be completed and the contract file will be compiled in accordance with the "Instructions" block of NASA Form 1098.

(b) *Negotiation.* Each request for approval of a contract or supplemental agreement to be entered into as a result of negotiation shall be accompanied by eight (8) copies of the contract, four (4) of which are executed by the contractor and contracting officer, and by the official contract file which contains the appropriate documentation as set forth in S2.102-1 of Supplement 2. However, for subparagraphs S2.102-1 (x), (xi), and (xii) of Supplement 2, provide documentation pertaining only to the successful offeror and for subparagraph (xxv) do not provide supporting documentation for previously issued contract modifications, except as required below. When the contract being forwarded is a Supplemental Agreement to an existing contract, the following additional information is required to be included in the file:

An index of all previous modifications which will serve as a guide or quick reference to the latest version of a Schedule Article, a General Provision or a section, part or paragraph of the Statement of Work. The following is an example of an index which contains adequate description and is provided for guidance:

A.C. #1—Added $XXXXX funds per GP #41, LOGO.
S.A. #2—Added GP #87 "Safety & Health".
C.O. #3—Changed Paragraph 27.0 of Statement of Work (Change in Specification SIC-2057).
S.A. #4—Incorporated C.O. #3.
S.A. #5—Article VI, Period of Performance (extended for 1 year, 11-1-70 through 10-31-71).

Also updated GP's through 9-20-70.

## PART 18-51—CONTRACT MANAGEMENT PROCEDURES

1. Section 18-51.309 is revised to read as follows:

### § 18-51.309 Delegations to Audit Offices.

The procedures set forth in this section shall apply when delegations are made to audit offices.

(a) NASA installations shall utilize the services of other Government audit organizations for performance of contract cost audit and other audit functions except in those instances where audit is to be performed by NASA auditors. The Defense Contract Audit Agency (DCAA) has been designated as the DOD agency responsible for the performance of audit functions for all NASA contracts, except those awarded to educational institutions for which other agencies have audit cognizance pursuant to Bureau of the Budget Circular No. A-88 and those accomplished by NASA. To insure that audit services are performed expeditiously, audit delegations shall be sent to the appropriate audit office immediately after execution of all cost-reimbursement, labor-hour, time and material type contracts, and fixed-price contracts containing cost-reimbursement or price adjustment provisions. Audit functions include but are not limited to the contract cost and pricing auditing, estimating systems surveys, review of accounting systems, and approval of vouchers for provisional payment.

(b) Delegations shall be sent to cognizant audit offices as listed in the Defense Contract Audit Agency Directory, Headquarters and Field Offices, or in other Government agency directories, as appropriate.

(c) NASA Form 1433, "Letter of Audit Delegation," shall be used to delegate the

audit function and to amend previous delegations when necessary. The distribution of copies of the contract and NASA Form 1433 shall be as follows:

(1) Audit Office: one copy of the contract; three NASA Forms 1433.

(2) Cognizant NASA Regional Audit Office: one NASA Form 1433.

(3) Contractor: one NASA Form 1433.

(4) Cognizant NASA Fiscal or Financial Management Office: one NASA Form 1433.

(d) NASA contracting officers may request assistance from NASA audit representatives when required. Special audits or additional audit functions may be requested by the NASA audit representative. Arrangements for such audits are the responsibility of the NASA audit representative, unless processed through the NASA contracting officer. NASA contracting officers shall provide the cognizant auditor with negotiation memoranda and information on all other actions which have an affect on cost or which may otherwise influence the effective accomplishment of the audit responsibility.

2. Section 18–51.603 is revised to read as follows:

§ 18–51.603 Closing checklist.

(a) The closing review will focus on a verification that (1) all actions necessary to complete the contract (as defined in § 18–51.602) have been consummated; and (2) actions have been fully documented to the extent practicable. When the review indicates that the contract may be incomplete in any respect, the surrounding circumstances shall be investigated to determine whether some necessary action has been omitted. Where prior actions have been taken but not documented, the closing memorandum shall, to the extent practicable, provide proper documentation; if this is not practicable, the closing memorandum shall be annotated to reflect the fact. When a contractual matter remains in an open status, completion action shall be initiated to the extent feasible (see § 18–51.604(b)).

(b) The following list represents the more significant items of contract closing which should be reflected by proper documentation. (Listing these actions in connection with the closing review of the contract, contract file, and other pertinent data is not intended to indicate the order in which the actions should be taken.) A checklist indicating the date of completion of each of the following actions applicable to the contract being closed shall be included in the contract file. (See Supplement 2, Subpart 3.)

(1) Determine the status of deliveries and billings. If necessary to reconcile deliveries and payments, a letter should be obtained from the contractor showing total deliveries by items, total billings, and total payments. This data should be related to administrative records and such action be taken as may be required to reconcile differences in billings and payments and to resolve discrepancies in delivery or performance.

(2) Verify that all contract changes have been formalized. If such verification cannot be established by Government personnel, a letter may be obtained from the contractor indicating that all contractual changes have been covered by contract modification. The file should be further documented to support all equitable adjustments completed or in process.

(3) Examine the contract file to insure that adequate documentation exists (in the form of receiving reports or other documents) to evidence receipt, inspection, and acceptance of all contract items, accomplishment of all corrections, and appropriate refund or credit when nonconforming supplies are accepted at a reduced price, in accordance with the "Inspection" clause.

(4) Verify the proper disposition of all property matters.

(5) Verify that disposition has been made of all security matters. A supporting statement from the contractor that all the requirements of the "Department of Defense Industrial Security Manual for Safeguarding Classified Information" have been complied with, shall be included.

(6) When a renegotiation report has been made, verify that the contract file contains a copy of the report and all supporting documents.

(7) Verify the price revision or redetermination action, when called for, has been accomplished and examine the adequacy of supporting data. Files should be documented in sufficient detail when price revision has been waived.

(8) Verify that consent to subcontracts has been obtained in all instances required by the contract. The absence of consent, where contractually required, shall be the subject of appropriate comment.

(9) Insure that all advance or progress payments have been liquidated and that action has been initiated to recover any overpayments.

(10) Insure that in all instances where performance of contract administration functions has been delegated the actions required have been performed.

(11) Insure that the contractor has been alerted to the contract requirement for maintenance of books and records.

(12) Confirm that appropriate and fully documented action was taken with respect to violations of standard contract clauses based on acts of Congress or Executive Orders concerning labor laws, contingent fees, domestic articles, officials not to benefit, etc., or in lieu thereof that the file contains a memorandum that cognizant administrative personnel know of no such violation.

(13) Ascertain whether any questions arose regarding exemptions from Federal or State tax laws and insure that such questions have been properly resolved, with adequate documentation.

(14) Examine the contract and contract files to ascertain the possible existence of pending disputes, contingent liabilities, or circumstances out of which future claims of litigation might arise, potential credits, or refunds or other future recoveries. Insure that adequate reserves have been set aside to provide for contingent liabilities. Maintain suspense and follow-up on any matters which remain unresolved. Coordinate with legal personnel, where appropriate.

(15) Determine that all administrative reviews and approvals have been accomplished and documented (regarding wages and salaries, insurance, accounting, purchasing, etc.).

(16) Review all notices of cost suspension or disallowance to determine that the issues have been properly resolved and see that reductions of fee which are appropriate under the contract have been obtained.

(17) Determine that all reports under clauses relating to patents, inventions, royalties, and new technology have been received and cleared.

(18) Determine that all required data has been delivered. A review of the data should be made by cognizant technical personnel to insure that the drawings, specifications, etc., reflect the most recent design changes and modifications. The review should also determine whether it is necessary or desirable that NASA have possession of the complete technical data package, including production procedures, tooling setup, quality control procedures, test reports, etc. If plans call for turning the data over to another contractor for production purposes, the technical representative should insure that the applicable Government-furnished equipment, machine tools, and associated jigs, fixtures, and special tooling are identified and readily usable.

(19) Insure that all investigations of fraud or suspicion of same, and reports on General Accounting Office or similar type investigations, have been completed and documented. Proper action also should be reflected with respect to delinquencies or failures in performance.

(20) Confirm that assignment and subrogation have been accomplished in favor of the Government in connection with all contractor's rights and claims, other than those against the Government, pursuant to contract terms.

(21) Insure that excess funds are removed as soon as practicable.

(22) Insure that final overhead rates are negotiated and set forth in a contract modification.

(23) Establish that the completion voucher is supported by the necessary cumulative claim and reconciliation, assignment of refunds, rebates, credits and other amounts, and final release of claims by the contractor.

(24) Insure that a copy of the final audit report is included in the contract file.

(25) Insure that the contractor performance evaluation report has been furnished, where required, and that a copy is retained in the contract file.

(26) Insure that the contract file contains other applicable documents listed in Supplement 2.

(27) Insure that final payment has been made.

(28) Insure that the file is properly prepared for disposition. (Disposition instructions are set forth in NHB 1441.1A, "NASA Records Control Schedules,"

NHB 1620.3, "NASA Physical Security Handbook," and NMI 1630.1, "Control of Top Secret Information.")

## PART 18-52—PRIORITIES AND ALLOCATIONS

1. Section 18-52.404 is revised to read as follows:

**§ 18-52.404 Action by NASA Headquarters.**

(a) After receipt of the Form BDSAF-138, a thorough exploration of the case will be undertaken with a view toward determining the specific deficiency (e.g., lack of capacity, prior higher priority orders, shortage of materials or parts, etc.). On the basis of the information developed, action will be taken to resolve the case by informal arrangements with the supplier and applicant. If this action is unsuccessful, the case will be endorsed, through the Department of Defense, to the Bureau of Domestic Commerce (BDC). One of the following actions will be taken by (BDC):

(1) Arrangement of improved delivery dates by informal agreement with the supplier;

(2) Issuance of a DX rating; or

(3) Issuance of a directive requiring the supplier to produce or deliver the specified item by a specific date.

(b) The Procurement Office, NASA Headquarters (Code KDP-3) will maintain a followup of all cases received and notify field installations as to final disposition of individual cases.

### Appendix B—Control of Government Property in Possession of Contractors

SUBPART 3—RECORDS OF GOVERNMENT PROPERTY

1. B.306-1 is revised to read as follows:

B.306-1 *Centrally reportable plant equipment.* Notwithstanding the approval of a contractor's property accounting and control system the contractor shall, with respect to items identified as industrial plant equipment (IPE) (including those items which are a part of a manufacturing system, but excluding general purpose components of special test equipment) prepare a DD Form 1342 (see Attachments 1 and 2) at the time of acquisition or receipt. When IPE including general purpose components of special test equipment is no longer required at the point of acquisition or receipt, the contractor shall prepare a DD Form 1342 and reflect thereon any changes in original data not previously reported. The contractor shall retain the original of each DD Form 1342 and forward the copies through the property administrator to the NASA contracting officer. Use of the DD Form 1342 as the official property record is optional.

2. B.316 is added:

B.316 *Records of transportation and installation costs of plant equipment for rental purposes.* The contractor shall record within the property control system the transportation and installation costs directly borne by the Government for each item of Government-owned plant equipment with an acquisition cost of over $1,000. When required, such recorded costs shall be provided to the contracting officer for use in computing rental charges pursuant to § 18-7.702-12.

(a) *Transportation costs.*

(1) Transportation costs (other than included in purchase price) shall include costs of shipment of equipment to present location from the last prior location. These costs shall include line haul charges, add-on charges such as switching, diversion, pickup and delivery, overdimensional, State permits, local permits, unloading, drayage, ocean, port handling, and other charges as shown on the applicable Government bill of lading or other transportation document to the receiving contractor location. When transportation costs are included in price of equipment delivered to using location, the property records should be so annotated.

(2) If transportation costs are not included in the price of equipment delivered to the using location, and are not otherwise available, the contractor shall prepare DD Form 1093, Freight Rate Request and Response (or any other form which contains the same data) in triplicate. Item 4 of DD Form 1093 shall be modified to indicate the date or approximate date the shipment was received. The original and one copy of DD Form 1093 shall be forwarded through the property administrator to the transportation officer who will arrange for the estimated freight charges to be placed on the original. The original shall then be returned through the property administrator to the contractor for recording. In submitting freight data requests for a large number of items of plant equipment, special arrangements may be made to use machine listings provided such listings contain all essential information.

(b) *Installation costs.*

(1) When installation is performed by the contractor, the cost shall be computed in accordance with the contractor's accounting system if acceptable for other contract cost determination purposes and recorded in the property record.

(2) When installation is subcontracted, the cost paid to the subcontractor shall be recorded in the property record.

(3) When installation costs are included in price of equipment delivered to the using location, the property records should be so annotated.

### Appendix C—Control of Property in Possession of Nonprofit Research and Development Contractors

SUBPART 3—RECORDS OF GOVERNMENT PROPERTY

C.306-1 is revised to read as follows:

C.306-1 *Centrally reportable plant equipment.* Notwithstanding the approval of a contractor's property accounting and control system the contractor shall, with respect to items identified as industrial plant equipment (IPE) (including those items which are a part of a manufacturing system, but excluding general purpose components of special test equipment) prepare a DD Form 1342 (see Attachments 1 and 2) at the time of acquisition or receipt. When IPE including general purpose components of special test equipment is no longer required at the point of acquisition or receipt, the contractor shall prepare a DD Form 1342 and reflect thereon any changes in original data not previously reported. The contractor shall retain the original of each DD Form 1342 and forward the copies through the property administrator to the NASA Contracting Officer. Use of the DD Form 1342 as the official property record is optional.

Appendix G is deleted.

### Supplement 1 [Reserved]

### Supplement 2—Contract File Maintenance, Closeout, and Disposition

SUBPART 1—DOCUMENTATION OF CONTRACT ACTIONS

S2.000 *Scope of supplement.* This Supplement 2, Contract Maintenance, Closeout, and Disposition is issued for the guidance of personnel engaged in procurement and contract administration. It prescribes procedures for the documentation of all actions taken with respect to solicitations and contracts, including final disposition, sufficient to constitute a full history of the transactions, and to permit ready reconstruction of all stages in the procurement cycle.

S2.100 *General.* (a) As provided in § 18-1.303, each office performing contract award and contract administration functions shall maintain official records of all actions with respect to solicitations and contracts, in accordance with the provisions of this supplement, except that the application of these provisions to small purchases and other simplified procurements covered by Subpart 18-3.6 is optional.

(b) To the extent that retained copies of contractual documents and correspondence do not reflect all actions taken, suitable memoranda of the undocumented actions shall be prepared promptly and placed in the appropriate official contract file.

(c) Authenticated or conformed copies of contractual instruments and signed or official record copies of correspondence, memoranda, and other documents shall be used in compiling the official files. Authenticated copies are documents shown to be genuine by certification as a true copy by signature of an authorized person or by official seal. Except to the extent that contract clauses or specifications are incorporated by reference, conformed copies are complete and accurate copies of the contractual instrument, including the date of execution and the names and titles of signatories. Documents reproduced by fast-copy process that deteriorates when exposed to excessive heat or light shall not be included in the official file.

S2.101 *Official files.* Official files shall consist of individual contract case files and contractor general files; also contract cross-reference/locator files when needed to facilitate contract file location.

S2.101-1 *Contract case file.* The individual contract case file consists of the files described in (a) and (b) below, which normally will be kept separately. These files may be combined where all functions are performed by the same office.

(a) The *contract award file* shall document the basis for the procurement and the award, the delegation of the contract administration, if delegated, and any subsequent actions taken by the procurement office.

(b) The *contract administration file* shall document actions reflecting the basis for and the performance of contract administration responsibilities. (The procurement office will be responsible for maintaining the contract administration file where the contract administration functions have not been delegated pursuant to Subpart 18-51.3.)

S2.101-2 *Contractor general file.* This file consists of correspondence, reports, and other documents relating not to a specific contract but to several contracts or to the contractor generally (e.g., concerning any general aspect of his capabilities, performance, procedures, or operations).

S2.101-3 *Contract cross reference/locator file.* This file consists of information (mechanized or manual) needed to assure ready

location of contract case files. (See S2.206.)

S2.102 *Contents of files.*

S2.102-1 *Contract award file.* The contract award file shall include (but is not limited to) such of the following as are applicable (the extent to which this listing shall apply depends upon the type of contract, dollar value, actions required, and functions assigned to the contract administration office):

(i) A copy of the approved procurement requests, or appropriate reference thereto, together with the procurement plan and other presolicitation documents;

(ii) On a negotiated procurement, any request for authority to negotiate and the original or a copy of the Determination and Findings, including Class Determination and Findings and statement of applicability;

(iii) Evidence of availability of funds;

(iv) Synopsis of proposed procurement or reference thereto;

(v) The list of sources solicited, approval of and justification for any limiting of the number of such sources (including a copy of the Justification for Noncompetitive Procurement), and a list of any firms or persons whose requests for copies of the solicitation were denied together with the reasons for denial;

(vi) Any small business or labor surplus area set-aside determination or consideration given thereto (see §§ 1.706 and 18-1.804);

(vii) Government estimates of contract price;

(viii) A copy of the solicitation, including a reference to the drawings and specifications or copies thereof;

(ix) The Security Requirements Check List (DD Form 254), and evidence of contractor clearance;

(x) One copy of each signed solicited or unsolicited bid, proposal or quotation received, together with an abstract thereof, including record of determination concerning late bids, proposals, or quotations (while unsuccessful bids, proposals, or quotations are a part of the official contract file, they may be maintained separately, cross-referenced to the contract file, and disposed of as provided in S2.501(i));

(xi) Each bidder's Statement of Contingent Fees including, when pertinent, Standard Form 119 (Contractor's Statement of Contingent or Other Fees) (see § 18-16.802);

(xii) A copy of each preaward survey performed (see § 18-1.905-4) or reference to previous surveys relied upon;

(xiii) Documentation of selection of the successful contractor, including—

(A) Reasons for selection,

(B) Contracting officer's determination of the contractor's responsibility (see § 18-1.904-1), including record of authority to use Government facilities,

(C) Any Small Business Administration Certificate of Competency (see § 18-1.705-4), and

(D) Statement of the Source Selection Official;

(xiv) Records of compliance with labor policies (*e.g.*, records of compliance checks; payrolls or certified excerpts therefrom), including documents and reports, or reference thereto, reflecting contractor compliance with equal employment opportunity policies;

(xv) All cost and pricing data submitted or used, including Certificates of Current Cost or Pricing Data (see §§ 18-2.102-1(b), 18-3.501(b)(23), 18-3.807-3, and 18-3.807-4) or a copy of the waiver of submission of cost or pricing data;

(xvi) Packaging and transportation data or analysis;

(xvii) Price analysis;

(xviii) Audit reports or reasons for waiver;

(xix) A full record of negotiations, including but not limited to—

(A) Participants;

(B) Dates of meetings or telephone calls;

(C) Government-furnished materials or facilities provided;

(D) Subcontracting;

(E) Terms and conditions agreed to;

(F) Deviations, if any, from prescribed contract clauses;

(G) Technical recommendations; and

(H) A record of price negotiations (see § 18-3.811);

(xx) Justification for type of contract used (see § 18-3.403 and NPC 401);

(xxi) Any exceptions or exemptions from the Buy American Act or appropriations act restrictions (see Part 18-6);

(xxii) Required contract approvals;

(xxiii) Verification of requirements;

(xxiv) Notice of award;

(xxv) A signed or authenticated copy of the contract or award and all contract modifications, together with signed or official record copies of documents supporting these modifications;

(xxvi) Synopsis of award or reference thereto (see § 18-1.1005-1);

(xxvii) Notice to unsuccessful bidders (see § 18-2.408) or quoters or offerors;

(xxviii) A copy of Individual Procurement Action Report (NASA Form 507) (see § 18-16.901);

(xxix) Bid bond (Standard Form 24), performance and payment bonds (Standard Forms 25 and 25-A), or other bond documents, or a reference thereto, and notices to sureties, when appropriate;

(xxx) Record of any overtime premium approvals granted at time of award;

(xxxi) Documents requesting and authorizing modification in the normal delegation of contract administration functions and responsibility (see Subpart 18-51.3);

(xxxii) Approvals or disapprovals of waivers or deviations;

(xxxiii) Rejected engineering change proposals;

(xxxiv) Patent, invention, and copyright reports or reference thereto (including invention disclosures);

(xxxv) Documents or data appropriate for renegotiation purposes to the extent not enumerated elsewhere in this listing (see § 18-1.319);

(xxxvi) Document denoting completion of the contract, including Contract Administration Completion Record (DD Form 1593), Contract Completion Statement (DD Form 1594-NASA Edition), and Contract Closeout Check List (DD Form 1597-NASA Edition) when applicable;

(xxxvii) Documentation regarding termination actions, including—

(A) Recommendation or request to terminate together with reason for terminating, and, in the case of major contracts, plans therefor;

(B) Review board actions accomplished by the procurement office;

(C) Copy of termination notice;

(D) Documents supporting termination actions taken when terminated for default, such as notice of possible termination (see § 18-8.602-3(b)), show cause letter and reply, and record of conferences, if any;

(E) Record of repurchase, including written demand to contractor for excess costs (see § 18-8.602-6);

(xxxviii) Cross references to other pertinent documents which are filed elsewhere because they pertain to more than one contract or to the contractor generally;

(xxxix) Correspondence, messages, memoranda of calls and visits, and additional documents on which action was taken or which reflect actions pertinent to the contract;

(xl) A chronological list (with inclusive dates of responsibility), to be kept current, of all contracting officers;

(xli) Equal opportunity representation;

(xlii) Certification nonsegregated facilities;

(xliii) Evidence of legal review where required, and copy of comments made by legal counsel; and

(xliv) Any additional documents considered necessary to present a complete résumé of the contract action.

S2.102-2 *Contract administration file.* Each contract administration file shall include, but is not limited to, such of the following, as are applicable (the extent to which this list shall apply depends upon the type of contract, dollar value, and the extent to which the contract administration functions have been delegated to another NASA organization or to another Government agency):

(i) Copy of the contract and all modifications;

(ii) Any document modifying the normal contract administration functions and responsibility;

(iii) Cost and pricing data, including Certificates of Current Cost or Pricing Data supporting contractual actions executed during the administration of the contract;

(iv) Reference to purchasing system approval, if any;

(v) Consent to subcontract or purchase;

(vi) Orders issued under the contract;

(vii) Notice to proceed and start or stop orders;

(viii) Insurance policies or certificates of insurance, or reference thereto;

(ix) Documents supporting advance or progress payments;

(x) Progressing, expediting, and production surveillance records (these are to be maintained separately to facilitate their early disposal as prescribed in S2.501(ii)); they include such records as—

(A) Production plans and delivery schedules,

(B) Progress or status reports,

(C) Advice of delays or delinquencies, and of corrective and production followup actions, and

(D) Documents reflecting deliveries or production completion;

(xi) Quality assurance/control (inspection) records used in planning, conducting, and recording product verifications, testing, reviewing quality programs and plans, evaluating procedures and processes or technical performance, and effecting corrective actions, where required (these records are to be maintained separately for earlier disposal); they include—

(A) Quality assurance records, such as:

(I) Reference to Contractor's Quality Program document, and disapproval if any;

(II) Subcontract inspection control records (request for source inspection, and waiver of usual inspection procedure);

(III) Inspection requests, agreements, and assignments;

(IV) Requests for waivers and deviations, and copy of approvals or disapprovals, if any (including Material Review Board decisions);

(V) Required inspection and test reports; and

(B) Quality control (inspection) records, such as:

(I) Quality program review reports (procedures and processes evaluation, periodic quality assurance survey);

(II) Government inspection and test reports;

(III) Authority to ship and acceptance documents (e.g., DD Form 250, Material Inspection and Receiving Report), routing request and orders, and shipment copies of bills of lading;

(IV) Reports of unsatisfactory material and corrective actions, and reports of damaged or improper shipments, and;

(V) Other papers necessary to document the quality control or inspection function;

(xii) Property administration records used in the administration of Government property provisions of the contract (these are to be maintained separately for disposition); these include—

(A) Contract number, type of contract, and contractor name and address;

(B) Name and dates of tenure of contracting officer(s) and property administrator(s);

(C) End item(s) and points of inspection and acceptance;

(D) Record of contract clauses, amendments and changes pertaining to Government property;

(E) Record of contract clauses pertaining to contractor's liability;

(F) Record of written approval of contractor's property control system or withdrawal of approval and cause, dates system approval reinstated, and deviations granted;

(G) Listing and type of subcontracts which involve Government property or reference to location of such information;

(H) Record of secondary administration assignments;

(I) Record of system surveys performed, deficiencies found and corrective action taken;

(J) Record of property audits and inspections;

(K) Record of findings and determination that inventory adjustments are reasonable;

(L) Records of investigation and recommendations of the property administrator, and written advice of the contracting officer on cases involving contractor's liability for Government property lost, damaged, destroyed, or consumed in unreasonable quantities;

(M) Original of final property administration clearance statement executed by the property administrator or other relief from assignment documentation;

(N) Reports relating to Government property;

(O) Correspondence, messages, memoranda of calls and visits, and any additional documents pertinent to Government property.

(xiii) Documentation regarding termination actions, including, as appropriate—

(A) Termination authority and instructions;

(B) Copy of termination notice;

(C) Record of initial meeting with contractor (§ 18-8.206(c));

(D) Contractor's request, and approval thereof if other than inventory basis is to be used;

(E) Settlement Proposal (DD Form 540, 541, 831, or 547);

(F) Application for Partial Payment and approval thereof, together with record of security required;

(G) Record of the examination of prime contractor and subcontractor claims, including engineering analysis, audit report or waiver, and request therefor;

(H) Request to plant clearance office for action on inventory schedules;

(I) Request from prime contractor for authority to settle subcontractor claims without approval or ratification of contracting officer, and actions thereon;

(J) Recommendations by prime contractor covering subcontractor's claim;

(K) Approval of subcontractor's proposed settlements;

(L) Record of plant clearance actions, such as verification of and determination of allocability and allowability of inventory schedules, record of inventory redistribution and disposal actions including diversion, screening, scrap determination, sale, abandonment, donation, and storage, as appropriate;

(M) Contracting officer's negotiations memorandum (presentation to Settlement Review Board);

(N) Required approvals by Settlement Review Board or others;

(O) Settlement agreement, including record of any exceptions and, where agreement was not reached, a copy of determination by the contracting officer and written supporting evidence (see § 18-8.210-7);

(P) Documents supporting termination actions taken when termination for default, such as notice of possible termination (see § 18-8.602-3(b)), copy of show cause letter and reply, and record of conferences;

(xiv) Correspondence, messages, memoranda of calls and visits, and any additional documents reflecting contract actions pertinent to the contract taken by the contract administration office;

(xv) Cross reference to other copies of pertinent general documents relating to more than one contract, or to the contractor generally;

(xvi) Document denoting completion of contract, including Contract Completion Statement (DD Form 1594) when applicable.

S2.102-3 [Reserved]

S2.102-4 *Contractor general file.* The contractor general file will contain those documents accumulated or created which pertain in general to a contractor or prospective contractor, and those which relate to two or more contracts and which due to their nature should not or need not be filed with an individual contract file. (As appropriate, however, copies of such documents are filed with or cross-referenced in the related contract files.) This file shall include, as applicable, preaward surveys, reports, correspondence and other records documenting the contractor's capabilities, past performance, accounting system, pricing method, quality assurance procedures, labor policies, insurance programs, and equal opportunity and comparable policies, programs, and systems that serve as a general source of information on a contractor's current and future capability or responsibility.

SUBPART 2—FILE MAINTENANCE

S2.201 *Location and designation of official files.* The official files or specific segments thereof shall be established and maintained at organizational levels that will:

(i) Assure effective documentation of contract actions;

(ii) Make records readily accessible to principal users; and

(iii) Minimize the maintenance of duplicate and working files.

When the official files or segments thereof are decentralized (e.g., by type of function) to various organizational elements or to other outside offices, they shall be designated official files and responsibility for their maintenance assigned. A central control and, if needed, a locator system shall be established to insure the prompt location of all contract files. The contract cross reference/locator system provided in S2.206 shall be utilized for this purpose.

S2.202 *Handling of classified material.* Classified matter shall be stored and handled in strict accordance with NASA regulations. When the bulk of the material is unclassified, classified material relating to the same contract shall be maintained in a separate file folder and container, and the unclassified folder marked or cross-referenced to indicate the location of the classified material. The front and back of each folder containing classified material shall be marked with the highest classification assigned to any of the documents in the folder.

S2.203 *Use of standard file folders for drawer and shelf filing.* (a) For all short duration contracts and for small purchase files, standard letter-size folders should be used. For complex long-duration high-dollar value contracts, heavy individual or six-part partitioned folders, with front and back flaps, two dividers, expansion gussets between flaps and dividers, and fasteners mounted at the top of the insides of the flaps and on each side of the dividers, may be used.

(b) Loose dividers (file inserts), prepunched at the top for fastening documents, may be used for subdividing material within the same folder when special folders are not used.

S2.204 *Filing of Documents.* (a) Documents relating to a specific contract and described in S2.102-1, S2.102-2, and S2.102-3 should normally be placed in chronological order in an "Official File" folder or folders. Each folder shall be marked or labeled with the contract number and, when more than one folder is required for the same contract, with information as to the file segment. Other identifying data, such as the contractor's name, should be added only when needed to facilitate filing and locating.

(1) A separate folder need not be established for each subcontract, small purchase, or small dollar value contract, on which little or no administration is required; these should be filed in numerical sequence within the same folder.

(2) When a single folder is used, basic procurement documents and all modifications ordinarily should be filed on the left side of the folder and all other material on the right side. As volume warrants, a contract file may be subdivided further, either within the folder or by using additional folders, as appropriate (e.g., by precontract documents, basic contract, contract modifications, termination documents, quality assurance and progressing and production surveillance, property administration and plant clearance, termination documents, and general correspondence). Documents should be arranged chronologically within each section or folder.

(3) When it is impractical to file certain documents in the official case folder because of their bulk or use, they may be maintained separately in other suitable containers, but they shall be handled as "Official Files" and cross-referenced in the contract case file.

(4) Documents relating to two or more contracts may be filed in one contract file and cross-referenced in the others, or enough copies reproduced to provide for filing one in each related contract file. Other pertinent documents of a more general nature may be filed separately in the contractor general file and cross-referenced in the contract file.

(b) Documents described in S2.102-4 and relating generally to the contractor rather than to a specific contract shall be placed in a folder labeled with the contractor's name. When necessary, additional folders may be used and the material subdivided by subject, such as general, production, termination, property control, and performance.

S2.205 *Arrangement of files.*

(a) Contract file folders normally should be arranged numerically by contract serial number. When special circumstances warrant, contract folders may be arranged alphabetically by contractor's name.

(b) Contractor general file folders shall be arranged alphabetically by name of the contractor.

SUBPART 3—CLOSEOUT OF CONTRACT FILES

S2.301 *General.* Small purchase files and files on contracts accorded limited administration may be closed out upon determination that the last action required to the

contract has been completed. In all other instances, contract files shall be closed out in accordance with S2.302, and S2.303.

S2.301-1 *Physically completed contracts.* A contract is physically completed when (i) the contractor has completed the required deliveries of supplies and the Government has inspected and accepted such supplies, (ii) the contractor has performed all services and the Government has accepted such services, (iii) in the case of contracts with option provisions, the option has expired, or (iv) notice of complete contract termination has been given the contractor by the Government. Facilities contracts and rental, use, and storage agreements shall be considered to be physically complete when a notice of complete termination has been issued or the contract period has expired. Prior to closing a physically completed contract, the administrative actions set forth in 51.603 must be completed.

S2.301-2 *Closed contracts.* A contract accorded limited administration and having a face value of $2,500 or under is closed when evidence of physical completion is received by the contracting officer. All other contracts are closed when they are physically complete and when all administrative actions are taken, including the accomplishment of one of the two Contract Completion Statements, DD Form 1594. However, a completed contract cannot be considered closed while it is in litigation, or an appeal is pending before the NASA Board of Contract Appeals.

S2.302 *Closeout of contract files by procurement office.*

S2.302-1 *When the procurement office administers the contract.* When the procurement office administers a contract, that office is responsible for insuring that all required purchase actions and contract administration actions have been completed, utilizing as necessary DD Form 1597, Contract Closeout Checklist, and DD Form 1593, Contract Administration Completion Record. When all required actions have been completed, the procurement office shall prepare DD Form 1594, Contract Completion Statement, for all contracts in excess of $2,500. The Contract Completion Statement shall be made a part of the official contract file. For all contracts not in excess of $2,500, the contracting officer shall include in the contract file a statement that all contract actions have been completed. The completed form or statement is authority for closing out of the contract file. The file shall be closed out as provided in S2.401(ii).

S2.302-2 *When the procurement office does not administer the contract.* (a) When the procurement office has delegated the contract administration functions in accordance with the provisions of Subpart 18-51.3, it shall insure, upon receipt of DD Form 1594 from the office administering the contract, that all actions required of the procurement office have been completed. It shall then complete Item 10 of the DD Form 1594 and make the completed form a part of the official contract file. The completed form is authority for closing out the procurement office contract file. Closeout of the file shall be effected as provided in S2.401(ii).

(b) The date in Item 9d of DD Form 1594, Contract Completion Statement, shall be used as the closeout date for file purposes, except that the date in Item 10e of DD Form 1594 shall be used when completion of any pending significant procurement office action extends more than 3 months beyond the date shown in Item 9d of DD Form 1594. In the latter case, the procurement office shall advise the office administering the contract of the revised closeout date by sending a reproduced copy of the completed DD Form 1594.

S2.303 *Closeout of contract files by the office administering the contract.* The office administering the contract is responsible for insuring that all contract administration has been completed and for initiating closeout action (see S2.305 and S2.306). The organizational element to which this responsibility is delegated shall proceed as follows upon determination or advice (such as by final DD Form 250 or other final report) that the contract has been fully performed (including final payment) or has been terminated completely:

(i) Prepare DD Form 1597, Contract Closeout Checklist, when necessary to determine that all required actions have been accomplished;

(ii) If appropriate, initiate DD Form 1593, Contract Administration Completion Record, to obtain statements from other organizational elements certifying completion of actions required of each (normally a single copy should be routed in turn to offices concerned, but separate forms may be routed when necessary, such as when closeout actions may be complex and extensive or when offices are at different locations);

(iii) Upon determination of final completion, complete Items 1 through 9 of DD Form 1594 certifying that all contract administration office actions have been fully and satisfactorily accomplished, and forward the original of the form to the procurement office (which will utilize it to closeout its contract file);

(iv) Retain one copy of the completed forms, which is authority for closing out the contract administration file; and

(v) Make these forms a part of the official contract file and closeout the file as provided in S2.401(ii).

(b) When the office administering the contract is advised by the procurement office of a revision in the closeout date (see S2.302-2(b)), and the revised closeout date falls within another file cutoff period, the contract administration office shall transfer its file to the appropriate completed series.

S2.304 [*Reserved*]

S2.305 *Standard times for contract closing.*

(a) Standard times for closing physically completed contracts are set forth below.

| Category | Contract type | Calendar months after the month in which physically completed |
|---|---|---|
| A | Fixed price small purchase ($2,500 and under). | 3 |
| B | Firm fixed price (exclude "A" above). | 6 |
| C | All other contracts | 20 |

(b) Time standards established in this subpart are based upon the time required for closing the majority of contracts. It is recognized that delays beyond the above standards may occur (such as in the case of terminations). Where delays occur, contracts shall be reported in accordance with S2.306.

S2.306 *Status of physically completed unclosed contracts.* The office administering the contract shall advise the contracting officer of the procurement office which awarded the contract within 15 days after the end of the month following the month in which a physically completed contract has not been closed within the time periods specified in S2.305(a). This advice shall include the reasons for the delay, and the target date which has been set for closing. If the contract is not closed by the target date specified, the office administering the contract shall, unless information is requested earlier by the procurement office, advise the procurement office of the reasons for the further delay and the new target date.

SUBPART 4—REVIEW, SEPARATION, AND RETIREMENT OF COMPLETED CONTRACT FILES

S2.401 *Review of contract case and cross reference/locator files.* Upon determination of contract completion under the procedures outlined in Subpart 3 of this supplement, each office shall review all files pertaining to the individual contract as follows:

(i) *Duplicate or working contract case file*—Remove any original or official file copies of documents and place them in the appropriate "official" file; destroy immediately any remaining material, or segregate and mark it for early disposal (see S2.504);

(ii) *Official contract case file*—Remove folder for completed contract from the active file series, mark each folder or folder tab "Completed (Date)" and place folder in completed (inactive) contract file series; separate series should be established for contracts of $2,500 or less and for contracts of more than $2,500, to facilitate later disposal (see S2.501); and

(iii) *Cross-reference/locator files*—Remove any contract cross-reference data forms relating to the completed contract, mark each "Completed (Date)", and place them in completed (inactive) cross-reference/locator file series for later disposal (see S2.503).

S2.402 *Review of contractor general files.* Each office shall review contractor general files at least once annually and:

(i) Remove obsolete and superseded documents relating generally to the contractor (e.g., documents no longer pertinent to any aspect of contractor's current or future capability, performance, or programs, and documents relating to a contractor who is no longer a possible source of supplies, services, or technical assistance) and dispose as authorized in S2.502(a); and

(ii) Remove any documents pertaining only to completed contracts, place those not routine in nature in inactive contractor file for later disposal (see S2.502(b)), and immediately dispose of routine documents as authorized in S2.502(b).

S2.403 *Retirement of completed files.* (See "NASA Records Disposition Handbook", NHB 1441.1).

SUBPART 5—DISPOSAL OF CONTRACT FILES

(See "NASA Records Disposition Handbook", NHB 1441.1A.)

## Supplement 3—Property Administration

### SUBPART 1—INTRODUCTION

S3.100 *Scope of supplement.* This Supplement No. 3, Property Administration is issued for the guidance of personnel engaged in the administration of contract provisions relating to Government property in possession of contractors. It prescribes uniform procedures and techniques to (i) meet management data requirements of the Government, and (ii) to assure performance of property control to protect the interests of the Government at a minimum cost through a uniform property administration program.

S3.101 *General.* This supplement sets forth instructions to assure uniformity in the administration of contract provisions relating to Government property in the possession of contractors and is applicable to all NASA personnel having responsibilities in this area. It prescribes procedures and techniques to (i) meet management data requirements of the Government, and (ii) to assure performance of property control to protect the interests of the Government at a minimum cost through a uniform NASA property ad-

ministration program. The scope of the program shall be determined by the amount of Government property, the complexity of the contractor's property control system, and other conditions revealed by review of the contract and correlation of its provisions with the property control system.

S3.102 *Definitions.* As used in this supplement, the following terms have the meaning stated below:

S3.102-1 *Category* means a major segment of a contractor's property control system (e.g., acquisition, receiving, records, storage and movement, consumption, utilization, maintenance, physical inventories, subcontractor control, and disposition).

S3.102-2 *Characteristic* means a segment of a functional area subject to analysis or review. Characteristics are classified as Class I, which is subject to statistical sampling, and Class II, which is subject to judgment or observation techniques.

S3.102-3 *Lot* means an aggregation of documents, records, articles, or actions selected for review due to common characteristics. For evaluation of the lot all characteristics for which a lot is tested must be common to all units within the lot.

S3.102-4 *Supporting responsibility* relates to the assignment of a subcontract, or a portion of a prime contract being performed at a secondary location of the prime contractor, to a property administrator other than the individual assigned to the prime location.

S3.103 *Responsibilities.* A property administrator is responsible for developing and applying a system survey program for each contractor under his cognizance. He shall evaluate the contractor's control of Government property and shall assure accomplishment of all actions required. These responsibilities include:

(i) Approval of the contractors' property control system (see Subpart 3 of this supplement) and examination and evaluation of its actual application to assure compliance with prescribed requirements;

(ii) Advising the contracting officer as to the contractor's noncompliance with approved procedures and other significant problem areas which he cannot resolve;

(iii) Resolution of property administration matters as necessary with the contractor's management, Government procurement personnel, and representatives of the NASA Management Audit Office, Defense Contract Audit Agency (DCAA), and of other Government agencies; and

(iv) Recognition of the functions of other Government personnel having cognizance of Government property, and obtaining their assistance when required. (These functions include, but are not limited to, contract audit, quality assurance, engineering, pricing, and other technical areas. Assistance and advice on matters involving analyses of the contractor's books and accounting records and on any other audit matters deemed appropriate shall be obtained from the cognizant auditor.)

SUBPART 2—INITIATION OF PROPERTY ADMINISTRATION

S3.201 *Control of assignments.*

(a) The Procurement Officer or his designee shall establish and maintain a Contract Assignment Control Register for each contractor, showing:

(i) The contractor's name and address;

(ii) Contract number;

(iii) Type of contract;

(iv) Date of assignment of the property administrator and his name; and

(v) Date of completion or rescission of the contract, or transfer of the property administrator.

(b) Property reported to have been received at a contractor's plant without contractual coverage shall be carried in a suspense file, pending investigation and resolution by the property administrator.

S3.202 *Analysis of contract.*

(a) The property administrator shall analyze each contract providing for Government property to estimate the property administration effort which must be applied. The analysis shall be sufficient to establish the management controls necessary for assuring compliance with contract requirements.

(b) A Property Summary Record shall be established by the property administrator containing the following information:

(i) Contractor's name and address, and the contract number;

(ii) Type of contract, modifications (including change orders), and special or nonstandard clauses pertaining to Government property;

(iii) Dates of approval of the contractor's property control system, withdrawal of approval and the reason, dates approval reinstated, and deviations granted;

(iv) Date of final review and date of execution of property administrator's statement of closure;

(v) Record of supporting property assignments;

(vi) Record of surveys performed;

(vii) Record of inspections and property audits performed by other activities; and

(viii) Names of contracting officers.

(c) All appropriate information shall be recorded, and revisions made as changing conditions render any of the data obsolete or inaccurate. The Property Summary Record shall be a part of the Contract Property Control Record.

S3.203 *Contract property control record.* Upon assignment of a contract, the property administrator shall establish a Contract Property Control Record which shall include as a minimum:

(i) Property Summary Record;

(ii) Copy of the contract or extract of provisions thereof establishing requirements for property administration, including pertinent changes;

(iii) Report of initial review, evaluation, and approval of the contractor's property control system;

(iv) Record of visits, property system examinations and analyses, and appropriate work papers;

(v) Contractor's receipts for Government property, when required;

(vi) Statement of closure of the contract property account; and

(vii) Pertinent correspondence.

When more than one contract in involved at the same contractor's location, material relating to (iii) and (iv) shall be transferred to a master file for the contractor and the Property Summary Record annotated as to its location.

SUBPART 3—EVALUATION AND APPROVAL OF CONTRACTOR'S PROPERTY CONTROL SYSTEM

S3.301 *General.* Normally, the initial contact by the property administrator with a contractor is through a postaward orientation conference or postaward letter. When a conference is held, the property administrator shall assure suitable discussion of property administration problems and responsibilities. When a conference is not held and a postaward letter is not sent, the property administrator upon assignment of a contract shall forward a letter to the contractor:

(i) Inviting attention to the contractor's responsibilities regarding Government property under the contract, including any specialized controls, and the extent of his liability for loss, damage or destruction of Government property during any period in which the contractor's property control system does not have the written approval of the property administrator;

(ii) Requesting the name of the contractor's representatives to contract for review and discussion of the proposed property control system; and

(iii) Requesting that policies, instructions and procedures necessary to fully implement the property control system be available for evaluation.

S3.302 *Initial evaluation of the contractor's property control system.*

S3.302-1 *Review of procedures.* (a) Following assignment of an initial contract, the property administrator shall review the contractor's property control system to determine:

(i) Inadequate or questionable areas in the proposed procedures for compliance with Appendix B or C, and other contract requirements;

(ii) Essential controls not provided by the proposed procedures;

(iii) Areas in the proposed procedures requiring physical observation or verification; and

(iv) Subcontractors, or secondary locations of prime contract performance, and the need for physical observation of verification of property controls at these locations.

(b) It is normal industry practice to provide for the control of property by means of written procedures that communicate company standards, techniques, and instructions to operational personnel for uniform application. However, a contractor with few employees may not have a need for written procedures for effective management of Government property. In such cases, the property administrator shall evaluate the adequacy of the contractor's system on the basis of the contractor's explanation of his controls and observation of the application thereof, and he shall prepare a brief description of the applicable procedures for inclusion in the Contract Property Control Record.

S3.302-2 *Review of contractor's property control system in operation.* (a) The contractor's plant shall be visited to determine that the operation of his system provides adequate controls for the Government property to be furnished or acquired.

(b) The choice of the methods to be used to obtain the information necessary for approval of the contractor's property control system is a matter of judgment by the property administrator. Test examinations and verification in specific categories may be necessary to assure the reliability of the final evaluation and conclusions as to the acceptability of controls for all categories and the system as a whole.

(c) The property administrator shall examine the contractor's procedures to be used to determine the extent to which they meet the criteria for property control required by Appendix B or C and other contract requirements, as appropriate. He shall make necessary tests of the contractor's system, and as each portion is analyzed, the acceptability of the procedures shall be appropriately noted or commented upon as the basis for preparation of the record of system evaluation (see S3.302-4).

(d) When the contractor's property control system has previously been approved and a new contract requires the expansion of existing or the establishment of additional controls, the review normally should be limited to the new requirements. If the system is adequate, the property administrator shall record a determination to that effect on the Property Summary Record for

the contract. Notification to the contractor is not required. However, if the property administrator determines that the contractor's property control system does not adequately meet the new contract requirements, the Property Summary Record for the contract involved shall be appropriately annotated and the contractor shall be notified in writing of the required changes.

(e) In the review of the contractor's property control system, the property administrator shall consider the provisions of B.311 or C.311 and shall assure that the contractor's system provides for maintenance of financial data and the furnishing of required reports within the time limits specified.

S3.302-3 *Exit interview with the contractor.* The property administrator normally shall hold an exit interview with the contractor to discuss any category in which the adequacy of records, controls, or procedures was found defective or questionable and where corrective action is required before an unqualified approval of the system can be provided. When the contractor is willing to correct a deficiency or questionable practice immediately, the documentation supporting the property administrator's findings and conclusions shall include a statement to this effect. The contracting officer responsible for the predominant value of NASA property at the facility shall also attend the exit interview with the contractor when major deficiencies exist in the property control system, past deficiencies remain uncorrected, or the dollar value of the personal property involved is in excess of $1 million.

S3.302-4 *Record of system evaluation.* Upon completing his evaluation of the contractor's system, the property administrator shall prepare a written summary of his findings to support approval of the system or requirement for corrective action prior to such approval. A report of visit or other documentation may be utilized if the participating contractor and Government personnel are listed, actions taken are adequately described, and the property administrator's determination is clearly stated.

S3.302-5 *Notification of deficiencies.* The property administrator shall prepare a letter to the contractor for signature by the contracting officer who attended the exit interview, listing the deficiencies found during the evaluation of his property control system and noting any agreement by the contractor to correct deficiencies. The contractor shall be requested to respond within 30 days and to provide the precise action to be taken and the time required to correct each deficiency.

S3.302-6 *Resolution of differences.* When the contractor's response to the contracting officer's letter is unsatisfactory, the contracting officer, along with the property administrator, shall meet with the contractor in an effort to arrive at a corrective program that is mutually satisfactory. The contractor will be requested to confirm in writing any new commitments arising out of these discussions. In the event the contractor fails to correct deficiencies in his property control system within a reasonable period, the contracting officer will refer the matter by memorandum to appropriate levels of management within the NASA installation and Headquarters staff offices, depending on the criticality of the problem involved. The memorandum shall include:

(i) A concisely documented statement of the problem;

(ii) A statement of the contractor's position; and

(iii) The action recommended.

S3.302-7 *Letter of approval.* (a) The approval of a contractor's property control system by the property administrator shall be conditioned upon a joint determination by the property administrator and the contracting officer who attended the exit interview, that no deficiencies exist in the property control system or that where minor deficiencies exist the contractor has agreed to take satisfactory corrective action.

(b) When the contractor's property control system is acceptable, the property administrator shall advise the contractor in writing. However, when the approval has been preceded by an exchange of correspondence between the contracting officer and the contractor (S3.302-5 and S3.302-6), the property administrator will make reference to the correspondence in his approval and advise the contractor that the corrective action taken or planned is acceptable. A copy of the letter of approval shall be sent to the contracting officer who attended the exit interview.

(c) When the contract involves Government property at subcontractor plants or prime contractor secondary locations, or both, and the controls for the property at such locations have been determined to be adequate, the approval shall be expanded to include the procedures governing Government property at such locations.

SUBPART 4—PROPERTY ADMINISTRATION DURING CONTRACTOR PERFORMANCE

S3.401 *Property administration plan.* A property administration plan shall be developed for each contractor's plant covering the property control system utilized in connection with Government contracts. The plan shall provide for surveys and shall be augmented to cover responsibilities imposed by new contracts, changing conditions, or marginal performance. In the event approval of the contractor's system is unduly delayed at inception of the contract due to failure of the contractor to provide an acceptable system, or is withdrawn due to unsatisfactory conditions disclosed after approval, the property administration plan shall be expanded to the degree necessary to reasonably assure that loss, damage or destruction of Government property is disclosed in a timely manner. Further, special attention shall be given to reasonably assuring that any loss, damage or destruction occurring during a period when a contractor's system is not approved is identified prior to approval or reapproval.

S3.402 *System survey.*

S3.402-1 *General.* A complete system survey shall be conducted at least once each calendar year to obtain thorough knowledge of the contractor's system of property control and its efficiency. Completion of a system survey, involving complex property control systems, may require test and evaluation over an extended period of time. If deficiencies in physical control or records are disclosed, corrective action must be secured, and the effectiveness of such correction evaluated. In such instances, test and evaluation of any one category shall be completed as expeditiously as possible, and the working papers and analysis retained for consideration and incorporation into the summary and survey case file.

S3.402-2 *Scheduling and planning.*

(a) At the beginning of each calendar year, the property administrator shall prepare a schedule showing the names of the contractors and the projected dates on which each system survey shall be initiated and completed.

(b) Prior to initiation of any system survey, the property administrator shall establish a survey plan which shall provide, as a minimum:

(i) Identification and listing of the categories, functional areas and characteristics to be evaluated (see Annex I);

(ii) Evaluation of approved property control procedures applicable to the categories to be examined, and noting of any portions thereof that should be reviewed with operating personnel for possible updating (If any functional area of the property control system is not covered by procedures, no attempt should be made to survey that area at that time, but that portion of the system should be recorded as unsatisfactory and action taken to correct the condition.); and

(iii) Preparation of work papers necessary to document the file.

S3.402-3 *Testing the system.* (a) *General.* In conducting tests of the contractor's property control system, the class of property being examined shall determine the choice of test methods, preparation of working papers, and selection of samples. The following factors should be considered to assure adequate coverage of requirements peculiar to particular classes of property and functional areas.

(b) *Materials.* Materials should be considered as bulk quantities, as contrasted to individual items. Examinations should be directed to:

(i) Tracing inbound transportation units from (A) bills of lading or other transportation documents to receiving reports, in order to determine that the receiving reports are accurately prepared and that proper action is taken on shortages, damages, or other discrepancies, and (B) stock records to assure that the receipts were accurately posted (see B.307 or C.307 as applicable);

(ii) Abstracting nomenclature and balance data for stock records and making physical counts to determine accuracy of the stock records;

(iii) Tracing posting of credits to (A) stock records (by date, reference number, and quantity) and (B) issue documents, in order to assure accuracy of the postings and validity of the documents (signature by authorized individual and indication of reasons for issue or point of delivery, or both, to indicate proper contract use); and

(iv) Determining to the extent practicable at the point of receipt and use, whether undue quantities are issued, charged to cost, and held on plant floor rather than being held under better security in stores.

(c) *Custodial items.* Issues shall be traced from store's records to tool cribs, office stock rooms, uniform rooms, and the like, to determine that they are taken into account as part of a sound control system. It should be determined that issues to contractor personnel are covered by tool chits, uniform slips, or other mechanism designed to assure return, or ability to locate items which are to be returned, assuring that new items are not issued without return worn-out items or that suitable explanation is provided.

(d) *End items.* General techniques for survey of materials are applicable to end items placed in storage pending shipment. Examination shall include tracing from Government acceptance records of the contractor's claims for reimbursement to physical quantities on hand and quantities on validated shipping documents.

(e) *Plant equipment costing less than $1,000.* In the event summary record accounting is utilized for this class of property, as authorized by B.306(d), examination using the "bulk quantities" approach in (b) above is applicable but shall also cover:

(i) Identification as required by B.402 and B.404, respectively; for other than minor plant equipment, the identification number shall be physically verified; and

(ii) Location as prescribed in B.306(d)(vii), creating need for physical verification

of presence or absence of the property in the location shown by the location record.

(f) *Plant equipment costing $1,000 or more.* Testing on an item-by-item basis is usually required to achieve desired results. Determinations demanding special attention include whether:

(i) Government screening and approval requirements are observed;

(ii) Classification of property is accurate, both at time of requisition or purchase and at time of receipt through the use of the DSAH-4215 series of IPE Handbooks and Cataloging Handbooks H2-1, H2-2, and H2-3;

(iii) An item is actually applied to the requirement for which acquired, and, if deviation is made, that necessary notice and Government approval (when applicable) have been obtained;

(iv) Receiving documentation is complete and accurate, indicating assignment of identification number, treatment of accessory and auxiliary equipment as required by B.306(b), and the DD Form 1342 (Property Record) is prepared and processed when required by B.306-1;

(v) From physical inspection of the property, the equipment records are accurate, including location and classification as to use (examination shall be conducted from property to records and from records to property); and

(vi) Disposition action is initiated as required when a piece of equipment is no longer required at the plant (examination shall include adequacy of procedure for the preparation and submission of DD Form 1342 (Property Record) where specified, propriety of authority for shipment, and proper accounting for accessory and auxiliary equipment).

(g) *Special test equipment.* The examination of special test equipment shall be essentially the same as for plant equipment costing $1,000 or more except for recognizing the greater complexity of assemblies classified as single items and the possible need for assistance and advice of engineering personnel. Examinations shall include tracing of individual components into the assembly to assure a clear trail, particularly with respect to general purpose test equipment components, and propriety of disposition of components upon disassembly.

(h) *Special tooling.* Testing for plant equipment, as in (e) and (f) above, may be used as a guide to establishment of the method and sampling to be utilized for special tooling. When option as to title to special tooling is involved under terms of the contract (see § 13.704), examination need only be sufficient to comply with the request of the contracting officer.

(i) *Real property.* After initial turnover of real property to a contractor, tests and examinations normally shall be directed to (A) work orders of the contractor and (B) documentation from Government sources as to additions and other capital improvements or disposals or capital decreases.

(j) *Scrap and salvage.* Tests relating to scrap and salvage may be similar to those for materials as outlined in (b) above. However, special attention should be given to:

(i) Tracing from credit entries on materials records (showing turn-in to scrap) to corresponding debits to scrap records;

(ii) Determining from analysis of consumption of materials over a given period of time that the quantities indicated as being scrapped or spoiled are matched with comparable receipts in the scrap and salvage accounts; and

(iii) Determining that when conversions of units of property to pounds of scrap or from estimated to scale weights or to other units of measure are made, the formula for the conversion is shown on the document affected, or is readily available in the approved contractor procedure.

(k) *Analyzing consumption of materials.* It shall be determined by both physical examination and analysis of records that quantities consumed are for proper purposes and in reasonable amounts. This applies to both those materials incorporated in end items and overhead or support materials. In analyzing consumption of component parts or other productive materials, unit allowance (equalling amount required per end item plus normal spoilage) for each line item of materials may be available in the contract, in bills of material, blueprints, or shop drawing of items fabricated, or in cost computations supporting the end item price. If such unit allowance information is not available, technical personnel may be consulted as to whether quantities consumed are within accepted standards of the industry. In analyzing consumption of indirect materials, trends shall be observed to detect any unexplainable increases.

(l) *Testing of physical inventories.* The property administrator has the option of conducting his tests of the contractor's physical inventories either during the performance of the inventory or subsequent to its completion. In either event, tests shall evidence physical counts of selected items without knowledge of record balances, verification of the entries on count slips, comparisons with records, preparation of documents necessary to any adjustments required, approval of adjustments and the referral of lists of adjustments to the property administrator pursuant to B.503.

(m) *Examination of maintenance program.* The actions scheduled shall be traced to determine that they are or have been performed and that the actions stated by the contractor's procedures have been included. Also, the records of the maintenance or repair shop or the contractor's purchase orders shall be examined as to causes of breakdowns of equipment to determine whether they were the result of inadequate normal maintenance.

S3.402-4 *Performing the survey.* (a) In performing the survey, the property administrator shall follow the procedures in (b) through (e) below.

(b) The lot size shall be estimated. Insofar as possible, lots selected shall consist of current operations of the contractor, i.e.:

(i) Those transactions (excepting disposition transactions) which have occurred during the 90 days immediately preceding the date of sampling and the documents recording those actions;

(ii) Articles in the possession or control of the contractor at that time; and

(iii) Disposition actions occurring since the last survey was made.

The lot should encompass the maximum number of units possible within a functional area. For example, transactions pertaining to special tooling, special test equipment, and plant equipment may be combined into a single lot and sampled for their common characteristics. Characteristics that are not common to units sampled shall be extracted for evaluation as a part of a separate lot. Sample sizes shall be selected from the attached table (Annex II).

(c) Units to be examined shall be selected and recorded on work papers, using random selection techniques when the lot size is 26 or more. For a lot size from 9 through 25, selection of the units for examination may be based upon judgment of the property administrator; if the lot size is less than 9, all units shall be examined.

(d) After the examinations are performed and the findings recorded, the findings shall be analyzed and the conclusions and recommendations recorded. Decisions as to satisfactory or unsatisfactory conditions shall be made for each lot at the functional area level.

(e) Problems disclosed during the survey shall be discussed with the contractor's personnel as they are noted, or during the exit interviews. Every effort shall be made to resolve differences on an informal basis. Resolved problem areas shall be reported in the record of system evaluation with the notation that they were corrected.

S3.402-5 *Summary.* A formal record shall be prepared by the property administrator at the conclusion of each system survey in the format set forth below:

(i) *Introduction:* contractor's name and address, period of survey, and types of property involved;

(ii) *Method used:* explain method of performing the survey;

(iii) *Conclusions:* state conclusions reached (In event of finding of unsatisfactory categories, functional areas or characteristics, identify the defects found.); and

(iv) *Action required:* state actions, if any, necessary to correct unsatisfactory conditions.

The original of the record shall be retained in the survey case file. When conditions warrant (i.e., indication of significant noncompliance with contract requirements; diversion or misuse of Government property; or other continued failures jeopardizing the interests of the Government), copies of the summary shall be provided to the administrative contracting officer, the purchasing office, and the preaward survey monitor. The contractor shall be advised by letter of any unsatisfactory conditions and requested to furnish within 30 days, or such lesser time as the property administrator deems reasonable, his plan for correcting such deficiencies, or a statement of his position thereon. The letter shall also advise the contractor that failure to correct the unsatisfactory conditions may result in withdrawal of approval of the property control system.

S3.402-6 *Correction of unsatisfactory conditions.* In the case of disclosure of unsatisfactory conditions, the property administrator shall maintain followup to ascertain that corrective action is taken. In the event the contractor fails to take corrective action or to respond to the letter forwarded as prescribed in S3.402-5 above, the property administrator shall proceed in accordance with S3.302-6.

S3.402-7 *Survey case file.* A case file shall be established for each system survey performed, containing the survey plan, work papers, and the summary.

S3.402-8 *Statistical sampling.* (a) *General.* Statistical sampling is a tool to support the property administrator's judgment; it does not supplant his judgment. Statistical sampling is accomplished by examination of characteristics, as to defects, in order to evaluate and determine the performance level for each functional area and category within each property control system. The lot should encompass the maximum number of records and documents possible. Care should be exercised, however, to assure that the items in the lot have common characteristics and that the same control elements of the property control system apply; otherwise, more than one lot will be necessary. Items selected for sampling may be used to examine characteristics of more than one category (i.e., items selected under records may be used to examine characteristics of acquisition, stock control, storage and movement, maintenance, physical inventory, utilization, and consumption).

(b) *Use of table of sample sizes and limits.* Annex II shows the sample size to be applied to each lot size examined and the criteria establishing whether the sample is satisfactory or unsatisfactory.

(1) The number of samples examined shall be equal to the sample size given in the table. If the number of defective sample units found is equal to or less than the number in Column S for the lot size involved, the lot shall be considered satisfactory. If the number of defective sample units is equal to or greater than the number in Column U for the lot size involved, it shall be considered unsatisfactory.

(2) The examination of lots of more than 500 shall be on a multiple sampling basis, as follows:

(i) The initial sample shall be equal to the first sample size given by the table for the specific lot size; if the number of defective sample units found in the initial sample is equal to or less than the first number in Column S for the lot size involved, the lot shall be considered satisfactory, and sampling of the lot discontinued; if the number of defective sample units found in the first sample is equal to or greater than the first number in Column U for the lot size involved, the lot shall be considered unsatisfactory, and sampling of the lot shall be discontinued.

(ii) If the number of defective sample units found in the first sample is greater than the number shown in Column S but less than that in Column U, a second sample of the size given by the table shall be examined; the number of defective sample units found in the first and second samples shall be accumulated; if the cumulative number of defective sample units is equal to or less than the second number in Column S, the lot shall be considered satisfactory, and sampling of the lot discontinued; if the cumulative number of defective sample units is equal to or greater than the second number in Column U, the lot shall be considered unsatisfactory, and sampling of the lot discontinued.

(iii) If the cumulative number of defective sample units is between the second numbers shown in Columns S and U, a third sample of the size given by the table shall be examined; the number of defective sample units found in the first, second, and third samples shall be accumulated; if this cumulative number of defective sample units is equal to or less than the third number in Column S, the lot shall be considered satisfactory; if this cumulative number of defective sample units is equal to or greater than the third number in Column U, the lot shall be considered unsatisfactory.

(c) *Random number table.* The following information is a guide for using a random number table to draw a sample. Care must be exercised to assure that the number of items in the lot is not overestimated so as to avoid selection of random numbers greater than the lot. For example, if the lot is 9,000, only numbers lower than 9,001 shall be selected. Using a random table to draw a random sample requires four steps:

(i) *First step.* A pattern must be established between the numbers in the table and items in the lot to be sampled. It is possible to use the whole random number or any portion thereof. For instance, the number 18,967 may appear in the table. If the lot size is more than 99 but less than 1,000, a three digit number is required and either the first three digits (189) or the last three (967) may be used. If the lot size is more than 999 but less than 10,000, a four digit number is required and either the first four digits (1,896) or the last four (8,967) may be used. Once this pattern has been established, it must be consistently used throughout the sample selection process.

(ii) *Second step.* A procedure for selecting the numbers from the table must be selected. Any systematic path for going through the table, if the path is clear and does not cross over or reuse any number previously used, is acceptable. It is possible to proceed across rows, down columns, diagonally, clockwise, counterclockwise, or in the same combinations of these methods; however, it is usually desirable to choose a simple pattern and go down columns or across rows.

(iii) *Third step.* The starting point in the table shall be selected at random. The most used method is to open the table of random numbers to any page and to use the number upon which the pencil point falls as the starting point.

(iv) *Fourth step.* Beginning at the starting point and proceeding through the table as planned in the Second Step, record the numbers found in succession in the table, using all or part of the number as planned in the First Step. Duplicate numbers shall be skipped. The selection process shall be continued until the required sample size is drawn.

Numbers taken from the random table shall be arranged and recorded in numerical order. If the units of the lot to be examined are already consecutively numbered, the units having the numbers corresponding to those taken from the random table become the sample units. Otherwise, the sample units shall be found by counting to the numbers taken from the random table.

S.3.403 *Additional administrative responsibilities.* The initial review, evaluation, and subsequent visits should provide the property administrator with a reasonable indication of future workload with each contractor. Loss, damage, destruction, or excessive consumption of Government property (see S3.602) are areas which demand significant and prompt attention by the property administrator. This is particularly important in the case of a contractor whose system is in an unapproved status.

S3.404 *Declaration of excess property.* A problem area often disclosed by systems surveys is the failure of a contractor to comply with B.101(d) or C.101(c) in the reporting of Government property which is not needed (is excess) in performance of the contract. The property administrator shall fully document and report any such finding to the administrative contracting officer. After a report of excess received from a contractor has been referred to the plant clearance officer for screening and ultimate disposition, the property administrator shall maintain followup to assure prompt disposition action. For centrally reportable plant equipment, the property administrator shall:

(i) Assure the preparation and submission of individual reports (DD Form 1342) required of the contractor pursuant to B.306-1 and C.306-1;

(ii) Accomplish such verifications as necessary to permit certifications required by the forms; and

(iii) Transmit the report to the NASA contracting officer, Attention: Industrial Property Specialist.

S3.405 *Identification of industrial plant equipment.* Contractors acquiring or possessing Government-owned industrial plant equipment (IPE) shall provide prenumbered identification media (metal plates and decals) with the designation "NASA Property" and serial number(s) for identification of IPE pursuant to B.404 and C.404. The property administrator shall, within the framework of the contract, ensure that contractors affix the permanent identification number to each item of IPE at time of receipt. The property administrator shall make arrangements with the contractors to reidentify IPE already in their possession with the permanent number at the time of the regularly scheduled inventory or at some time as agreed to between the property administrator and the contractors involved.

SUBPART 5—CLOSURE OF CONTRACTS

S3.501 *Completion or termination.* Upon completion or termination of a contract, the property administrator shall:

(i) Monitor the actions of the contractor in returning excess Government property not referred to the plant clearance officer; and

(ii) Advise the cognizant plant clearance officer as to the existence at a contractor's plant of residual property requiring disposal.

S3.502 *Final review and closing of contracts.* (a) When informed that a disposition of Government property under a contract has been completed, the property administrator shall perform a final review which shall include a signed determination that:

(i) Disposition of Government property has been properly accomplished and documented;

(ii) Stock records have been reduced to zero balances on the basis of proper documentation;

(iii) Adjustment documents, including request of the contractor for relief from responsibility, have been processed to completion;

(iv) Proceeds from disposals or other property transactions, including adjustments, have been properly credited to the contract or paid to the Government as directed by the contracting officer;

(v) All questions as to title to property fabricated or acquired under the contract have been resolved and appropriately documented; and

(vi) The Contract Property Control Record (see S3.503) is complete and ready for retirement.

(b) Where final review pursuant to paragraph (a) above reveals that such action is proper, the property administrator shall indicate to the contracting officer, by signature on the Contract Administration Completion Record, that:

(i) All Government property provided under the contract has been properly accounted for;

(ii) There are no unresolved questions as to contractor liability for Government property or title to property acquired or fabricated under the terms of the contract; and

(iii) He has accomplished all pertinent duties and responsibilities as required by the NASA PR and other pertinent directives.

The Contract Property Control Record shall be annotated accordingly, and shall be retired with the contract file.

SUBPART 6—SPECIAL SUBJECTS

S3.601 *Government property at alternate locations of the prime contractor and subcontractor plants.*

S3.601-1 *General.* (a) Government property provided to a prime contractor may be located at other plants of the prime contractor or at subcontractor locations. The prime contractor is accountable and responsible to the Government for such property and shall assure that the records and controls of such property comply with the provisions of Appendix B or C, as appropriate.

(b) A Government property administrator cognizant of the location where the property is situated shall normally be designated to perform required surveys of the property

control system and exercise surveillance over such property as a supporting responsibility.

S3.601-2 *Request for supporting property administration.* (a) When the property administrator determines that supporting property administration is required, he shall direct a written request to the cognizant contract administration office asking that a property administrator be assigned. The request for supporting property administration shall include:

(i) The name and address of the prime contractor;

(ii) The prime contract number;

(iii) The name and address of the alternate location of the prime contractor, or of the subcontractor where the property is to be located;

(iv) A listing of the property to be furnished, or, if property is to be acquired locally, a statement to this effect; and

(v) A copy of the subcontract or other document under which the property is to be furnished or acquired.

(b) Concurrent with the action cited in (a) above, the property administrator shall ascertain whether the prime contractor will perform the necessary reviews and surveillance with his own personnel, or elects to rely upon the system approval and continuing surveillance by a supporting property administrator, of the property control system at the alternate location or subcontractor plant. If the prime contractor indicates that he will accept the findings of a supporting property administrator, a statement in writing to that effect shall be obtained. If the prime contractor does not so elect, he shall be required to perform the requisite reviews and surveillance and document his actions and findings.

S3.601-3 *Request for occasional assistance.* (a) If a single item or limited quantities of property will be so located, the property administrator may determine that supporting property administration is unnecessary, provided;

(i) That the prime contractor's records shall adequately reflect the location and use being made of such property;

(ii) The nature of the property is such that the possibility of its use for unauthorized purposes is unlikely; and

(iii) The nature of the property is such that a program of preventive maintenance is not required.

(b) When supporting property administration will not be requested, the services of a property administrator in the contract administration office cognizant of the site where the property is located may be requested on an occasional basis to perform special reviews or such other support as may be necessary. Repeated requests for such assistance indicate a requirement for requesting supporting property administration.

S3.602 *Loss, damage, or destruction of Government property.*

S3.602-1 *General.* Normally, contract provisions provide for assumption of risk of loss, damage, or destruction of Government property as described in (a) through (f) below:

(a) Advertised and certain negotiated fixed-price contracts provide that the contractor assumes the risk for all Government property provided thereunder (see § 18-13.702(a)).

(b) Other negotiated fixed-price contracts provide that the contractor assumes the risk for all Government property provided thereunder, with the exception of loss, damage, or destruction due to causes listed under the "excepted perils" of the clause set forth in § 18-13.702(b) and in connection with which there was no willful misconduct or lack of good faith of any of the contractor's managerial personnel as defined therein.

(c) Cost-reimbursement supplies and services contracts (see § 18-13.703) and cost-reimbursement and fixed-price research and development contracts with nonprofit institutions (see §§ 18-13.707 and 18-13.706, respectively) provide that the Government assume the risk for all Government property provided thereunder when there is no willful misconduct or lack of good faith of any of the contractor's managerial personnel as defined in the terms of the contract.

(d) There are certain events for which the Government does not assume the risk of loss, damage, or destruction of Government property, such as risks which the contract expressly requires the contractor to insure against. Therefore, contract clauses should be thoroughly reviewed and understood before a conclusion is reached by the property administrator or a determination made by the contracting officer. Advice shall be obtained from appropriate legal counsel on questions of legal meaning or intent.

(e) "Willful misconduct" may involve any intentional or deliberate act or failure to act which causes, or results in, the the loss, damage, or destruction of Government property.

(f) "Lack of good faith" may involve gross neglect or disregard of the terms of the contract or of appropriate directions of the contracting officer or his authorized representatives. Examples of lack of good faith may be demonstrated by the failure of the contractor's managerial personnel to establish and maintain proper training and supervision of employees and proper application of controls in compliance with instructions issued by authorized Government personnel.

S3.602-2 *Loss, damage, or destruction of Government property while in contractor's possession or control.* (a) The property administrator shall require the contractor to report to him all cases of loss, damage, or destruction of Government property in his possession or control (including such property in the possession or control of his subcontractors) as soon as such fact becomes known.

(b) When physical inventories, consumption analyses, or other actions disclose (i) consumption of Government property which is considered unreasonable by the property administrator, or (ii) loss, damage, or destruction of Government property which has not been reported by the contractor, the property administrator shall prepare a statement of the items and amount of loss involved. This statement shall be furnished to the contractor for investigation and submission of a written statement to the property administrator relative to the incidents reported.

(c) The contractor's report and statement referenced in (a) and (b) above shall contain factual data as to the circumstances surrounding the loss, damage, destruction, or excessive consumption, including the following:

(i) The contractor's name and the contract number;

(ii) Description of items lost, damaged, destroyed, or unreasonably consumed;

(iii) Cost of property lost, damaged, destroyed, or unreasonably consumed and cost of repairs in instances of damages (in event actual cost is not known, use reasonable estimate);

(iv) Date, time (if pertinent) and cause or origin of the loss, damage, destruction, or consumption;

(v) Known interests in any commingled property of which the Government property lost, damaged, destroyed, or unreasonably consumed is (or was) a part;

(vi) Insurance, if any, covering the Government property or any part or interest in any commingled property;

(vii) Actions taken by the contractor to prevent further loss, damage, destruction, or unreasonable consumption and to prevent repetition of similar incidents; and

(viii) Other facts or circumstances relevant to determination of liability and responsibility for repair or replacement.

(d) The property administrator shall investigate the incident to the degree required to reach a valid and supportable conclusion as to (i) liability of the contractor for the loss, damage, destruction, or unreasonable consumption under the terms of the contract, and (ii) the course of action required to conclude the adjustment action. When the contractor acknowledges liability, the property administrator shall forward a copy of the credit memo or other adjusting document to the contracting officer and auditor, if appropriate, to assure proper credit. In event analysis of contract provisions and circumstances established as factual results in a conclusion that the loss, damage, destruction, or unreasonable consumption constitutes a risk assumed by the Government and that the contractor is not liable, the property administrator shall so advise the contractor in writing, thereby relieving the contractor of responsibility for the property. A copy of the documentation and notification to the contractor shall be retained in the Contract Property Control Record for the contract.

(e) If the property administrator concludes that the contractor should be liable for the loss, damage, destruction, or unreasonable consumption of Government property, he shall forward the complete file with his conclusions and recommendations to the contracting officer for review and determination. The file shall contain:

(i) A statement of facts as supported by investigation;

(ii) Recommendations as to contractor's liability, and the amount thereof;

(iii) Recommendations as to action to be taken with regard to third party liability, if appropriate;

(iv) Requirements for disposition, repair, or replacement of the damaged property; and

(v) Other pertinent comments.

S.3.603 *Financial reports.* A copy of the determination shall be furnished the contractor and the property administrator, and a copy retained in the files of the contracting officer. The property administrator's copy shall be filed in the Contract Property Control Record for the contract when all pertinent actions (such as compensation to the Government or repair or replacement of the property) have been completed.

(a) The property administrator is responsible for obtaining, for all contracts assigned to him, financial reports from the contractor as required under the provisions of paragraph B.311 of Appendix B or paragraph C.311 of Appendix C, and the clause of the contract entitled "Financial Report of Government-Owned Space Hardware," when applicable. The reports shall be distributed in accordance with the procedures in paragraphs (b), (c), and (d) below.

(b) Four copies of each of the contractor's semiannual reports (NASA Forms 1017 and 1018), or a negative letter report, when appropriate, shall be reviewed and forwarded by the property administrator within three working days after receipt to the contracting officer, Attention: Industrial Property Specialist. The industrial property specialist will furnish one copy of each report to the cognizant financial management or fiscal officer and forward one copy of each report to the Director of Procurement (Code KDP-3) and to the Director of Facilities (Code BX), to arrive not later than July 29 covering the period December 1-June 30 and December 31 covering the period July 1-November 30.

(c) In the case of contracts being administered for the Department of Defense, the reports shall be sent as follows:

(i) *Army*—The procurement contracting officer.

(ii) *Navy*—Commanding Officer, Navy Finance Center, Attention: FPA 20, Washington, D.C. 20390.

(iii) *Air Force*—(To be provided.)

(iv) *Defense Supply Agency*—Director, Defense Supply Agency, Attention: DSAH-CFS, Cameron Station, Alexandria, Va. 22314.

SUBPART 7—CONTRACTOR UTILIZATION OF GOVERNMENT INDUSTRIAL PLANT EQUIPMENT (IPE)

S3.701—*Utilization surveys.* (a) Responsibility for assuring that the contractor has effective procedures to evaluate IPE utilization rests with the property administrator. However, when necessary the contract administration office shall provide specialists qualified to perform the technical portion of utilization surveys to assist the property administrator in determining the adequacy of the contractor's IPE procedures.

(b) Upon assignment of an initial contract under which Government-owned IPE is to be provided to a contractor, the property administrator shall require the contractor, in accordance with B.603 or C.603, to establish procedures and techniques for controlling the utilization of Government-owned IPE. The property administrator, with the assistance of technical specialists, if necessary, shall evaluate the procedures established by the contractor for effective utilization of IPE. A record of the evaluation shall be prepared and become a part of the property administration file. If the procedures are determined inadequate, the record shall identify the deficiencies and the corrective actions necessary. In the event the deficiencies are not corrected by the contractor, the matter will be promptly referred to the NASA contracting officer.

(c) Followup surveys of the contractor's utilization procedures related to Government-owned IPE shall be performed at least annually. At contractor facilities having a substantial quantity of IPE items, the surveys should normally be conducted on a continual basis, reviewing equipment utilization records and physically observing a group of preselected items during each portion of the survey. Such followup surveys shall be conducted to the degree determined necessary considering the findings of prior surveys and the contractor's performance history in identifying and declaring equipment excess to authorized requirements. The contractor shall be required to support the retention of all Government-owned IPE by data keyed to specific Government programs. Maximum use will be made of contractor's machine-loading data, order boards, production-planning records, and machine-time records and other production-control methods.

(d) Special surveys shall be conducted when a significant change occurs in the contractor's production schedules. Examples of such changes are terminations, completion of contracts or major adjustments in programs. Special surveys may be limited to a given department, activity, or division of a contractor's operation.

(e) In the absence of adequate justification for retention, Government-owned IPE will be identified and reported in accordance with Part 18-24. Items which are part of approved inactive package plants, standby lines or active base packages are exempted from utilization surveys. The contract administration office shall ascertain periodically whether existing authorizations for standby, layaway, and other mobilization requirements are current.

(f) Recommendations for contractor action to correct or improve controls shall be discussed by the property administrator with contractor managerial personnel to reach agreement as to corrective action. When action by the contractor is recommended, followup shall be maintained to assure that appropriate action is taken. In event satisfactory resolution cannot be reached, the matter shall be referred to the NASA contracting officer.

S3.702 *Records of surveys.* The property administrator shall prepare a record incorporating written findings, conclusions and recommendations at the conclusion of each survey. Where appropriate, the record of the property administrator may be limited to a statement expressing concurrence with the reports of other specialists. One copy of each record shall be retained in the property administration file. Additional copies shall be prepared and distributed as findings and conclusions may necessitate.

S3.703 *Scope of survey.* The following matters are among those which shall be considered and used to the extent applicable in preparing for, conducting and recording the results of the IPE Utilization Surveys:

(i) Identification of contracts under which IPE was furnished or acquired;

(ii) Number and dollar value of IPE items in contractor's possession;

(iii) Adequacy of equipment usage records;

(iv) Identification of contracts for which use of IPE is authorized;

(v) Other authorized use (Government or commercial) of the IPE, whether required approvals have been obtained, and whether rental payment is required;

(vi) Planned machine loadings (including performance of a physical review of selected IPE items);

(vii) Whether contractor-owned equipment of like function is loaded prior to loading Government-owned IPE;

(viii) Items reported by quality assurance representatives or other personnel to be in a questionable use and utilization status; and

(ix) Items of plant equipment that may be made available for other use by combining work of two or more machines on a single machine with low utilization rate. In such case the survey record should indicate the date that Property Record, DD Form 1342, was forwarded to the NASA contracting officer.

## Annex I—Categories, Functional Areas, Characteristics [1]

### CATEGORY 1

1. *Acquisition.* The process of acquiring Government property either through requisition or transfer from Government sources or through purchase, including those made from contractor stores.

a. Functional area: Government-furnished property.

| *Characteristic* | *Class* |
|---|---|
| (1) Item is contractually authorized | I |
| (2) Requesting document is properly prepared and processed | I |
| (3) Quantity requested is reasonable but not available in existing stocks at the plantsite for use on the requiring contract | I |
| (4) Requests are controlled until items are received or requirement canceled. Status file is maintained | I |
| (5) Requests are submitted in a timely manner to minimize use of emergency priorities | II |

b. Functional area: Contractor-acquired property.

| *Characteristic* | *Class* |
|---|---|
| (1) Item is contractually authorized | I |
| (2) Quantity ordered is reasonably required but not available in existing stocks at the plantsite for use on requiring contract | I |
| (3) Distribution, cancellation, and change of purchase orders is properly controlled | I |
| (4) Item description, contract number, price, are reflected in purchase order | I |
| (5) Consent or approval by the contracting officer as required | I |

### CATEGORY 2

2. *Receiving.* The process of Government property initially entering into a contractor's custody.

a. Functional area: Receiving process.

| *Characteristic* | *Class* |
|---|---|
| (1) Receiving report adequately describes item and shows count and condition. Where quantity, condition, or description differs from that shown on inbound shipping document, proper adjustment document is prepared and property administrator notified | I |
| (2) Receiving report is promptly and properly prepared and controlled, and distribution includes copy to property accounting organization | I |
| (3) Item received is properly classified (e.g., special tooling) | I |
| (4) Item is properly identified and marked during the receiving process | I |
| (5) Returnable and reusable containers are properly controlled and accounted for | II |
| (6) Misdirected shipments are adequately controlled pending receipt of disposition instructions | II |

### CATEGORY 3

3. *Records.* The official accounting and subsidiary records maintained by a contractor to show status and to control all Government property furnished to him or otherwise acquired by him.

a. Functional area: Inventory control (real and personal property).

[1] This is not an exclusive list and may be modified as necessary.

| *Characteristic* | *Class* |
|---|---|
| (1) Accounting record conforms to NASA PR requirements and is accurate | I |
| (2) Documentation in support of accounting entries is sufficient | I |
| (3) Accounting entries are made without undue delay | I |
| (4) Stock levels and reorder points are reflected on record, are reasonably sound, and are consistent with contract provisions | I |
| (5) Accounting records are closed by means of proper accounting entry, adequately supported by documentation | I |
| (6) Locator system is adequate and accurate | I |

b. Functional area: Fabrication records.

| *Characteristic* | *Class* |
|---|---|
| (1) Records of items fabricated conform to NASA PR requirements and are accurate | I |
| (2) Documentation in support of accounting entries is sufficient | I |

c. Functional area: Receipt and issue file.

| *Characteristic* | *Class* |
|---|---|
| Records of items conform to NASA PR requirements and are accurate | I |

d. Functional area: Custodial records.

| *Characteristic* | *Class* |
|---|---|
| (1) Custodial record is adequate and accurate | I |
| (2) Records are properly closed | I |

e. Functional area: Scrap and salvage records.

| *Characteristic* | *Class* |
|---|---|
| (1) Scrap and salvage records are adequate and accurate | I |
| (2) Items reclaimed during salvage operations are properly classified | I |
| (3) Documentation in support of record is adequate | I |
| (4) Records are properly closed | I |

f. Functional area: Multicontract cost and material control system.

| *Characteristic* | *Class* |
|---|---|
| (1) Records conform to NASA PR requirements and are accurate | I |
| (2) Documentation in support of record is adequate | I |
| (3) Accounting entries are made promptly | I |
| (4) Records are properly closed | I |

CATEGORY 4

4. *Storage and movement.* The process of storing and moving all types of Government property includes movement from one point to another, for any purpose, and protection during movement and storage.

a. Functional area: Warehousing.

| *Characteristic* | *Class* |
|---|---|
| (1) Housekeeping is adequate | II |
| (2) Government property is segregated from contractor property | II |
| (3) Adequate protection of Government property is provided, including hazardous materials, precious metals, sensitive items, etc | II |
| (4) Adequate measures for corrosion prevention, age control, etc | II |

b. Functional area: Internal and external movements.

| *Characteristic* | *Class* |
|---|---|
| (1) Item is moved under proper authority, supported by issue slip, shipping ticket, location change order, etc | II |
| (2) Adequate protection is provided during movement, such as packing, covering skidding, proper handling equipment and techniques, and safety precautions | II |
| (3) Loss or damage occurring during movement is reported to the property administrator | II |

CATEGORY 5

5. *Consumption.* The process of incorporating Government-owned property into an end item or otherwise consuming it in performance of a contract.

a. Functional area: Reasonableness of consumption.

| *Characteristic* | *Class* |
|---|---|
| (1) Quantities consumed are reasonable when compared to bill of material, material requirement lists, established scrap rates, etc | I |
| (2) Serially numbered or selectively matched items are incorporated in appropriate end item | II |

b. Functional area: Conservation.

| *Characteristic* | *Class* |
|---|---|
| (1) Excesses are promptly returned to stores and recorded | II |
| (2) Where appropriate, maximum use is made of repair and salvage procedures in lieu of using new items | II |
| (3) Where appropriate, a first-in first-out (FIFO) system is employed with respect to "dated" items | II |

CATEGORY 6

6. *Utilization.* The process of utilizing equipment, special tooling, special test equipment, bailed items, and material for the purpose for which furnished or acquired.

a. Functional area: Plant equipment, special tooling, special test equipment.

| *Characteristic* | *Class* |
|---|---|
| (1) Item is being used for purpose authorized by contract (not diverted to other use) | I |
| (2) Degree of utilization justifies retention | I |

b. Functional area: Material.

| *Characteristic* | *Class* |
|---|---|
| (1) Item is used for purpose for which authorized (not diverted to other use) | I |
| (2) Degree of utilization justified retention of stock on hand | I |

CATEGORY 7

7. *Maintenance.* The process of providing the amount of care necessary to obtain a high quality of production and the most useful life of Government property.

a. Functional area: Preventive and corrective maintenance.

| *Characteristic* | *Class* |
|---|---|
| (1) Item is scheduled for periodic maintenance (including technical order compliance) | I |
| (2) Maintenance is performed according to schedule | I |
| (3) Records of normal maintenance and corrective actions are adequate and accurate | I |

b. Functional area: Capital-type rehabilitation (includes real property).

| *Characteristic* | *Class* |
|---|---|
| (1) Inspection is scheduled to determine need for major repair, replacement, or other rehabilitation | I |
| (2) Inspection is performed as scheduled and results are reported | II |
| (3) Rehabilitation is accomplished when authorized | II |
| (4) Records of major repair, replacement, or other rehabilitation, including cost, are adequate and accurate | II |

CATEGORY 8

8. *Physical inventories.* The process of physically locating and counting Government property and comparing it to records of such property includes the posting of findings and adjustments and the reporting of adjustments to the property administrator.

a. Functional area: Performance.

| Characteristic | Class |
|---|---|
| (1) Inventories are scheduled and performed as scheduled | II |
| (2) Inventory record (count slip, inventory ticket, etc.) reflects complete data with respect to location, count, and description | I |
| (3) Inventory count is accurate | I |

b. Functional area: Recording.

| Characteristic | Class |
|---|---|
| (1) Inventory is posted to accounting record within reasonable period | I |
| (2) Posting to accounting record is complete, showing date and quantity, and clearly identified as an inventory entry | I |
| (3) Posting to accounting record is accurate | I |

c. Functional area: Adjustments.

| Characteristic | Class |
|---|---|
| (1) Adjustments are posted to accounting records promptly after inventory | I |
| (2) Adjustments are complete with respect to date and quantity and are clearly identified as inventory adjustments | I |
| (3) Adjustments are promptly reported to the Government property administrator | I |
| (4) All instances of loss, damage, or destruction are reported promptly and properly | II |

CATEGORY 9

9. *Subcontract control.* The process of prime contractor control over subcontractor with respect to Government property.

a. Functional area: Prime contractor controls.

| Characteristic | Class |
|---|---|
| (1) Subcontract reflects adequate instructions with respect to subcontractor responsibilities | I |
| (2) Records of Government property in possession of subcontractor conform to NASA PR requirements | I |
| (3) Adequate documentation supports accounting entries | I |
| (4) Prime contractor surveillance over Government property in possession of subcontractors is adequate | II |

b. Functional area: Subcontractor control. If the prime contractor has designated records and controls of a subcontractor as the official contract records and controls of Government property in the possession of the subcontractor or if adequacy of controls cannot be determined by review of the prime contractor's controls, the subcontractor's property control system will be evaluated in the same manner as that of a prime contractor, in accordance with procedures and criteria set forth in this Supplement.

CATEGORY 10

10. *Disposition.* The process of requesting disposition instructions and effecting disposal of Government property.

a. Functional area: Disclosure of excess.

| Characteristic | Class |
|---|---|
| (1) Excess items are screened against need on other contracts prior to declaration as excess | I |
| (2) Items determined excess are promptly reported | I |
| (3) Declaration as excess is complete and accurate | I |
| (4) Item was allocable to contract from which declared excess | I |

b. Functional area: Disposal.

| Characteristic | Class |
|---|---|
| (1) There is proper authority for disposition | I |
| (2) Item was disposed of within a reasonable time period after disposal authority was received | I |
| (3) Identification tag is removed from item prior to disposal when appropriate | I |
| (4) Documentation of disposition is complete and reflects authority, disposal action, and date of disposal and is posted to record | I |
| (5) When appropriate, proceeds have been credited to the Government | I |

Annex II—Table of Sample Sizes and Limits.

| Lot size | | Sample size | | Limits | |
|---|---|---|---|---|---|
| | | Size | Cumulative | S | U |
| [1] 9–50 | | 8 | | 1 | 2 |
| 51–90 | | 13 | | 1 | 2 |
| 91–150 | | 20 | | 2 | 3 |
| 151–280 | | 32 | | 3 | 4 |
| 281–500 | | 50 | | 5 | 6 |
| [2] 501–1,200 | (1) | 25 | | 0 | 4 |
| | (2) | 25 | 50 | 3 | 6 |
| | (3) | 30 | 80 | 7 | 8 |
| [2] 1,201–3,200 | (1) | 40 | | 0 | 5 |
| | (2) | 40 | 80 | 5 | 9 |
| | (3) | 45 | 125 | 10 | 11 |
| [2] 3,201–10,000 | (1) | 50 | | 1 | 7 |
| | (2) | 75 | 125 | 7 | 11 |
| | (3) | 75 | 200 | 14 | 15 |
| [2] Over 10,000 | (1) | 75 | | 2 | 9 |
| | (2) | 100 | 175 | 10 | 15 |
| | (3) | 140 | 315 | 21 | 22 |

[1] If fewer than 9, examine all units.
[2] Multiple sample.

GEORGE J. VECCHIETTI,
*Director of Procurement, National Aeronautics and Space Administration.*

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# Title 7—AGRICULTURE

## Chapter II—Food and Nutrition Service, Department of Agriculture

## PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

## PART 272—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS, NONPROFIT MEAL DELIVERY SERVICES, AND BANKS

### Food Stamp Program Regulations

Notice of proposed rule making was published in the FEDERAL REGISTER on September 10, 1971 (36 F.R. 18213) setting forth proposals to amend the Food Stamp Program regulations to prohibit the return of cash as change in food coupon transactions and to prohibit the use of food coupons for payments of deposits on bottles or other returnable containers. Interested persons were given 30 days in which to submit comments, suggestions, or objections to the proposed amendments. The Department has decided to adopt the proposed amendments and to make them effective on March 1, 1972. This statement summarizes the opinions which were received from interested parties and explains the reason for the Department's decision.

Over 200 letters commenting on the proposed prohibition were received. The opinions expressed in these letters were fairly evenly divided in support of and in opposition to the prohibition of cash change. Those persons favoring the amendments cited as their reasons for doing so, first or secondhand information about, or fear of, willful abuses of the cash change privilege through deliberate attempts to convert coupons into cash through the change procedure. Support of the proposals was also based on the fear that through carelessness change returned to recipients would not be used to purchase needed food.

In general, persons objecting to the proposals offered the following reasons in support of their position:

1. Recipients lose purchasing power when they lose their credit slips.

2. The check-out process is slowed down by the necessity of writing credit slips, and the delay is annoying to both checkers and recipients.

3. The use of credit slips complicates a retailer's accounting system and is costly.

4. When recipients accept credit slips from a store, they are bound to return to that particular store even though it may not be convenient or economical.

5. A prohibition on the return of cash change indicates a lack of trust in recipients and is humiliating to them.

6. The program is not threatened by the relatively little abuse of the cash change privilege.

7. Recipients need the extra cash for those necessary food items not eligible for purchase with food coupons.

Among those who favored the use of the credit slip, there were no objections to the format of the credit slip. A number of people suggested that the Department print books of credit slips and issue them to retailers. This idea has been considered and rejected because of the prohibitive expense and the difficulties of inventory control.

Of the letters received, only 34 mentioned the prohibition on the use of coupons to pay bottle deposits. Approximately two-thirds of these comments favored or did not object to the proposed restrictions, while the other one-third objected strenuously. The reasons cited in support of and in opposition to the container deposit prohibition were similar to the reasons cited in support of and in opposition to the cash change prohibition. However, a number of persons also cited the fact that the restriction would discourage the purchase of food in returnable containers, and thus would encourage the recipients to purchase nonreturnable containers which are ecologically damaging. It was also noted

that if recipients were to purchase nonreturnable containers, they would be paying higher prices for their merchandise, thus reducing their food purchasing power.

In the report of the Conference Committee dated July 22, 1971, on the 1972 Agriculture appropriation bill, the conferees stated that they "are in agreement that the Food Stamp Act makes no provision for providing cash for face value of stamps even in making change. Such a practice has grown up and threatens the success of the food stamp program. Such practice should be stopped * * *"

After giving further consideration to the changemaking procedures and the views of the conferees, the Department has decided to adopt the proposed amendments published in the FEDERAL REGISTER on September 10, 1971. The proposed amendments are hereby adopted without change and are set forth below.

*Effective date.* These amendments shall be effective as of March 1, 1972.

Dated: December 23, 1971.

PHILIP C. OLSSON,
*Acting Assistant Secretary.*

1. Paragraphs (a) and (d) of § 271.9 (7 CFR 271.9 (a) and (d)) are revised to read as follows:

**§ 271.9 Use or redemption of coupons by eligible households.**

(a) The head of the eligible household or his authorized representatives shall sign each book of coupons provided to the head of the household or his authorized representative. The coupons may be used only by the head of the household or other persons selected by him to purchase eligible food for the household. Coupons may not be used to pay for deposits on bottles or other returnable food containers. Except for those uncanceled and unendorsed coupons of 50-cent denomination returned as change by authorized retail food stores or nonprofit meal delivery services, coupons shall be detached from the book only at the time such coupons are used for payment of eligible food purchased in or delivered by authorized retail food stores or nonprofit meal delivery services. It is the right of the head of the household or his authorized representative to detach the coupons from the book at the time of purchase or delivery.

* * * * *

(d) When change in an amount of less than 50 cents is required in a coupon transaction, it is the right of the head of the household or his authorized representative to exercise the option to receive credit for an equivalent value (not to exceed 49 cents) of eligible food, to trade out in eligible food the difference between the cost of the purchase and the next higher 50-cent increment, or to pay in cash the difference between the cost of the purchase and the next lower 50-cent increment.

* * * * *

2. Paragraphs (b) and (e) of § 272.2 (7 CFR 272.2 (b) and (e)) are revised to read as follows:

**§ 272.2 Participation of retail food stores, and nonprofit meal delivery services.**

* * * * *

(b) Coupons shall be accepted by an authorized retail food store only in exchange for eligible food as defined in § 270.2(s) of this subchapter. A food retailer shall not knowingly accept coupons for any imported meat or meat products. The acceptance of coupons for meat or meat products which are labeled or can be identified as imported when they are delivered to the retail food store or to a central warehouse, a distribution center or meat fabricating facility, operated by the food retailer shall be deemed to have been done with knowledge of the fact that such meat or meat products were imported. Any other food product which is clearly identified on the package as being imported shall not be exchanged for food coupons. An authorized food retailer shall not accept coupons in payment for deposits on bottles or other returnable food containers.

* * * * *

(e) Change in cash shall not be given for coupons. An authorized food retailer or nonprofit meal delivery service must use for the purpose of making change in an amount of 50 cents or more, those uncanceled and unmarked coupons having a denomination of 50 cents which were previously accepted in exchange for eligible foods. If change in an amount of less than 50 cents is required, the eligible household shall have the option of receiving credit from the authorized firm for future delivery of an equivalent value of eligible foods, or of trading out in eligible food the difference between the cost of the purchase and the next higher 50-cent increment, or of paying in cash the difference between the cost of the purchase and the next lower 50-cent increment. Credit in excess of 49 cents shall not be returned in coupon transactions. Tokens or credit slips used for change in coupon transactions shall conform with the following:

(1) Tokens shall not resemble U.S. coins in any way.

(2) Tokens shall be dissimilar in size and material to lawful coins.

(3) Tokens or coupons shall bear language similar to the following: "Redeemable only in eligible food and only at (insert the name of the issuing store or chain) store(s)."

(4) Credit slips or tokens shall not bear the seal of the Department.

(5) Credit slips shall be clearly and easily distinguishable from the official food coupons.

(6) Credit slips or tokens shall not in any way indicate that they are obligations of the United States or the Department.

(7) Credit slips or tokens issued by one authorized firm shall not be accepted by another authorized firm unless the two firms are under single ownership, or are members of a food marketing cooperative and hold themselves out to be members of the same cooperative by use of the same name, trademarks, house brands, etc.

* * * * *

(78 Stat. 703, as amended, 7 U.S.C. 2011-2025)

[FR Doc.71-19010 Filed 12-28-71;8:52 am]

## Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 6]

## PART 780—APPEAL REGULATIONS

### Definition and Verbatim Transcripts

On page 21291 of the FEDERAL REGISTER of November 5, 1971, there was published a notice of proposed rule making stating that the Agricultural Stabilization and Conservation Service was considering an amendment to the Appeal Regulations (Part 780).

Interested persons were given 20 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendments to the regulations are hereby adopted without change and are set forth below.

*Effective date.* These regulations shall be effective upon publication in the FEDERAL REGISTER (12-29-71).

Signed at Washington, D.C., on December 21, 1971.

KENNETH E. FRICK,
*Administrator, Agricultural Stabilization and Conservation Service.*

**§ 780.2 Definitions.**

* * * * *

(d) "State committee" shall have the meaning given to it under the regulations governing Reconstitution of Farms, Farm Allotments, and Bases, Part 719 of this chapter, as amended. In Puerto Rico and the Virgin Islands, the Director of the Caribbean Area ASCS Office shall, insofar as applicable, perform the functions of the State committee.

2. Section 780.8(d) is revised to read as follows:

**§ 780.8 Nature of informal hearing.**

* * * * *

(d) The reviewing authority shall have prepared a written record containing a clear, concise statement of the facts as asserted by the producer or participant and material facts found by the reviewing authority. The names of interested persons appearing at the hearing shall be included. Any documents presented in evidence should be identified. A verbatim transcript may be taken if (1) the producer or participant requests the reviewing authority prior to the time the hearing begins to provide for such transcript, and (2) agrees to

pay the expense thereof, or (3) the reviewing authority feels that the nature of the case is such as to make such transcript desirable.

[FR Doc.71-18969 Filed 12-28-71;8:49 am]

## Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 251]

## PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Size Regulation

Notice was published in the FEDERAL REGISTER issue of December 15, 1971 (36 F.R. 23821) that the Department was giving consideration to a proposed size regulation for navel oranges grown in Arizona and designated part of California, pursuant to the applicable provisions of the marketing agreeement, as amended, and Order No. 907, as amended (7 CFR Part 907, 35 F.R. 16359) regulating the handling of navel oranges grown in Arizona and designated part of California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The recommended regulation was submitted by the Navel Orange Administrative Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof. Such regulation would limit the handling of navel oranges grown in District 2 to those navel oranges measuring 2.20 inches in diameter or larger.

The recommended regulation reflects the Navel Orange Administrative Committee's appraisal of the crop and current and prospective marketing conditions. The committee now estimates the 1971-72 season crop of Navel oranges at 46,850 carlots. It further estimates that the demand in regulated market channels will require about 67 percent of the volume, and the remaining 33 percent will be available for utilization in export, processing, and other outlets. The volume and size composition of the crop are such that ample supplies of the more desirable sizes are available to satisfy the demand in regulated channels. Therefore, the smaller sizes of oranges should be eliminated from regulated marketing channels so as to assure consumers of desirable sizes of fruit and to improve returns to growers consistent with declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this regulation, with an effective date as herein specified, was published in the FEDERAL REGISTER (36 F.R. 23821), and no objection to this regulation or such effective date was received; (2) the recommendation and supporting information for regulation during the period specified herein were submitted to the Department after an open meeting of the Navel Orange Administrative Committee on November 30, 1971, which was held to consider recommendations for regulation, after giving due notice of this meeting, at which interested persons were afforded an opportunity to submit their views; (3) shipments of the current Navel orange crop from District 2 are restricted, through January 20, 1972, by the minimum size requirements of Navel Orange Regulation 245 and this regulation should be effective on January 21, 1972, to assure equity among handlers and to continue to effectuate the declared policy of the act by continuing the same size requirements throughout the shipping season; and (4) compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

**§ 907.551 Navel Orange Regulation 251.**

(a) Order: From January 21, 1972, through July 31, 1972, no handler shall handle any Navel oranges, grown in District 2, which are of a size smaller than 2.20 inches in diameter, which shall be the largest measurement to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the oranges in any type of container may measure smaller than 2.20 inches in diameter.

(b) As used in this section "handle", "handler", and "District 2", each shall have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 23, 1971.

PAUL A. NICHOLSON,
*Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.*

[FR Doc.71-19006 Filed 12-28-71;8:51 am]

## Chapter XI—Consumer and Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture

## PART 1207—POTATO RESEARCH AND PROMOTION PLAN

### Procedure for Referenda and Rules of Practice for Modification or Exemption

A notice of rule making regarding procedure for the conduct of referenda in connection with a proposed Potato Research and Promotion Plan and rules of practice for modification or exemption from such plan was published in the November 20, 1971, issue of the FEDERAL REGISTER (36 F.R. 22166). Such a program is authorized by the Potato Research and Promotion Act (Title III of Public Law 91-670, 91st Congress, approved January 11, 1971, 84 Stat. 2041).

The notice allowed 15 days following its publication (or until December 6, 1971) for filing data, views, or arguments with respect to these proposals. None was filed.

After consideration of all relevant matters, including the proposals set forth in the notice, the said rules as so proposed are hereby adopted subject to the correction of minor printing errors which appeared in § 1207.205. The full text of the said rules of practice and procedure, together with a table of contents are as follows:

Subpart—Procedure for the Conduct of Referenda in Connection With Potato Research and Promotion Plan

Sec.
1207.200 General.
1207.201 Definitions.
1207.202 Voting.
1207.203 Instructions.
1207.204 Subagents.
1207.205 Ballots.
1207.206 Referendum report.
1207.207 Confidential information.

Subpart—Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From Plans

1207.250 Words in the singular form.
1207.251 Definitions.
1207.252 Institution of proceeding.

AUTHORITY: The provisions of these Subparts issued under Public Law 91-670, 84 Stat. 2041.

### Subpart—Procedure for the Conduct of Referenda in Connection With Potato Research and Promotion Plan

**§ 1207.200 General.**

Referenda for the purpose of ascertaining whether the issuance by the Secretary of Agriculture of a potato research and promotion plan, or the continuance, termination or suspension of such a plan, is approved or favored by producers shall, unless supplemented or modified by the Secretary, be conducted in accordance with this subpart.

**§ 1207.201 Definitions.**

(a) "Act" means the Potato Research and Promotion Act, Title III of Public Law 91-670, 91st Congress, approved January 11, 1971 (84 Stat. 2041).

(b) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead; and "Department" means the U.S. Department of Agriculture.

(c) "Administrator" means the Administrator of the Consumer and Marketing Service, with power to redelegate,

or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in his stead.

(d) "Plan" means the plan (including an amendment to a plan) with respect to which the Secretary has directed that a referendum be conducted.

(e) "Referendum agent" means the individual or individuals designated by the Secretary to conduct the referendum.

(f) "Representative period" means the period designated by the Secretary pursuant to section 314 of the act.

(g) "Person" means any individual, partnership, corporation, association, or other business unit. For the purpose of this definition, the term "partnership" includes (1) a husband and wife who have title to, or leasehold interest in, land as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property, and (2) so-called "joint ventures," wherein one or more parties to the agreement, informal or otherwise, contributed capital and others contribute labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the growing of potatoes for market and the authority to transfer title to the potatoes so produced.

(h) "Producer" means any person defined as a producer in the plan, engaged in the growing of 5 or more acres of potatoes and who: (1) Owns and farms land, resulting in his ownership of the potatoes produced thereon; (2) rents and farms land, resulting in his ownership of all or a portion of the potatoes produced thereon; or (3) owns land which he does not farm and, as rental for such land, obtains the ownership of a portion of the potatoes produced thereon. Ownership of, or leasehold interest in, land and the acquisition, in any manner other than as hereinbefore set forth, of legal title to the potatoes grown thereon shall not be deemed to result in such owners or lessees becoming producers.

### § 1207.202 Voting.

(a) Each person who is a producer, as defined in this subpart, at the time of the referendum and who also was a producer during the representative period, shall be entitled to only one vote in the referendum, except that in a landlord-tenant relationship, wherein each of the parties is a producer, each such producer shall be entitled to one vote in the referendum.

(b) Proxy voting is not authorized but an officer or employee of a corporate producer, or an administrator, executor or trustee of a producing estate may cast a ballot on behalf of such producer or estate. Any individual so voting in a referendum shall certify that he is an officer or employee of the producer, or an administrator, executor, or trustee of a producing estate, and that he has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) Each producer shall be entitled to cast only one ballot in the referendum.

### § 1207.203 Instructions.

The referendum agent shall conduct the referendum, in the manner herein provided, under supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the time of commencement and termination of the period of the referendum, and the time prior to which all ballots must be cast.

(b) Determine whether ballots may be cast by mail, at polling places, at meetings of producers, or by any combination of the foregoing.

(c) Provide ballots and related material to be used in the referendum. Ballot material shall provide for recording essential information for ascertaining (1) whether the person voting, or on whose behalf the vote is cast, is an eligible voter, (2) the acreage of potatoes produced by the voting producer during the representative period, and (3) the total volume in hundredweight of potatoes produced during the representative period.

(d) Give reasonable advance notice of the referendum (1) by utilizing without advertising expense available media of public information (including, but not being limited to, press and radio facilities) serving the production area, announcing the dates, places, or methods of voting, eligibility requirements, and other pertinent information, and (2) by such other means as said agent may deem advisable.

(e) Make available to producers instructions on voting, appropriate ballot and certification forms, and, except in the case of a referendum on the termination or continuance of a plan, a summary of the terms and conditions of the plan: *Provided,* That no person who claims to be qualified to vote shall be refused a ballot.

(f) If ballots are to be cast by mail, cause all the material specified in paragraph (e) of this section to be mailed to each producer whose name and address is known to the referendum agent.

(g) If ballots are to be cast at polling places or meetings, determine the necessary number of polling or meeting places, designate them, announce the time of each meeting or the hours during which each polling place will be open, provide the material specified in paragraph (e) of this section, and provide for appropriate custody of ballot forms and delivery to the referendum agent of ballots cast.

(h) At the conclusion of the referendum, canvass the ballots, tabulate the results, and, except as otherwise directed, report the outcome to the Administrator and promptly thereafter submit the following:

(1) All ballots received by the agent and appointees, together with a certificate to the effect that the ballots forwarded are all of the ballots cast and received by such persons during the referendum period;

(2) A list of all challenged ballots deemed to be invalid; and

(3) A tabulation of the results of the referendum and a report thereon, including a detailed statement explaining the method used in giving publicity to the referendum and showing other information pertinent to the manner in which the referendum was conducted.

### § 1207.204 Subagents.

The referendum agent may appoint any person or persons deemed necessary or desirable to assist said agent in performing his functions hereunder. Each person so appointed may be authorized by said agent to perform, in accordance with the requirements herein set forth, any or all of the following functions (which, in the absence of such appointment, shall be performed by said agent):

(a) Give public notice of the referendum in the manner specified herein;

(b) Preside at a meeting where ballots are to be cast or as poll officer at a polling place;

(c) Distribute ballots and the aforesaid texts to producers and receive any ballots which are cast; and

(d) Record the name and address of each person receiving a ballot from, or casting a ballot with, said subagent and inquire into the eligibility of such person to vote in the referendum.

### § 1207.205 Ballots.

The referendum agent and his appointees shall accept all ballots cast; but, should they, or any of them, deem that a ballot should be challenged for any reason, said agent or appointee shall endorse above his signature, on said ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefor, the results of any investigations made with respect thereto, and the disposition thereof. Invalid ballots shall not be counted.

### § 1207.206 Referendum report.

Except as otherwise directed, the Administrator shall prepare and submit to the Secretary a report on results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to analysis of the referendum and its results.

### § 1207.207 Confidential information.

All ballots cast and the contents thereof (whether or not relating to the identity of any person who voted or the manner in which any person voted) and all information furnished to, compiled by, or in possession of, the referendum agent shall be treated as confidential.

### § 1207.250 Words in the singular form.

Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

### § 1207.251 Definitions.

As used in this subpart, the terms as defined in the act shall apply with equal

force and effect. In addition unless the context otherwise requires:

(a) The term "act" means the Potato Research and Promotion Act, Public Law 91-670, 91st Congress, approved January 11, 1971 (84 Stat. 2041);

(b) The term "Department" means the U.S. Department of Agriculture;

(c) The term "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereinafter be delegated, to act in his stead;

(d) The term "examiner" means any hearing examiner in the Office of Hearing Examiners, U.S. Department of Agriculture;

(e) The term "Administrator" means the Administrator of the Consumer and Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead;

(f) The term FEDERAL REGISTER means the publication provided for by the act of July 26, 1935 (49 Stat. 500), and acts supplementary thereto and amendatory thereof;

(g) The term "plan" means any plan or any amendment thereto which may be issued pursuant to the act;

(h) The term "person" means any individual, partnership, corporation, association, or other entity subject to a plan or to whom a plan is sought to be made applicable, or on whom an obligation has been imposed or is sought to be imposed under a plan;

(i) The term "proceeding" means a proceeding before the Secretary arising under section 311(a) of the act;

(j) The term "hearing" means that part of the proceeding which involves the submission of evidence;

(k) The term "party" includes the Department;

(l) The term "hearing clerk" means the hearing clerk, U.S. Department of Agriculture, Washington, D.C.;

(m) The term "presiding officer" means the examiner conducting a proceeding under the act;

(n) The term "presiding officer's report" means the presiding officer's report to the Secretary and includes the presiding officer's proposed (1) findings of fact and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis therefor, (2) order, and (3) rulings on findings, conclusions and orders submitted by the parties;

(o) The term "petition" includes an amended petition.

§ 1207.252 Institution of proceeding.

(a) *Filing and service of petition.* Any person subject to a plan desiring to complain that any plan or any provision of any such plan or any obligation imposed in connection therewith is not in accordance with law, shall file with the hearing clerk, in quadruplicate, a petition in writing addressed to the Secretary. Promptly upon receipt of the petition, the hearing clerk shall transmit a true copy thereof to the Administrator and the General Counsel, respectively.

(b) *Contents of petition.* A petition shall contain:

(1) The correct name, address, and principal place of business of the petitioner. If petitioner is a corporation, such fact shall be stated, together with the name of the State of incorporation, the date of incorporation, and the names, addresses, and respective positions held by its officers and directors; if an unincorporated association, the names and addresses of its officers, and the respective positions held by them; if a partnership, the name and address of each partner;

(2) Reference to the specific terms or provisions of the plan, or the interpretation or application thereof, which are complained of;

(3) A full statement of the facts (avoiding a mere repetition of detailed evidence) upon which the petition is based, and which it is desired that the Secretary consider, setting forth clearly and concisely the nature of the petitioner's business and the manner in which petitioner claims to be affected by the terms or provisions of the plan or the interpretation or application thereof, which are complained of;

(4) A statement of the grounds on which the terms or provisions of the plan, or the interpretation or application thereof, which are complained of, are challenged as not in accordance with law;

(5) Prayers for the specific relief which the petitioner desires the Secretary to grant;

(6) An affidavit by the petitioner, or if the petitioner is not an individual, by an officer of the petitioner having knowledge of the facts stated in the petition, verifying the petition.

(c) *An application to dismiss petition*—(1) *Filing, contents, and responses thereto.* If the Administrator is of the opinion that the petition, or any portion thereof, does not substantially comply, in form or content, with the act or with the requirements of paragraph (b) of this section, he may, within 30 days after the filing of the petition, file with the hearing clerk an application to dismiss the petition, or any portion thereof, on one or more of the grounds stated in this paragraph. Such application shall specify the grounds of objection to the petition and if based, in whole or in part, on allegations of fact not appearing on the face of the petition, shall be accompanied by appropriate affidavits or documentary evidence substantiating such allegations of fact. The application may be accompanied by a memorandum of law. Upon receipt of such application, the hearing clerk shall cause a copy thereof to be served upon the petitioner, together with a notice stating that all papers to be submitted in opposition to such application, including any memorandum of law, must be filed by the petitioner with the hearing clerk not later than 20 days after the service of such notice upon the petitioner. Upon the expiration of the time specified in such notice, or upon receipt of such papers from the petitioner, the hearing clerk shall transmit all papers which have been filed in connection with the application to the Secretary for his consideration.

(d) *Further proceedings.* Further proceedings on petitions to modify or to be exempted from plans shall be governed by §§ 900.52(c)(2) through 900.71 (excluding § 900.70) of this title (Rules of Practice Governing Proceedings on Petitions to Modify or To Be Exempted From Marketing Orders except that all references to marketing orders shall mean plan), and as may hereafter be amended, and the same are incorporated herein and make a part hereof by reference.

Dated December 22, 1971, to become effective 30 days after publication in the FEDERAL REGISTER.

PHILIP C. OLSSON,
*Acting Assistant Secretary.*

[FR Doc.71-18363 Filed 12-22-71;8:49 am]

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## Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER F—SECURITY SERVICING LIQUIDATION

[FHA Instruction 455.1]

## PART 1871—CHATTEL SECURITY

### Setoff Policy for Liquidation of Chattel Property and Related Actions

Subpart B of Part 1871, Title 7, Code of Federal Regulations (36 F.R. 1130), § 1871.41(a)(1) is amended by revising paragraph (a)(1) of this section with respect to Farmers Home Administration policy as to when setoffs of a debtor's income will be requested.

As revised, § 1871.41(a)(1) reads as follows:

§ 1871.41 Setoffs.

(a) *Policy.* (1) It is the policy of FHA to request setoffs generally only when all security has been liquidated; when ordinary collections efforts, including assignments, have not been effective; and, if the borrower has cooperated reasonably with FHA in the servicing of the loan, only if the setoff would not cause undue hardship on the borrower and his family. The filing of a request for setoff will not constitute a justification for relaxation of other collection efforts.

* * * * *

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989, sec. 4, 64 Stat. 100, 40 U.S.C. 442, sec. 602, 78 Stat. 523, 42 U.S.C. 2942, sec. 301, 80 Stat. 379, 5 U.S.C. 301; Order of Act. Sec. of Agr., 36 F.R. 21523, Order of Asst. Sec. of Agr. for

Rural Development and Conservation, 36 F.R. 21529; Order of Dir., OEO 29 F.R. 14764.)

Dated: December 22, 1971.

J. R. HANSON,
*Acting Administrator,*
*Farmers Home Administration.*

[FR Doc.71-19009 Filed 12-28-71;8:51 am]

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SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[AL-843(440)]

## PART 1890c—LOANS SECURED BY REAL ESTATE ON RECLAMATION PROJECTS

### Clarification of Memorandum of Understanding

The first paragraph of Part V, "Amendments," of the Memorandum of Understanding between the Department of Agriculture and the Department of the Interior, Part 1890c.1, Title 7, Code of Federal Regulations (35 F.R. 13977), has been amended for the purpose of clarifying the Memorandum as it applies to certain lands being disposed of by the Bureau of Reclamation. As amended the first paragraph of such Part V reads as set out below:

**§ 1890c.1 General.**

* * * * *

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF THE INTERIOR RELATING TO THE FARMERS HOME ADMINISTRATION LOANS ON RECLAMATION PROJECTS

* * * * *

PART V

*Amendments*

As used in this Part V the term "amendment" shall mean any land disposition action taken by the Bureau either as a formal farm unit amendment, as a lieu land disposition, or under any other authorized land disposition program for the purposes of enhancing, reconstituting, or otherwise contributing to the economic adequacy of a farm unit or other tract of land held by an applicant project landowner. When an applicant's unit, subject to an FHA mortgage, is being amended or is being used for amendment purposes, the Bureau's approval of the amendment will be contingent on spreading the FHA mortgage to the entire amended unit. The FHA mortgage on any part of the unit which before amendment was not security for an FHA loan will be the best lien obtainable, except that where a new FHA loan is being made the lien must meet the security requirements for the type of loan being made.

* * * * *

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Sec. 510, 63 Stat. 437, 42 U.S.C. 1480; Sec. 4, 64 Stat. 100, 40 U.S.C. 442; Sec. 602, 78 Stat. 528, 42 U.S.C. 2942; Sec. 301, 80 Stat. 379, 5 U.S.C. 301; Order of Act. Sec. of Agr. 36 F.R. 21529; Order of Asst. Sec. of Agr. for Rural Development and Conservation, 36 F.R. 21529)

Dated: December 22, 1971.

J. R. HANSON,
*Acting Administrator,*
*Farmers Home Administration.*

[FR Doc.71-19008 Filed 12-28-71;8:51 am]

# Title 12—BANKS AND BANKING

## Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. U]

## PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

### Allocation of Stock Collateral

**§ 221.120 Allocation of stock collateral to purpose and nonpurpose credits to same customer.**

(a) A bank proposes to extend two credits (Credits "A" and "B") to its customer. Although the two credits are proposed to be extended at the same time, each would be evidenced by a separate agreement. Credit A would be extended for the purpose of providing the customer with working capital (nonpurpose credit), collateralized by stock. Credit B would be extended for the purpose of purchasing or carrying margin stock (purpose credit), without collateral or on collateral other than stock.

(b) Regulation U allows a bank to extend purpose and nonpurpose credits simultaneously or successively to the same customer. This rule is expressed in § 221.3(n)(3) which provides in substance that for any nonpurpose credit to the same customer, the bank shall in good faith require as much collateral not already identified to the customer's purpose credit as the bank would require if it held neither the purpose loan nor the identified collateral. This rule also takes into account that the bank would not necessarily be required to hold collateral for the nonpurpose credit if, consistent with good faith banking practices, it would normally make this kind of nonpurpose loan without collateral.

(c) The Board views § 221.3(n)(3) of Regulation U, when read in conjunction with § 221.3(n)(1), as requiring that whenever a bank extends two credits to the same customer, one a purpose credit and the other nonpurpose, any stock collateral must first be identified with and attributed to the purpose loan by taking into account the maximum loan value of such collateral as prescribed in § 221.4 (the Supplement) of Regulation U.

(d) The Board is further of the opinion that under the foregoing circumstances Credit B would be indirectly secured by stock, despite the fact that there would be separate loan agreements for both credits. This conclusion flows from the circumstance that the bank would hold in its possession stock collateral to which it would have access with respect to Credit B, despite any ostensible allocation of such collateral to Credit A.

(Interprets and applies 15 U.S.C. 78g(d))

By order of the Board of Governors, November 15, 1971.

[SEAL] TYNAN SMITH,
*Secretary of the Board.*

[FR Doc.71-18944 Filed 12-28-71;8:45 am]

## Chapter V—Federal Home Loan Bank Board

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 71-1350]

## PART 523—MEMBERS OF BANKS

### Liquidity Requirements

DECEMBER 22, 1971.

Resolved that the Federal Home Loan Bank Board considers it desirable to amend § 523.11 of the regulations for the Federal Home Loan Bank System (12 CFR 523.11) for the purpose of providing an alternative liquid asset requirement for Federal Home Loan Bank members which are mutual savings banks. Accordingly, on the basis of such consideration and for such purpose, the Federal Home Loan Bank Board hereby amends said § 523.11 by revising paragraph (a) thereof, and by adding a new paragraph (e) thereto, to read as follows, effective December 31, 1971.

**§ 523.11 Liquidity requirements.**

(a) *General.* For each calendar month, each member, other than a mutual savings bank as to which there is in effect the election provided for in paragraph (e) of this section, shall maintain an average daily balance of liquid assets in an amount not less than 7 percent of the average daily balance of the member's liquidity base during the preceding calendar month, except as otherwise provided in paragraphs (b) and (d) of this section. For each calendar month beginning with January, 1972, each member, other than a mutual savings bank or an insurance company, shall maintain an average daily balance of short-term liquid assets in an amount not less than 3 percent of the average daily balance of the member's liquidity base during the preceding calendar month, except as otherwise provided in paragraphs (b) and (d) of this section.

* * * * *

(e) *Election for mutual savings banks.* In lieu of the liquid-asset requirement imposed by the first sentence of paragraph (a) of this section, any member which is a mutual savings bank may, by resolution of its board of directors, elect to maintain liquid assets in accordance with the provisions of this paragraph. Any such member so electing shall maintain, for each calendar month, an average daily balance of liquid assets in an amount not less than 5 percent of the average daily balance of such member's liquidity base during the preceding calendar month, except as otherwise provided in paragraphs (b) and (d) of this section, and such member shall maintain Federal funds and commercial paper in an aggregate amount not less than the difference between (1) the amount of liquid assets which, but for such election, would have been required under the first sentence of paragraph (a) of this section and (2) the actual amount of liquid assets maintained by such member. Such election shall remain in effect, unless

sooner revoked by resolution of such member's board of directors, so long as such member continues to meet the requirement specified in the preceding sentence.

(Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425a, 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48., p. 1071)

Resolved further that, since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time and since the Board deems it to be in the public interest that the relief granted by such amendment be made effective prior to the imposition of certain additional liquidity requirements on January 1, 1972, the Board hereby finds that notice and public procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and, for the same reason, the Board hereby finds that the provision regarding the publication of such amendment for the minimum 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof shall not apply to the above amendment; and the Board hereby provides that such amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[FR Doc.71-18984 Filed 12-28-71;8:50 am]

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SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

## PART 545—OPERATIONS

[No. 71-1347]

### Mailing of Certification of Compliance and Copies of Statements of Condition

DECEMBER 21, 1971.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend § 545.23 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.23) for the purpose of requiring Federal savings and loan associations to mail certifications of compliance and copies of statements of condition only to the Federal home loan bank of which the association is a member. Accordingly, on the basis of such consideration, the Federal Home Loan Bank Board hereby amends said § 545.23 by revising it to read as follows, effective January 1, 1972:

§ 545.23 Statement of condition.

Within the month of January of each year, each Federal association shall either mail to each of its members, at his last address appearing on the association's books, or publish in a newspaper printed in the English language and of general circulation in the county in which the association's home office is located, a statement of condition of the association as of December 31 immediately preceding, in form prescribed by the Board. (The Board has prescribed a form of "Statement of Conditions," an illustrative copy of which may be obtained from any Federal home loan bank or from the Federal Home Loan Bank Board, Washington, D.C.) within 5 days after each such statement of condition has been so mailed or published, a certification to such effect, signed by an executive officer of such Federal association, together with a copy of the statement of condition, shall be transmitted by the association to the Federal home loan bank of which the association is a member.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that, since the above amendment grants exemption from an existing requirement, the Board hereby finds that notice and public procedure with respect to said amendment are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would in the opinion of the Board likewise be unnecessary for the same reason, the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[FR Doc.71-18985 Filed 12-28-71;8:50 am]

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SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 71-1332-A]

## PART 571—STATEMENTS OF POLICY

### Nondiscriminatory Requirements in Real Estate Lending

DECEMBER 17, 1971.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend Part 571 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 571) for the purpose of stating its policy with respect to nondiscrimination requirements in real estate lending by insured institutions. Accordingly, on the basis of such consideration and for such purpose, the Federal Home Loan Bank Board hereby amends said Part 571 by adding a new § 571.8 thereto, to read as follows:

§ 571.8 Nondiscrimination requirements in real estate lending.

(a) *General.* Section 805 of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3605) makes it unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of real estate loans: (1) To deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or (2) to discriminate against him in the fixing of the amount, interest rate, duration, or other terms and conditions of such loan or other financial assistance, because of his race, color, religion, or national origin.

(b) *Nondiscrimination requirements.* Recognizing that increased public awareness of nondiscrimination requirements and the availability of complaint procedures are necessary for effective implementation of the Civil Rights Act's provisions imposed on financial institutions, the Federal Savings and Loan Insurance Corporation has determined that the following minimum procedures should be utilized by all financial institutions subject to its supervisory authority:

(1) *Advertisement notice of nondiscrimination compliance.* After March 1, 1972, every insured institution which directly or through third parties engages in any form of advertising of real estate lending services will be required to indicate prominently, in a manner appropriate to the advertising media and format utilized, that the institution makes sound real estate loans without regard to race, color, religion, or national origin. No words, phrases, symbols, directions, forms, models or other means may be used to express, imply, or suggest a discriminatory preference or policy of exclusion in violation of the provisions of Title VIII of the Civil Rights Act of 1968. Written advertisements relating to real estate lending services will have to include, wherever practical, a facsimile of the logotype set forth as Exhibit A, in order to increase public recognition of the nondiscrimination requirements and guarantees of Title VIII.

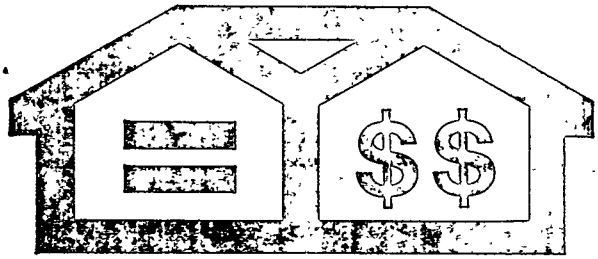
(2) *Lobby notice of nondiscrimination compliance.* After March 1, 1972, every insured institution engaged in making real estate loans will be required to display conspicuously in the public lobby of each of its offices a notice which incorporates a facsimile of the logotype set forth in Exhibit A and attests to that institution's policy of compliance with the nondiscrimination requirements of Title VIII of the Civil Rights Act of 1968. Such notice shall include the address of the Department of Housing and Urban Development as the agency to be notified concerning any complaint alleging a violation of the nondiscrimination provisions of Title VIII.

EXHIBIT A

EQUAL HOUSING POSTER

10" X 10" or proportional enlargement

EQUAL HOUSING LENDER



TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968
PROHIBITS DISCRIMINATION IN REAL ESTATE LENDING.
COMPLAINTS SHOULD BE SENT TO:

HUD
WASHINGTON, D.C. 20410

Call toll free 800-424-8590
(In Washington, D.C. 755-5490)

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Secs. 805, 808, 82 Stat. 83, 84, 42 U.S.C. 3605, 3608. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48, Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[FR Doc.71-19035 Filed 12-28-71;8:52 am]

# Title 24—HOUSING AND URBAN DEVELOPMENT

## Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner [Federal Housing Administration]

SUBCHAPTER A—GENERAL

[Docket No. R-71-155]

## PART 200—INTRODUCTION

### Subpart D—Delegations of Basic Authority and Functions

AREA DIRECTOR AND DEPUTY AREA DIRECTOR

The redelegation of authority to Area Directors and Deputy Area Directors is amended to cover a scheduled closing for which delegation is required.

Accordingly, in § 200.118 a new paragraph (e) is added to read as follows:

**§ 200.118 Area Director and Deputy Area Director.**

* * * * *

(e) To assign and deliver mortgages to the permanent lender, in connection with section 202 loans to be converted to insured mortgages under section 236.

(Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); Secretary's delegation to Assistant Secretary-Commissioner published at 36 F.R. 5006)

Issued at Washington, D.C., to be effective as of November 18, 1971.

EUGENE A. GULLEDGE, *Assistant Secretary-Commissioner.*

[FR Doc.71-19016 Filed 12-28-71;8:52 am]

# Title 26—INTERNAL REVENUE

## Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. 7155]

## PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

### Spirits Brought Into the United States From Puerto Rico

The following temporary regulations are intended to implement the provisions of section 5232 of the Internal Revenue Code, as amended by Public Law 91-659, relating to spirits brought into the United States from Puerto Rico, in bulk, and for their transfer to the bonded premises of a distilled spirits plant, without determination of tax (including rectification tax, if any).

In order to provide such temporary regulations under section 5232 of the Internal Revenue Code, as amended by Public Law 91-659, a new Subpart G is added to 26 CFR Part 170, Miscellaneous Regulations Relating to Liquor. The following temporary regulations are adopted:

Subpart G—Temporary Regulations for the Transfer of Puerto Rican Spirits From Customs Custody to Internal Revenue Bond

Sec.
170.151 Scope of subpart.
170.152 Applicability of other regulations.
170.153 Meaning of terms.
170.154 Forms prescribed.
170.155 Filing and disposition of Form 27-B Supplemental.

APPLICATIONS, PERMIT TO SHIP, AND TRANSFERS

170.156 General provisions.
170.157 Application to receive spirits in bond.
170.158 Consent of surety on bond.
170.159 Application and permit to ship, Form 4776.
170.160 Gage report.
170.161 Issuance and disposition of permit.
170.162 Action by carrier.
170.163 Customs inspection and release.
170.164 Bulk conveyances to be sealed.
170.165 Transfer by pipeline at dock.
170.166 Consignee premises.

DEPOSIT, STORAGE, TRANSFER, AND WITHDRAWAL

170.167 Transaction forms and records.
170.168 Mingling in bond.
170.169 Form 179, tax returns, and record of tax liability.

MISCELLANEOUS PROVISIONS

170.170 Abatement, remission, credit, or refund.
170.171 Marks on containers.
170.172 Additional tax on nonbeverage spirits.
170.173 Exportation with benefit of drawback.

AUTHORITY: The provisions of this Subpart G issued under sec. 7805 of the Internal Revenue Code, 68A Stat. 917; 26 U.S.C. 7805. Other statutory provisions interpreted or applied are cited to text in parentheses.

### Subpart G—Temporary Regulations for the Transfer of Puerto Rican Spirits From Customs Custody to Internal Revenue Bond

**§ 170.151 Scope of subpart.**

The temporary regulations in this subpart prescribe the requirements necessary to implement section 5232, I.R.C., as it relates to spirits produced in Puerto Rico and brought into the United States in bulk containers. Such regulations provide for the transfer of such spirits to internal revenue bond, their storage in and withdrawal from bond, the determination of tax, the application of certain loss provisions, the filing of returns, reports, and claims, and the keeping of records.

§ 170.152 Applicability of other regulations.

(a) *Subpart C of this part.* The provisions of Subpart C of this part shall be applicable to spirits brought into the United States from Puerto Rico and transferred under the provisions of this subpart to internal revenue bond and any reference in Subpart C of this part to imported spirits shall be deemed to include spirits brought into the United States from Puerto Rico under the provisions of this subpart.

(b) *Part 201 of this chapter.* The provisions of Part 201 of this chapter shall, to the extent they are not in conflict with the provisions of this subpart, be applicable to spirits brought into the United States from Puerto Rico under the provisions of this subpart to the same extent as they apply to imported spirits.

(c) *Part 250 of this chapter.* The provisions of Subpart B, §§ 250.35, 250.40 (except as otherwise provided in § 170.171 (a)), 250.41, and 250.43 of Subpart C, and Subpart D (except for § 250.52 and as otherwise provided in § 170.155), and § 250.86 of Subpart E, of Part 250 of this chapter shall be applicable in respect of spirits to be brought into the United States from Puerto Rico and transferred under the provisions of this subpart to internal revenue bond.

§ 170.153 Meaning of terms.

When used in this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in Parts 201 and 250 of this chapter, subject to the following limitations:

(a) The term "in bond" shall refer to spirits possessed under bond to secure payment of the internal revenue tax imposed by section 7652, I.R.C.

(b) The term "Secretary" shall have the meaning ascribed in Part 250 of this chapter.

(c) The term "taxpaid" shall have the meaning ascribed in Part 201 of this chapter.

§ 170.154 Forms prescribed.

The Director, Alcohol, Tobacco and Firearms Division, is authorized to prescribe all forms required by this subpart. All of the information called for in each form shall be furnished, as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this subpart.

(72 Stat. 1361; 26 U.S.C. 5207)

§ 170.155 Filing and disposition of Form 27-B Supplemental.

Formulas on Form 27-B Supplemental covering Puerto Rican spirits to be brought into the United States in bulk as provided in this subpart shall be submitted to the Director, Alcohol, Tobacco, and Firearms Division, as provided in § 250.55 of this chapter. The person shipping the spirits to the United States shall furnish a reproduced copy of the approved formula covering such spirits to the assistant regional commissioner of each region in which a consignee's distilled spirits plant is located. The copy shall be so furnished prior to the first shipment into the region of spirits produced under the formula in question. Spirits to be brought into the United States under this subpart may be produced under a formula which bears a statement to the effect that the tax will be paid in Puerto Rico, as provided in § 250.50 of this chapter, without obtaining an amended formula. However, if a formula is submitted to cover only the production of spirits for shipment to the United States under the provisions of this subpart, the formula shall include a statement to that effect.

APPLICATION, PERMIT TO SHIP, AND TRANSFERS

§ 170.156 General provisions.

Distilled spirits brought into the United States from Puerto Rico in bulk containers of 5 gallons or more capacity may, under the provisions of this subpart, be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of his plant, without payment of the internal revenue tax, including rectification tax, if any, imposed on such spirits by section 7652, I.R.C. Such spirits so withdrawn and transferred to a distilled spirits plant: (a) May not be bottled in bond under section 5233, I.R.C., (b) may be redistilled or denatured only if of 185 degrees or more of proof, and (c) may be withdrawn from internal revenue bond for any purpose authorized by chapter 51, Internal Revenue Code, in the same manner as domestic distilled spirits. Spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to the provisions of this subpart and applicable provisions of Part 201 of this chapter. The person operating the bonded premises of the distilled spirits plant to which spirits are transferred under the provisions of this subpart shall become liable for the tax on distilled spirits withdrawn from customs custody under section 5232, I.R.C., upon release of the spirits from customs custody.

(82 Stat. 1328, as amended; 26 U.S.C. 5232)

§ 170.157 Application to receive spirits in bond.

(a) *Application.* The proprietor of a distilled spirits plant desiring to withdraw Puerto Rican spirits as authorized in § 170.156 of this subpart shall submit an application on Form 2609, in quintuplicate, to the assigned officer. The application shall not be approved unless the applicant's bond, Form 2601, is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the internal revenue tax on the spirits to be withdrawn in addition to all other liabilities chargeable against such bond, nor shall any application for withdrawal of Puerto Rican spirits in bulk conveyances be approved unless the applicant has provided suitable facilities as provided in § 201.239 of this chapter. (See § 170.158 of this subpart with respect to need for consent of surety on bond, Form 2601.) The applicant shall modify Form 2609 to show the name and address of the consignor in Puerto Rico from whose premises shipment will be made. He shall state in the "Remarks" item that the transfer is of Puerto Rican spirits from customs custody, and show the name and address of the assistant regional commissioner of the applicant's region, and, if containers other than those listed on Form 2609 are to be used, the type of container in which shipment will be made. When the assigned officer approves Form 2609, he shall retain one copy for his files, and return the original and three copies to the applicant. The applicant shall retain a copy of Form 2609 for his files, and forward the original and two copies to the consignor in Puerto Rico. The consignor shall retain a copy of Form 2609, deliver a copy to the revenue agent, and forward the original to the Secretary.

(b) *Termination.* An applicant may terminate an approved application, Form 2609, at any time by giving written notice to the revenue agent at the consignor premises who will retreive the consignor's and Secretary's copies and, together with his own copy, return them to the consignee. The consignee shall return these copies together with his own to the assigned officer for cancellation.

(63A Stat. 907, as amended, 72 Stat. 1322, 82 Stat. 1328, as amended; 26 U.S.C. 7652, 5007, 5232)

§ 170.158 Consent of surety on bond.

Application on Form 2609, prepared as provided in § 170.157, to receive Puerto Rican spirits shall not be approved unless the proprietor has filed a consent of surety on Form 1533 to extend the terms of his existing bond, Form 2601, if such bond was in effect before the effective date of this subpart. The consent shall contain a statement of purpose as follows:

To continue in effect such bond (including all extensions or limitations of terms and conditions previously consented to and approved), notwithstanding that the principal may, from time to time, withdraw from customs custody spirits brought into the United States from Puerto Rico under the provisions of 26 U.S.C. 5232.

§ 170.159 Application and permit to ship, Form 4776.

Before spirits of Puerto Rican manufacture may be shipped to the United States without payment of tax for withdrawal from customs custody and transfer to internal revenue bond, an application by the consignor on Form 4776 for permit to ship must be approved by the Secretary. All copies of the application (original and seven copies) shall be delivered to the revenue agent. The revenue agent shall gauge the spirits to be shipped, prepare a gauge report as prescribed by § 170.160 of this subpart and affix seals as prescribed by § 170.164 of this subpart. Such agent shall, after executing his certification on Form 4776,

retain a copy of Form 4776 and a copy of the Form 2630 (if any), and forward all remaining copies of the forms to the Secretary within sufficient time to allow for approval and issuance of the permit as provided in § 170.161 of this subpart.

(82 Stat. 1328, as amended; 26 U.S.C. 5232)

### § 170.160 Gauge report.

Puerto Rican spirits to be withdrawn for shipment to the United States as provided in this subpart shall be gauged by the revenue agent prior to withdrawal from the consignor premises. The revenue agent shall report his gauge in Part II of Form 4776, and if the spirits are in packages, he shall report the details of the gauge of each package on Form 2630 in sextuple. The revenue agent shall distribute the forms as provided in § 170.159 of this subpart.

(72 Stat. 1358; 26 U.S.C. 5204)

### § 170.161 Issuance and disposition of permit.

When the Secretary receives an application on Form 4776, he shall ascertain that the consignee has on file a currently valid Form 2609 for the spirits covered by the Form 4776. If the Secretary finds that the applicant is in compliance with law and regulations, he will execute his permit to ship on all copies of Form 4776, retain one copy of Form 4776 and any accompanying Form 2630, and return the original and remaining copies of each form to the consignor. The consignor shall retain one copy of Form 4776 and any accompanying Form 2630, dispatch one copy of Form 4776 and any accompanying Form 2630 on the vessel concerned for guidance of the customs officer who will inspect the cargo at the port of arrival in the United States, and forward the original and remaining copies of each form by mail to the director of customs at the port of arrival in the United States.

### § 170.162 Action by carrier.

The carrier of the spirits specified on the Form 4776 shall, at the time of unlading at the port of arrival in the United States, segregate and arrange the containers of spirits for convenient customs examination and shall assume any expense incurred in connection therewith.

### § 170.163 Customs inspection and release.

On receipt of a properly executed Form 4776 and any accompanying Form 2630 from the consignor, the customs officer at the port of arrival in the United States shall inspect shipments in bulk conveyances, and if the seals are intact, he shall release the shipment. If such seals are not intact, the customs officer shall, before release of the shipment, affix customs seals. In addition, barrels, drums, or similar packages not shipped in a sealed van or other sealed conveyance shall be inspected, and if it appears that any such package has sustained a loss, it shall be weighed and reported on Form 2630 in triplicate. The serial numbers of any seals affixed by customs officers shall be reported on Form 4776 under remarks with an explanation and description of any evidence of loss. After completing his inspection, the customs officer shall execute his certificate on each copy of Form 4776 and show thereon any exceptions found at the time of his release for transfer of the spirits to internal revenue bond. Missing packages should be reported separately from packages which have sustained losses. The customs officer shall retain a copy of Form 4776 and a copy of each accompanying Form 2630. He shall then release the spirits to the consignee's representative, forward one copy of Form 4776 to the assistant regional commissioner at the address shown thereon, and forward the original and remaining copies of each form to the internal revenue officer at the distilled spirits plant.

(68A Stat. 907, as amended, 72 Stat. 1322, 82 Stat. 1328, as amended; 26 U.S.C. 7652, 5007, 5232)

### § 170.164 Bulk conveyances to be sealed.

When a shipment is made in a tank, van, or other bulk conveyance (other than barrels, drums, or similar packages that are not containerized), all openings affording access to the spirits shall be sealed by the Puerto Rican revenue agent in such manner as will prevent unauthorized removal of spirits without detection.

(68A Stat. 907, as amended, 72 Stat. 1322, 82 Stat. 1328, as amended; 26 U.S.C. 7652, 5007, 5232)

### § 170.165 Transfer by pipeline at dock.

If the distilled spirits plant is equipped with suitable dock facilities, the distilled spirits may, subject to all requirements of the customs laws and regulations, be transferred by pipeline from the vessel or barge through weighing tanks or other suitable measuring tanks into locked storage tanks on the bonded premises of the distilled spirits plant, or directly into locked storage tanks on such premises provided such storage tanks are equipped with suitable measuring devices for accurately indicating the actual contents therein. In all such cases of pipeline transfers, the distilled spirits shall be released by a customs officer to the assigned officer for deposit in the distilled spirits plant under the supervision of the assigned officer.

(68A Stat. 907, as amended, 72 Stat. 1322, 82 Stat. 1328, as amended; 26 U.S.C. 7652, 5007, 5232)

### § 170.166 Consignee premises.

(a) *General.* When Puerto Rican spirits are received from customs custody under the provisions of this subpart the consignee proprietor shall notify the assigned officer who shall deliver all copies of the related Form 4776 (and any accompanying Form 2630) to the consignee. The assigned officer shall examine each sealed bulk conveyance to determine whether the seals are intact and, if so, he shall authorize the proprietor to remove the seals. The proprietor shall examine all containers, and any container bearing evidence of loss in transit or of loss due to theft shall be held until released by the assigned officer. Spirits after examination (and, if required, after release by the assigned officer) shall be immediately deposited in the warehouse. The consignee shall execute his certificate of receipt on Form 4776, retain a copy of the form and a copy of any accompanying Form 2630, and deliver the original of each form and the remaining copy of Form 4776 to the assigned officer. Losses from packages of spirits shall be determined and reported on Form 2630 and losses of spirits from bulk conveyances shall be shown on Form 4776, by the assigned officer, with a notation as to the apparent cause thereof.

(b) *Packages.* Packages shall be received on bonded premises by the proprietor on the basis of the most recent official gauge. If any package in a consignment is reported on more than one gauge report, a consolidated gauge report, in duplicate (on Form 2630), reflecting the most recent data shall be prepared, and such consolidated report shall become the active detailed record of deposit for the packages in the consignment. The proprietor shall retain the copy of Form 2630 and deliver the original to the assigned officer. The superseded gauge reports shall be so identified and filed in an inactive file.

(c) *Bulk conveyances and pipelines.* When spirits are received in bulk conveyances or by pipeline, the consignee shall gauge the spirits under the direct supervision of the assigned officer and record the receiving gauge on all copies of Form 4776.

(72 Stat. 1358; 26 U.S.C. 5204)

## DEPOSIT, STORAGE, TRANSFER, AND WITHDRAWAL

### § 170.167 Transaction forms and records.

Deposit, transfer, and withdrawal forms, and records pertaining to spirits transferred to internal revenue bond under the provisions of this subpart shall be marked to show (a) in lieu of the word "Imported", as required in Part 201 of this chapter for imported spirits, the words "Puerto Rican", (b) the serial number and date of the Form 27-B Supplemental under which the spirits were produced, and (c) whether liability for rectification tax was incurred prior to receipt in internal revenue bond, and, if so, the rate of the applicable tax. Separate records shall be maintained for such spirits in the same manner as for imported spirits, except that the record of deposits and the summary of deposits and withdrawals, Form 1621, shall be arranged alphabetically by name of producer in Puerto Rico.

(72 Stat. 1361; 26 U.S.C. 5207)

### § 170.168 Mingling in bond.

The provisions of Part 201 of this chapter with respect to mingling of spirits, including blending of rums and brandies, in bond shall apply to spirits brought into the United States from Puerto Rico except that:

(a) Puerto Rican spirits may not be mingled or blended with other than Puerto Rican spirits; and

(b) Puerto Rican spirits rectified in Puerto Rico and subject to rectification tax, may not be mingled or blended either with spirits that have not been so rectified or with spirits so rectified but subject to a different rate of rectification tax.

(72 Stat. 1367, 82 Stat. 1328, as amended; 26 U.S.C. 5234, 5232)

§ 170.169 Form 179, tax returns, and record of tax liability.

Separate applications for tax determination shall be prepared for Puerto Rican spirits on Form 179, and the words "Puerto Rican Spirits" shall be prominently shown on all copies of Form 179. Any rectification tax imposed under section 7652, I.R.C., on spirits withdrawn on tax determination shall be reported on Form 179 as "other tax due" and shall be identified as rectification tax incurred under section 7652, I.R.C., in the "Remarks" on the form, and such taxes shall be included, with the distilled spirits tax, in the tax returns filed on Forms 2521, 2522, or 4077, as applicable, and in the record of tax liability maintained as provided in § 170.62 of this part. In addition to the number of copies required by the instructions on the form, an additional copy of Form 179 covering Puerto Rican spirits shall be prepared and forwarded to the assistant regional commissioner.

(72 Stat. 1361; 26 U.S.C. 5207)

MISCELLANEOUS PROVISIONS

§ 170.170 Abatement, remission, credit, or refund.

(a) *Provisions of section 5008, I.R.C., applicable.* The provisions of section 5008(a), I.R.C., with respect to spirits lost while in internal revenue bond shall apply to spirits brought into the United States from Puerto Rico and transferred from customs custody to internal revenue bond, and the provisions of section 5008 (e), I.R.C., with respect to samples of spirits for use by the United States shall also apply to Puerto Rican spirits. Claims relating to spirits lost in bond, in addition to the information required by § 201.43 of this chapter, shall show the name of the producer, and the serial number and date of the Form 27-B Supplemental under which produced.

(b) *Provisions of section 5008, I.R.C., not applicable.* The provisions of (1) section 5008(b)(1), I.R.C., respecting the voluntary destruction of spirits in bond; (2) section 5008(b)(2), I.R.C., respecting the voluntary destruction of spirits after withdrawal for rectification or bottling; (3) section 5008(c)(1)(A), I.R.C., respecting spirits lost after withdrawal for rectification or bottling, by reason of accident, flood, fire, or other disaster; (4) section 5008(c)(1)(B), I.R.C., respecting spirits lost in rectifying, packaging, bottling and casing operation; (5) section 5008(c)(5), I.R.C., respecting distilled spirits returned to bottling premises; or (6) section 5008(d), I.R.C., respecting spirits returned to bonded premises after withdrawal upon tax determination, do not apply to Puerto Rican spirits, since such provisions only authorize abatement, remission, credit, or refund of taxes imposed under chapter 51, I.R.C. In computing loss allowance under the provisions of § 201.486 of this chapter, Puerto Rican spirits shall be considered the same as "other than spirits withdrawn from bond by the proprietor of the bottling premises", and for the purposes of § 201.492 of this chapter, they shall be considered as "other spirits".

(72 Stat. 1323, as amended, 1364, as amended; 26 U.S.C. 5008, 5215)

§ 170.171 Marks on containers.

(a) *Packages received in bond.* When packages of spirits are received on the bonded premises of a distilled spirits plant under the provisions of this subpart, the markings prescribed by § 250.40 of this chapter, modified to show the serial number of the Form 4776 prefixed by "Form 4776," rather than the serial number and identification of the Form 487-B, shall be accepted in lieu of the markings prescribed in § 201.312b of this chapter. On receipt of packages so marked the proprietor of the distilled spirits plant shall show on such packages (1) the date of original entry for deposit of the spirits, and (2) the words "Puerto Rican".

(b) *Other containers.* Packages of Puerto Rican spirits filled in internal revenue bond or on bottling premises shall, in addition to the required marks prescribed in § 201.516 or § 201.526 of this chapter, as applicable, be marked to show the serial number of the approved formula under which produced, and with the words "Puerto Rican". Tanks or bulk conveyances containing spirits received in internal revenue bond under the provisions of this subpart shall, in addition to other required marks, be marked with the words "Puerto Rican".

(c) *Cases of bottled alcohol.* In addition to other mandatory marks prescribed by § 201.529(a) of this chapter for cases of bottled alcohol, the words "Puerto Rican" shall precede or follow the word "alcohol" on cases of alcohol from Puerto Rico that are bottled and cased on bonded premises.

(72 Stat. 1360, 1369; 26 U.S.C. 5206, 5235)

§ 170.172 Additional tax on nonbeverage spirits.

The additional tax imposed by section 5001(a)(9), I.R.C., on imported spirits withdrawn from customs custody without payment of tax and thereafter withdrawn from bonded premises for beverage purposes, and the related provisions of § 201.376 of this chapter, are not applicable to Puerto Rican spirits brought into the United States and transferred to bonded premises under the provisions of this subpart.

§ 170.173 Exportation with benefit of drawback.

Claims and supporting documents respecting export with benefit of drawback of domestic distilled spirits products that contain spirits from Puerto Rico shall show:

(a) The precise quantity (in proof gallons) of the finished product attributable to the Puerto Rican spirits contained therein, and

(b) The amount of tax and the applicable rate or rates of tax imposed by section 7652, I.R.C., determined at the time of withdrawal from internal revenue bond on the Puerto Rican spirits contained in the product.

(72 Stat. 1336; 26 U.S.C. 5062)

*Effective date.* The provisions of these temporary regulations shall be effective on the date of their publication in the FEDERAL REGISTER until superseded by a subsequent Treasury decision.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
*Commissioner of Internal Revenue.*

MYLES J. AMBROSE,
*Commissioner of Customs.*

Approved: December 22, 1971.

EDWIN S. COHEN,
*Assistant Secretary of the Treasury.*

[FR Doc.71-18977 Filed 12-28-71;8:49 am]

# Title 29—LABOR

## Chapter V—Wage and Hour Division, Department of Labor

## PART 570—CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION

### Miscellaneous Amendments

Functions of the Secretary of Labor and operational responsibilities thereunder which were formerly assigned to the Bureau of Labor Standards in the Workplace Standards Administration of the Department of Labor (36 F.R. 307) and to its Director are now assigned by Secretary of Labor's Orders Nos. 12-71 (36 F.R. 8754) and 13-71 (36 F.R. 8755), to the Occupational Safety and Health Administration and the Employment Standards Administration of the Department. Pursuant to Secretary of Labor's Orders Nos. 13-71 and 15-71 (36 F.R. 8756), the Administrator of the Wage and Hour Division, who is also Deputy Assistant Secretary for Employment Standards and Administrator of the Employment Standards Administration, is now responsible for the performance of all the Secretary's functions under the child labor provisions of the Fair Labor Standards Act of 1938, as amended, and has the operational responsibilities thereunder and under Part 1500 of Title 29 of the Code of Federal Regulations. As regulations of the Administrator of the Wage and Hour Division are set forth in Chapter V of Title 29,

a transfer to such chapter of the regulations in Part 1500 is appropriate together with such amendments to the text of the part as may be required to reflect the changes that have been made in delegations of the Secretary's authority.

Accordingly, Part 1500 of Title 29 of the Code of Federal Regulations is redesignated and amended as set forth below to accord with current delegations of authority applicable to its subject matter and to make minor editorial changes conforming it to statutory amendments made since publication of the present text. As no change in substantive rules is involved and it is essential that these rules reflect the present allocation of authority for official action thereunder, good cause is found for excepting this document from the provisions of 5 U.S.C. 553 concerning notice of proposed rule making, public participation therein, and delayed effective date. The following changes are accordingly made, effective on publication in the FEDERAL REGISTER (12-29-71).

1. Part 1500 of Chapter XIII of Title 29 is redesignated Part 570 of Chapter V of the Code of Federal Regulations.

2. Except as indicated below in this document wherever the term, "Bureau of Labor Standards" appears, the "Wage and Hour Division" shall be substituted.

3. Except as indicated below in this document wherever the term "Director, Bureau of Labor Standards" appears, the term "Administrator, Wage and Hour Division" shall be substituted.

4. Paragraph (c) of the old § 1500.1, now § 570.1 is deleted and the paragraph is reserved.

5. Paragraph (a) (2) of the old § 1500.4 now § 570.4, is amended as follows:

**§ 570.4 Proof of age.**

(a) * * *

(2) A record of baptism or attested transcript thereof showing the date and place of birth and date and place of baptism of the minor, or a bona fide contemporary record of the date and place of the minor's birth kept in the Bible in which the records of the births in the family of the minor are preserved, or other documentary evidence satisfactory to the Administrator of the Wage and Hour Division, such as a passport showing the age of the minor, or a certificate of arrival in the United States issued by the U.S. immigration office and showing the age of the minor, or a life insurance policy: *Provided,* That such other documentary evidence has been in existence at least 1 year prior to the time it is offered as evidence: *And provided further,* That a school record of age or an affidavit of a parent or a person standing in place of a parent, or other written statement of age shall not be accepted except as specified in subparagraph (3) of this paragraph;

* * * * *

6. Section 570.7 formerly § 1500.7, is hereby amended as follows:

**§ 570.7 Continued acceptability of certificates.**

Whenever a person duly authorized to make investigations under this act shall obtain substantial evidence that the age of the minor as given on a certificate held by an employer subject to this act is incorrect, he shall inform the employer and the minor of such evidence and of his intention to request through the appropriate channels that action be taken to establish the correct age of the minor and to determine the continued acceptability of the certificate as proof of age under the act. The said authorized person shall request in writing through the appropriate channels that action be taken on the acceptability of the certificate as proof of age under the Fair Labor Standards Act and shall state the evidence of age of the minor which he has obtained and the reasons for such request. A copy of this request shall be sent to the Administrator of the Wage and Hour Division for further handling through the State agency responsible for the issuance of certificates, except that in those States where Federal certificates of age are issued, action necessary to establish the correct age of the minor and to revoke the certificate if it is found that the minor is under age shall be taken by the Administrator of the Wage and Hour Division or his designated representative. The Administrator of the Wage and Hour Division shall have final authority in those States in which State certificates are accepted as proof of age under the act for determining the continued acceptability of the certificate, and shall have final authority for such determination in those States in which Federal certificates of age are issued. When such determination has been made in any case, notice thereof shall be given to the employer and the minor. In those cases involving the continued acceptability of State certificates, the appropriate State agency and the official who issued the certificate shall also be notified.

7. Subpart F of 29 CFR Part 570, formerly 29 CFR Part 1500, is deleted in its entirety inasmuch as the identical provisions appear in Chapter V of this title as 29 CFR Part 515.

8. In § 570.101, formerly § 1500.101, paragraph (a) is hereby amended as follows and footnotes 1 and 2 are deleted:

**§ 570.101 Introductory statement.**

(a) This subpart discusses the meaning and scope of the child labor provisions contained in the Fair Labor Standards Act, as amended (hereinafter referred to as the act). These provisions seek to protect the safety, health, well-being, and opportunities for schooling of youthful workers and authorize the Secretary of Labor to issue legally binding orders or regulations in certain instances and under certain conditions. The child labor provisions are found in sections 3(l), 11(b), 12, 13 (c) and (d), 15(a)(4), 16(a), and 18 of the act. They are administered and enforced by the Secretary of Labor who has delegated to the Wage and Hour Division the duty of making investigations to obtain compliance, and of developing standards for the issuance of regulations and orders relating to (1) hazardous occupations, (2) employment of 14- and 15-year-old children, and (3) age certificates.

* * * * *

9. Paragraph (b) of § 570.103, formerly § 1500.103, is amended to read as follows:

**§ 570.103 Comparison with wage and hour provisions.**

* * * * *

(b) There are important differences between the child labor provisions and the wage and hours provisions with respect to their general coverage. As pointed out in § 570.114, two separate and basically different coverage provisions are contained in section 12 relating to child labor. One of these provisions (section 12(c)), which applies to the employment by an employer of oppressive child labor in commerce or in the production of goods for commerce, is similar to the wage and hours coverage provisions, which include employees engaged in commerce or in the production of goods for commerce or employed in enterprises having employees so engaged. The other provision (section 12(a)), however, differs fundamentally in its basic concepts of coverage from the wage and hours provisions, as will be explained in §§ 570.104 to 570.111.

* * * * *

10. Section 570.112 formerly § 1500.112, is amended and footnote 23 is deleted, as follows:

**§ 570.112 General.**

(a) Section 12(c) of the act provides as follows: "No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce or in an enterprise engaged in commerce or in the production of goods for commerce."

(b) This provision, which was added by amendments of 1949 and 1961 to the Act, broadens child labor coverage to include employment in commerce. Moreover, it establishes a direct prohibition of the employment of oppressive child labor in commerce or in the production of goods for commerce. The legislative history pertaining to this provision leads to the conclusion that Congress intend its application to be generally consistent with that of wage and hours coverage provisions. The application of the provision depends on the existence of two necessary elements: (1) The employment of "oppressive child labor"[24] by some employer and (2) the employment of such oppressive child labor in activities or enterprises which are in commerce or in the production of goods for commerce within the meaning of the Act.

11. Section 570.113, formerly § 1500.113, is amended to read as follows:

**§ 570.113 Employment "in commerce or in the production of goods for commerce."**

(a) The term "employ" is broadly defined in section 3(g) of the act to include "to suffer or permit to work." The act expressly provides that the term "employer" includes "any person acting

[24] "Oppressive child labor" is discussed in §§ 570.117 to 570.121, inclusive.

directly or indirectly in the interest of an employer in relation to an employee". The nature of an employer-employee relationship is ordinarily to be determined not solely on the basis of the contractual relationship between the parties but also in the light of all the facts and circumstances. Moreover, the terms "employer" and "employ" as used in the act are broader than the common-law concept of employment and must be interpreted broadly in the light of the mischief to be corrected. Thus, neither the technical relationship between the parties nor the fact that the minor is unsupervised or receives no compensation is controlling in determining whether an employer-employee relationship exists for purposes of section 12(c) of the act. However, these are matters which should be considered along with all other facts and circumstances surrounding the relationship of the parties in arriving at such determination. The words "suffer or permit to work" include those who suffer by a failure to hinder and those who permit by acquiescence in addition to those who employ by oral or written contract. A typical illustration of employment of oppressive child labor by suffering or permitting an under-aged minor to work is that of an employer who knows that his employee is utilizing the services of such a minor as a helper or substitute in performing his employer's work. If the employer acquiesces in the practice or fails to exercise his power to hinder it, he is himself suffering or permitting the helper to work and is, therefore, employing him, within the meaning of the act. Where employment does exist within the meaning of the act, it must, of course, be in commerce or in the production of goods for commerce or in an enterprise engaged in commerce or in the production of goods for commerce in order for section 12(c) to be applicable.

(b) As previously indicated, the scope of coverage of section 12(c) of the act is, in general, coextensive with that of the wage and hours provisions. The basis for this conclusion is provided by the similarity in the language used in the respective provisions and by statements appearing in the legislative history concerning the intended effect of the addition of section 12(c). Accordingly, it may be generally stated that employees considered to be within the scope of the phrases "in commerce or in the production of goods for commerce" for purposes of the wage and hours provisions are also included within the identical phrases used in section 12(c). To avoid needless repetition, reference is herein made to the full discussion of principles relating to the general coverage of the wage and hours provisions contained in Parts 776 and 779 of this title. In this connection, however, it should be borne in mind that lack of coverage under the wage and hours provisions or under section 12(c) does not necessarily preclude the applicability of section 12(a) of the Act.[26]

[26] See § 570.116.

12. Section 570.114, formerly § 1500.-114, is amended to read as follows:

§ 570.114 General.

It should be noted that section 12(a) does not directly outlaw the employment of oppressive child labor. Instead, it prohibits the shipment or delivery for shipment in interstate or foreign commerce of goods produced in an establishment where oppressive child labor has been employed within 30 days before removal of the goods. Section 12(c), on the other hand, is a direct prohibition against the employment of oppressive child labor in commerce, or in the production of goods for commerce. Moreover, the two subsections provide different methods for determining the employees who are covered thereby. Thus, subsection (a) may be said to apply to young workers on an "establishment" basis. If the standards for child labor are not observed in the employment of minors in or about an establishment where goods are produced and from which such goods are removed within the statutory 30-day period, it becomes unlawful for any producer, manufacturer, or dealer (other than an innocent purchaser who is in compliance with the requirements for a good faith defense as provided in the subsection) to ship or deliver those goods for shipment in commerce. It is not necessary for the minor himself to have been employed by the producer of such goods or in their production in order for the ban to apply. On the other hand, whether the employment of a particular minor below the applicable age standard will subject his employer to the prohibition of subsection (c) is dependent upon the minor himself being employed in commerce or in the production of goods for commerce, or in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the act. If such a minor is so employed by his employer and is not specifically exempt from the child labor provisions then his employment under such circumstances constitutes a violation of section 12(c) regardless of where he may be employed or what his employer may do. Moreover, a violation of section 12(c) occurs under the foregoing circumstances without regard to whether there is a "removal" of goods or a shipment or delivery for shipment in commerce.

13. Section 570.116, formerly § 1500.-116, is amended to read as follows:

§ 570.116 Separate applicability.

There are situations where section 12 (c) does not apply because the minor himself is not considered employed in commerce or in the production of goods for commerce. This does not exclude the possibility of coverage under the provisions of section 12(a), however. In those cases where oppressive child labor is employed in commerce but not in or about a producing establishment, coverage exists under section 12(c) but not under the provisions of section 12(a). The employment of telegraph messengers under 16 years of age would normally involve this type of situation.[27] There may also be cases where oppressive child labor is employed in occupations closely related and directly essential to the production of goods in a separate establishment and therefore covered by section 12(c) but due to the fact that none of the goods produced in the establishment where the minors work are ever shipped or delivered for shipment in commerce either in the same form or as a part or ingredient of other goods, coverage of section 12(a) is lacking. An illustration of this type of situation would be the employment of a minor under the applicable age minimum in a plant engaged in the production of electricity which is sold and consumed exclusively within the same State and some of which is used by establishments in the production of goods for commerce.

14. Section 570.119, formerly § 1500.-119, is amended to read as follows:

§ 570.119 Fourteen-year minimum.

With respect to employment in occupations other than manufacturing and mining, the Secretary is authorized to issue regulations or orders lowering the age minimum to 14 years where he finds that such employment is confined to periods which will not interfere with the minors' schooling and to conditions which will not interfere with their health and well-being. Pursuant to this authority, the Secretary permits the employment of 14- and 15-year-old children in a limited number of occupations where the work is performed outside school hours and is confined to other specified limits. Under the provisions of Child Labor Regulation No. 3, as amended,[28] employment of minors in this age group is not permitted in the following occupations: (a) Manufacturing, mining, or processing occupations; (b) occupations requiring the performance of any duties in a workroom or workplace where goods are manufactured, mined, or otherwise processed; (c) occupations involving the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines; (d) public messenger service; (e) occupations declared to be particularly hazardous or detrimental to health or well-being by the Secretary; or (f) occupations (except office or sales work) in connection with (1) transportation of persons or property by rail, highway, air, water, pipeline, or other means; (2) warehousing and storage; (3) communications and public utilities, and (4) construction (including demolition and repair). The exception permitting office and sales work performed in connection with the occupations specified in paragraph (f) of this section does not apply if such work is performed on trains or any other media of transportation or at the actual site of construction operations. Employment

[27] In "Western Union Telegraph Co. v. Lenroot," 323 U.S. 490, the court held section 12(a) inapplicable to Western Union on the grounds that the company does not "produce" or "ship" goods within the meaning of that subsection.

[28] Subpart C of this part.

of 14- and 15-year-olds in all occupations other than the foregoing is permitted by the regulation, if the following conditions are observed: (i) Employment only outside school hours and between the hours of 7 a.m. and 7 p.m., except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.; (ii) employment for not more 3 hours a day nor more than 18 hours a week when school is in session; and, (iii) employment for not more than 8 hours a day nor more than 40 hours a week when school is not in session. The employment of minors under 14 years of age is not permissible under any circumstances if the employment is covered by the child labor provisions and not specifically exempt.

15. Section 570.120, formerly § 1500.-120 is amended by adding to the list in the section child labor orders 14, 15, 16, and 17 which have been previously issued. Footnotes 29 and 30 are deleted. As amended, § 570.120 reads as follows:

**§ 570.120 Eighteen-year minimum.**

To protect young workers from hazardous employment, the act provides for a minium age of 18 years in occupations found and declared by the Secretary to be particularly hazardous or detrimental to health or well-being for minors 16 and 17 years of age. Hazardous-occupations orders are the means through which occupations are declared to be particularly hazardous for minors. They are issued after public hearing and advice from committees composed of representatives of employers and employees of the industry and the public and in accordance with procedure established in Child Labor Regulations No. 5 published in subpart D of this part. The effect of these orders is to raise the minimum age for employment to 18 years in the occupations covered. Seventeen orders, published in subpart E of this part, have thus far been issued under the act and are now in effect. In general, they cover:

No. 1. Occupations in or about plants manufacturing explosives or articles containing explosive components.

No. 2. Occupations of motor-vehicle driver and helper.

No. 3. Coal-mine occupations.

No. 4. Logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill.

No. 5. Occupations involved in the operation of power-driven woodworking machines.

No. 6. Occupations involving exposure to radioactive substances.

No. 7. Occupations involved in the operation of power-driven hoisting apparatus.

No. 8. Occupations involved in the operation of power-driven metal forming, punching, and shearing machines.

No. 9. Occupations in connection with mining, other than coal.

No. 10. Occupations in or about slaughtering and meat packing establishments and rendering plants.

No. 11. Occupations involved in the operation of bakery machines.

No. 12. Occupations involved in the operations of paper products machines.

No. 13. Occupations involved in the manufacture of brick, tile, and kindred products.

No. 14. Occupations involved in the operation of circular saws, bandsaws, and guillotine shears.

No. 15. Occupations in wrecking, demolition, and shipbreaking operations.

No. 16. Occupations in roofing operations.

No. 17. Occupations in excavation operations.

Signed at Washington, D.C., this 23d day of December 1971.

HORACE E. MENASCO,
*Administrator, Wage and Hour and Employment Standards Administration.*

[FR Doc.71-18994 Filed 12-28-71;8:51 am]

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## Chapter XIII—Bureau of Labor Standards, Department of Labor

## PART 1500—CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION

### Transfer of Regulations

Functions of the Secretary of Labor and operational responsibilities thereunder which were formerly assigned to the Bureau of Labor Standards in the Workplace Standards Administration of the Department of Labor (36 F.R. 307) and to its Director are now assigned by Secretary of Labor's Orders Nos. 12-71 (36 F.R. 8754) and 13-71 (36 F.R. 8755) to the Occupational Safety and Health Administration and the Employment Standards Administration of the Department. Pursuant to Secretary of Labor's Orders Nos. 13-71 and 15-71 (36 F.R. 3756), the Administrator of the Wage and Hour Division, who is also Deputy Assistant Secretary for Employment Standards and Administrator of the Employment Standards Administration, is now responsible for the performance of all the Secretary's functions under the child labor provisions of the Fair Labor Standards Act of 1938, as amended, and has the operational responsibilities thereunder and under Part 1500 of Title 29 of the Code of Federal Regulations. As regulations of the Administrator of the Wage and Hour Division are set forth in Chapter V of Title 29, a transfer to such chapter of the regulations in Part 1500 is appropriate.

Accordingly, Part 1500 has been redesignated Part 570 by a separate document published in the FEDERAL REGISTER in which this document is published. Part 1500 is hereby reserved for future use.

This document will be effective upon publication in the FEDERAL REGISTER (12-29-71).

Signed at Washington, D.C., this 23d day of December 1971.

HORACE E. MENASCO,
*Administrator, Wage and Hour and Employment Standards Administration.*

[FR Doc.71-18993 Filed 12-28-71;8:51 am]

# Title 33—NAVIGATION AND NAVIGABLE WATERS

## Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 71-106a]

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

### Nassau Sound, Fla.

This amendment changes the regulations for the Nassau Sound Toll bridge on State Road 105 and U.S. A-1-A across Nassau Sound near Fernandina to require that the draw shall open on signal from 6 a.m. to 6 p.m. if at least 6 hours' notice has been given. From 6 p.m. to 6 a.m. the draw need not open for the passage of vessels. This amendment was circulated as a public notice dated October 15, 1971 by the Commander, Seventh Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 71-106) on October 14, 1971 (36 F.R. 19981). No comments were received on this proposal.

Accordingly, Part 117 of Title 33, Code of Federal Regulations is amended by revising subparagraph (22) of paragraph (h) of § 117.245 to read as follows:

**§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.**

* * * * *

(h) * * *

(22) Nassau Sound, Fla.: Fernandina Port Authority bridge across Nassau Sound. From 6 a.m. to 6 p.m. the draw shall open on signal if at least 6 hours' notice has been given. The draw need not open from 6 p.m. to 6 a.m.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937, 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: December 20, 1971.

J. M. AUSTIN,
*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.*

[FR Doc.71-18971 Filed 12-28-71;8:47 am]

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[CGFR 71-100a]

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

### Old Tampa Bay, Fla.

This amendment changes the regulations for the Courtney Campbell Causeway drawbridge on State Road 60 across Old Tampa Bay to require that the draw

open on signal from 7 a.m. to 7 p.m. and from 7 p.m. to 7 a.m. if at least 3 hours' notice has been given. This amendment was circulated as a public notice dated October 1, 1971 by the Commander, Seventh Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 71-100) on October 5, 1971 (36 F.R. 19392). No comments were received regarding this proposal.

Accordingly, Part 117 of Title 33, Code of Federal Regulations is amended by adding § 117.464 to read as follows:

**§ 117.464 Old Tampa Bay, Fla., Courtney Campbell Causeway.**

(a) The draw shall open on signal from 7 a.m. to 7 p.m. and shall open on signal from 7 p.m. to 7 a.m. if at least 3 hours' notice has been given.

(b) The owner of or agency controlling this bridge shall conspicuously post notice containing the provisions of these regulations both upstream and downstream of the drawbridge on the bridge or elsewhere in such a manner that they can easily be read at all times from an approaching vessel. The notice shall state how the authorized representative may be reached.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 399, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: December 20, 1971.

J. M. AUSTIN,
*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.*

[FR Doc.71-18970 Filed 12-28-71;8:47 am]

# Title 42—PUBLIC HEALTH

## Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

## PART 54a—GRANTS TO STATES FOR ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION SERVICES

*Correction*

In F.R. Doc. 71-18850 appearing at page 24939 in the issue of Friday, December 24, 1971, the effective date in the second paragraph now reading "(12-28-71)" should read "(12-24-71)".

# Title 49—TRANSPORTATION

## Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-35; Notice 71-34]

## PART 390—MOTOR CARRIER SAFETY REGULATIONS: GENERAL

### Where To File Accident Reports

The geographic boundaries and numerical designations of several of the Federal Highway Administration's regional offices will change on January 1, 1972. The Director of the Bureau of Motor Carrier Safety is, therefore, changing the table in § 390.40 of the Motor Carrier Safety regulations to conform to these changes. As a result, carriers having their principal places of business in States that are transferred from one region to another will be required to file their accident reports at different regional offices on and after January 1, 1972. Canadian and Mexican carriers who operate in the United States may also experience changes in their reporting locations. Instructions for those carriers are included in this amendment.

This amendment relates solely to organization of the Federal Highway Administration and does not affect substantive rights or liabilities. Therefore, notice and public procedure are unnecessary, and it is effective on January 1, 1972.

In consideration of the foregoing, the table at the end of § 390.40 of the Motor Carrier Safety regulations (Subchapter B of Chapter III in Title 49 CFR) is revised to read as follows:

**§ 390.40 Accident reports.**

* * * * *

| Region No. | Territory included | Location of regional office |
|---|---|---|
| 1 | Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. That part of Canada east of Highways 19 and 8 from Port Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury, and thence due north to the Canadian border. | 4 Normanskill Boulevard, Delmar, NY 12054. |
| 3 | Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia. | 31 Hopkins Plaza, Baltimore, MD 21201. |
| 4 | Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. | 1720 Peachtree Road NW., Atlanta, GA 30309. |
| 5 | Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. That part of Canada west of Highways 19 and 8 from Port Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury, and thence due north to the Canadian border, and east of the boundary between the Provinces of Ontario and Manitoba to Hudson Bay and thence a straight line due north to the Canadian border. | 18209 Dixie Highway, Homewood, IL 60430. |
| 6 | Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. All of Mexico except the States of Baja California and Sonora and the Territory of Baja California Sur. | 819 Taylor Street, Fort Worth, TX 76102. |
| 7 | Iowa, Kansas, Missouri, and Nebraska. | Post Office Box 7187, Country Club Station, Kansas City, MO 64113. |
| 8 | Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. That part of Canada west of the boundary between the Provinces of Ontario and Manitoba to Hudson Bay and thence a straight line due north to the Canadian border, and east of Highway 95 from Kingsgate to Blueberry and thence a straight line due north to the Canadian border. | Room 242, Building 40, Denver Federal Center, Denver, Colo. 80225. |
| 9 | Arizona, California, Hawaii, and Nevada. The States of Baja California and Sonora, Mexico, and the Territory of Baja California Sur, Mexico. | 450 Golden Gate Ave., San Francisco, CA 94102. |
| 10 | Alaska, Idaho, Oregon, and Washington. That part of Canada west of Highway 95 from Kingsgate to Blueberry and thence a straight line due north to the Canadian border, and all of the Province of British Columbia. | 222 Southwest Morrison Street, Portland, OR 97204. |

(Sec. 204, Interstate Commerce Act, 49 U.S.C. 304; sec. 220, Interstate Commerce Act, 49 U.S.C. 320; sec. 6, Department of Transportation Act, 49 U.S.C. 1655; delegation of authority by Secretary of Transportation at 49 CFR 1.48; the delegation of authority by the Federal Highway Administrator at 49 CFR 389.4)

Issued on December 17, 1971.

KENNETH L. PIERSON,
*Acting Director, Bureau of Motor Carrier Safety.*

[FR Doc.71-18835 Filed 12-27-71;8:45 am]

# Proposed Rule Making

## DEPARTMENT OF THE INTERIOR

### Bureau of Mines

### [30 CFR Part 74]

### APPROVAL OF COAL MINE DUST PERSONAL SAMPLER UNITS

### Notice of Proposed Rule Making

Section 202(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 842(a)) provides that the dust samples required from underground coal mine operators shall be taken only by a device approved by the Secretary of the Interior and the Secretary of Health, Education, and Welfare. On March 11, 1970, regulations for the approval of coal mine dust personal sampler units were issued by the Secretaries as Part 74 of Title 30, Code of Federal Regulations (35 F.R. 4326).

Notice is hereby given that it is proposed to amend Part 74 to permit the interchange of the assemblies which comprise a complete sampler unit. Interchangeability would permit greater flexibility in sampling instrumentation.

To reduce the effect of irregularity in flow rate due to pulsation so as to provide measurements of respirable dust consistent with those obtained with an MRE instrument, it is also proposed to amend § 74.3(a)(8) to require that the quantity of dust collected by a sampler unit shall be within ±5 percent of that collected with a sampling head assembly operated with nonpulsating flow. This amendment would provide a period of 1 year from its effective date for manufacturers of approved units to comply with the new specification. Certificates of approval for sampler units which do not comply with this requirement would be revoked 1 year from the effective date of the amendment with the result that units which do not conform to this new specification, including those previously used by operators, would no longer be approved for taking respirable dust samples. The proposed amendments would not prohibit manufacturers from obtaining approval of sampler units which meet the new specification prior to the expiration of the 1 year period for compliance.

Inquiries may be addressed and data, views, and arguments concerning the proposed amendments may be submitted in writing to the Director, Bureau of Mines, Washington, D.C. 20240. All material received within 45 days following publication of this notice in the FEDERAL REGISTER will be considered.

Dated: December 20, 1971.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

Dated: November 30, 1971.

ELLIOT L. RICHARDSON,
*Secretary of Health, Education, and Welfare.*

1. Sections 74.1 and 74.2 would be revised to read as follows:

**§ 74.1 Purpose.**

The regulations in this part set forth the requirements for approval of coal mine dust personal sampler units and assemblies thereof, which are designed to determine the concentrations of respirable dust in coal mine atmospheres; procedures for applying for such approval; test procedures; and labeling.

**§ 74.2 Definitions.**

As used in this part:

(a) "Sampler unit" means a coal mine dust personal sampler unit which consists of (1) a pump unit, (2) a sampling head assembly, and (3) if rechargeable batteries are used in the pump unit, a battery charger.

(b) "Assembly" means a pump unit, a sampling head assembly or a battery charger.

2. In § 74.3, the section heading would be changed to read "Specifications" and paragraph (a)(8) would be revised as follows:

**§ 74.3 Specifications.**

(a) * * *

(1) * * *

(8) *Pulsation* (i) The irregularity in flow rate due to pulsation shall have a fundamental frequency of not less than 20 Hz.

(ii) Effective (insert date 1 year from effective date) the quantity of respirable dust collected with a sampler unit shall be within ±5 percent of that collected with a sampling head assembly operated with nonpulsating flow.

(iii) Certificates of approval issued for sampler units which fail to comply with the specification set forth in § 74.3 (a)(8)(ii) when such specification becomes effective, shall be revoked.

* * * * *

3. Section 74.4 through § 74.11 would be revised to read as follows:

**§ 74:4 Tests of sampler units and assemblies.**

(a) Except as provided in paragraph (b) of this section, the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare, will conduct tests to determine whether a coal mine dust personal sampler unit or assembly thereof which is submitted for approval under these regulations meets the applicable requirements set forth in § 74.3.

(b) The Bureau of Mines, Department of the Interior, will conduct tests, pursuant to § 18.68 of this chapter, to determine whether the pump unit of a coal mine dust personal sampler unit submitted for approval under these regulations is intrinsically safe.

**§ 74.5 Conduct of tests; demonstrations.**

Prior to the issuance of a certificate of approval, only personnel of the Bureau of Mines and the National Institute for Occupational Safety and Health, representatives of the applicant, and such other persons as may be mutually agreed upon may observe the tests conducted. The Bureau of Mines and the National Institute for Occupational Safety and Health shall hold as confidential, and shall not disclose, principles of patentable features prior to certification, nor shall the Bureau or the Institute disclose any details of the applicant's drawings or specifications or other related material prior to such certification. After the issuance of a certificate of approval, the Bureau of Mines or the National Institute for Occupational Safety and Health may conduct such public demonstrations and tests of the approved coal mine dust personal sampler unit or assembly thereof as either deems appropriate. The conduct of all investigations, tests, and demonstrations shall be under the sole direction of the National Institute for Occupational Safety and Health and the Bureau of Mines and any other persons shall be present only as observers.

**§ 74.6 Applications.**

(a) *Complete sampler units.* Testing of a coal mine dust personal sampler unit will be undertaken by the National Institute for Occupational Safety and Health, and testing of the pump unit of such a sampler unit will be undertaken by the Bureau of Mines, only pursuant to a written application in duplicate, each copy accompanied by complete scale drawings, specifications and description of materials. An application to the Bureau of Mines must be accompanied by a check, bank draft, or money order in the amount of $105, payable to the U.S. Bureau of Mines, to cover the fee specified in § 18.7 of this chapter. The applications, together with the drawings and specifications and any other related documents shall be sent to the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare, 1014 Broadway, Cincinnati, OH 45202, and to the Bureau of Mines, Department of the Interior, 4800 Forbes Avenue, Pittsburgh, PA 15213.

(1) Ten complete coal mine dust personal sampler units shall be sent to the National Institute for Occupational Safety and Health in connection with an application. One pump unit must be sent to the Bureau of Mines in connection with an application.

(2) Drawings and specifications shall be adequate in number and fully detailed to identify the design of the coal mine dust personal sampler unit or pump unit thereof and to disclose the dimensions and materials of all component parts.

(b) *Assemblies.* Testing of an assembly will be undertaken by the National Institute for Occupational Safety and Health, only pursuant to a written application in duplicate, each copy accompanied by complete scale drawings, specifications and description of materials. The applications, together with the drawings and specifications and any other related documents shall be sent to the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare, 1014 Broadway, Cincinnati, OH 45202.

(1) Ten complete sampler units shall be sent to the National Institute for Occupational Safety and Health in connection with an application.

(2) Drawings and specifications shall be adequate in number and fully detailed to identify the design of the assembly and to disclose the dimensions and materials of all component parts.

(3) The application shall specify all other approved assemblies of the sampler unit with which the assembly under consideration is designed to operate.

(4) Where approval of a pump unit is sought, application shall also be made to the Bureau of Mines, in duplicate, accompanied by a check, bank draft, or money order in the amount of $105 payable to the U.S. Bureau of Mines. One pump unit shall be sent to the Bureau of Mines, Department of the Interior, 4800 Forbes Avenue, Pittsburgh, PA 15213, together with drawings and specifications adequate in number and fully detailed to identify the design of the pump unit and to disclose the dimensions and materials of all component parts.

(c) *Quality control.* Every application for approval of a sampler unit or assembly shall describe the manner in which each lot of component parts shall be tested to maintain the quality of each sampler unit or assembly. To ensure that the quality of the sampler unit or assembly will be maintained in production through adequate quality control procedures, the National Institute for Occupational Safety and Health and the Bureau of Mines reserve the right to have their qualified personnel inspect each applicant's control-test equipment procedures, and records and to interview the applicant's employees. Two copies of the results of any tests made by the applicant of the sampler unit or assembly thereof shall accompany an application.

### § 74.7 Certificate of approval.

(a) Upon completion of the testing of a sampler unit or assembly thereof, the National Institute for Occupational Safety and Health or the Bureau of Mines, as appropriate, shall issue to the applicant either a certificate of approval or a written notice of disapproval, as the case may require. The National Institute for Occupational Safety and Health shall not issue a certificate of approval for a sampler unit or assembly unless the Bureau of Mines has issued a certificate of approval for the pump unit thereof. No informal notification of approval will be issued. If a certificate of approval is issued, no test data or detailed results of tests will accompany such approval. If a notice of disapproval is issued, it will be accompanied by details of the defects, resulting in disapproval, with a view to possible correction.

(b) A certificate of approval will be accompanied by a list of the drawings and specifications, covering the details of design and construction of the personal sampler unit or assembly thereof upon which the certificate of approval is based. The applicant shall keep exact duplicates of the drawings and specifications submitted to the National Institute for Occupational Safety and Health and to the Bureau of Mines relating to the sampler unit or assembly thereof which has received a certificate of approval. The approved drawings and specifications shall be adhered to exactly in the commercial production of the certified sampler unit or component. In addition, the applicant shall observe such procedures for, and keep such records of, the control of component parts as either the Institute or Bureau may in writing require as a condition of certification.

### § 74.8 Approval labels.

(a) Certificates of approval will be accompanied by photographs of designs for the approval labels to be affixed to each assembly.

(b) The labels showing approval by the National Institute for Occupational Safety and Health and by the Bureau of Mines shall contain such information as the Institute or Bureau may require and shall be reproduced legibly on the outside of each assembly as directed by the Institute or Bureau as appropriate.

(c) The applicant shall submit full-scale designs or reproductions of approval labels and a sketch or description of the position of the labels on each assembly.

(d) The certificate of approval and the approval label shall specifically set forth any restrictions or limitations on the use of the sampler unit or assembly and such other information as the Institute or the Bureau may require.

(e) Use of an approval label obligates the applicant to whom the certificate of approval was issued to maintain the quality of the sampler unit or assembly, as applicable, and to guarantee that such unit or assembly is manufactured or assembled according to the drawings and specifications upon which the certificates of approval were based. Use of the approval labels is authorized only on sampler units or assemblies thereof which conform strictly with the drawings and specifications upon which the certificates of approval were based.

### § 74.9 Material required for record.

(a) As part of the permanent record of the investigation, the National Institute for Occupational Safety and Health will retain a complete coal mine dust personal sampler unit, and the Bureau of Mines will retain a pump unit, that has been tested and certified. Material not required for record purposes will be returned to the applicant at his request and at his expense on written shipping instructions to the Institute or the Bureau.

(b) As soon as a sampler unit or assembly is commercially available, the applicant shall deliver a complete unit, free of charge to the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare, 1014 Broadway, Cincinnati, OH 45202.

### § 74.10 Changes after certification.

(a) Except as provided in paragraph (b) of this section, if the applicant desires to change any feature of a certified sampler unit or assembly, he shall first obtain the approval of the National Institute for Occupational Safety and Health pursuant to the following procedures:

(1) Application shall be made as for an original certificate of approval, requesting that the existing certification be extended to encompass the proposed change. The application shall be accompanied by drawings, specifications and related material, as in the case of an original application.

(2) The application and accompanying material will be examined by the National Institute for Occupational Safety and Health to determine whether testing of the modified sampler unit or assembly will be required. Testing will be necessary if there is a possibility that the modification may affect the performance of the sampler unit adversely. The National Institute for Occupational Safety and Health will inform the applicant whether such testing is required.

(3) If the proposed modification meets the pertinent requirements of these regulations, a formal extension of certification will be issued, accompanied by a list of new and revised drawings and specifications to be added to those already on file as the basis for the extension of certification.

(b) If a change is proposed in a pump unit, the approval of the Bureau of Mines with respect to intrinsic safety shall be obtained in accordance with the procedures set forth in this part.

### § 74.11 Withdrawal of certification.

Any certificate of approval issued under the regulations in this part may be revoked for cause by the Institute or the Bureau which issued the certificate.

[FR Doc.71-18855 Filed 12-23-71;8:49 am]

# DEPARTMENT OF AGRICULTURE

## Consumer and Marketing Service

## [7 CFR Part 905]

## ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

### Proposed Approval of Expenses and Rate of Assessment for 1971–72 Fiscal Period

Consideration is being given to the following proposals submitted by the Growers Administrative Committee, established under the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating

the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That expenses that are reasonable and likely to be incurred by the Growers Administrative Committee during the period August 1, 1971, through July 31, 1972, will amount to $137,000.

(b) That the rate of assessment for such period, payable by each handler in accordance with § 905.41, be fixed at $0.005 per standard packed box.

Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: December 23, 1971.

PAUL A. NICHOLSON,
*Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.*

[FR Doc.71-19007 Filed 12-28-71;8:51 am]

# DEPARTMENT OF TRANSPORTATION

## Coast Guard

## [33 CFR Part 117]

[CGFR 71-163]

## SINEPUXENT BAY, MD.

### Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations for the Maryland State Roads Commission (U.S. 50) drawbridge to permit closed periods from 9 a.m. to 10 p.m. from May 25 through September 15. The draw would open at 25 minutes after and 55 minutes after the hour during this period for a maximum of 5 minutes for any vessel waiting to pass. This proviso would be added to the current regulations which require at least 3 hours' notice from 6 p.m. to 6 a.m. from October 1 through April 30. This change is being considered because of an increase in vehicular traffic during this period.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Fifth Coast Guard District.

The Commander, Fifth Coast Guard District, will forward any comments received before February 7, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.245(f)(16) to read as follows:

**§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.**

* * * * *

(f) * * *

(16) Sinepuxent Bay, Ocean City, Md., U.S. Route 50 bridge. The draw shall open on signal, except that:

(i) From October 1 through April 30 at least 3 hours' notice is required from 6 p.m. to 6 a.m. and

(ii) From May 25 through September 15, from 9 a.m. to 10 p.m. the draw shall open at 25 minutes after and 55 minutes after the hour for a maximum of 5 minutes to permit accumulated vessels to pass.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: December 17, 1971.

J. M. AUSTIN,
*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.*

[FR Doc.71-18972 Filed 12-28-71;8:47 am]

## [33 CFR Part 117]

[CGFR 71-164]

## MISPILLION RIVER, LEWES AND REHOBOTH CANAL, DEL.

### Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Delaware Department of Highways and Transportation drawbridges across the Mispillion River on State Route 14 at Milford and across the Lewes and Rehoboth Canal on State Routes 14 and 14A at Rehoboth to require 2 hours' notice for openings of the draws at all times. The Milford Bridge is presently required to open on signal from 8 a.m. to 8 p.m. except that from May 31 to September 15 the draw need not open from 5 p.m. to 8 p.m. on Fridays, 8 a.m. to 2 p.m. on Saturdays and 11 a.m. to 8 p.m. on Sundays. From 8 p.m. to 8 a.m. at least 24 hours advance notice must be given. The Rehoboth bridges are presently required to open on signal from 7 a.m. to 5 p.m. and will open on signal at all other times if at least 24 hours notice has been given. This change is being considered because of infrequent vessel traffic.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Third Coast Guard District, Governors Island, New York, N.Y. 10004. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Third Coast Guard District.

The Commander, Third Coast Guard District, will forward any comments received before February 7, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.237a and § 117.237b to read as follows:

**§ 117.237a Mispillion River, Del.; Delaware State Route 14 bridge at Washington Street, Milford.**

* * * * *

(b) The draw shall open on signal if at least 2 hours' notice has been given.

* * * * *

**§ 117.237b Lewes and Rehoboth Canal, Del.; Delaware State Highway Department bridges at Rehoboth.**

* * * * *

(b) The draw shall open on signal if at least 2 hours' notice has been given.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: December 17, 1971.

J. M. AUSTIN,
*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.*

[FR Doc.71-18973 Filed 12-28-71;8:47 am]

[33 CFR Part 117]

[CGFR 71-165]

## SACRAMENTO RIVER, CALIF.

### Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the drawbridges across the Sacramento River above Chico Landing to permit them to remain closed to the passage of vessels. The present regulations governing the operation of these bridges require that the draws open on signal if at least 7 days' notice has been given. This change is being considered because of a lack of river traffic and the undredged and shallow condition of this reach of the river. The last opening for the passage of vessels of any of these bridges was in 1934.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), 12th Coast Guard District, 630 Sansome Street, San Francisco, CA 94126. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, 12th Coast Guard District.

The Commander, 12th Coast Guard District, will forward any comments received before February 7, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising subparagraph (6) of paragraph (a) of § 117.716 to read as follows:

**§ 117.716 Sacramento River and its tributaries, California**

* * * * *

(a) * * *

(6) *Drawbridges above Chico Landing.* The draws of these bridges need not open for the passage of vessels. However, the draws of these bridges shall be returned to operable condition within 6 months after notification to take such action from the Commandant, U.S. Coast Guard.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: December 17, 1971.

J. M. AUSTIN,
*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.*

[FR Doc.71-18974 Filed 12-23-71;8:47 am]

## Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-CE-111]

## TRANSITION AREA

### Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Lexington, Nebr.

Interested person may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

A new public use instrument approach procedure has been developed for the Lexington, Nebr., Municipal Airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a 700-foot floor transition area at Lexington, Nebr.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is added:

LEXINGTON, NEBR.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lexington Municipal Airport (latitude 40°47'38" N.; longitude 99°46'10" W.); and within 3 miles each side of the Lexington RBN 314° bearing, extending from the 5-mile-radius area to 8 miles northwest of the RBN.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on December 3, 1971.

JOHN M. CYROCKI,
*Director, Central Region.*

[FR Doc.71-18937 Filed 12-23-71;8:48 am]

## Federal Railroad Administration

[49 CFR Parts 233, 234]

[Docket No. FRA Signal-4; Notice 2]

## SIGNAL REPORTS

### Extension of Time for Comment and for Filing Annual Reports

Proposed amendments to Parts 233 and 234 of Title 49, Code of Federal Regulations, were published on November 18, 1971, 36 F.R. 22015, and interested persons were invited to participate by submitting written data, views, or comments in triplicate to the Docket Clerk, Office of Hearings and Proceedings, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, prior to December 15, 1971. The time for submitting such written material is extended to January 14, 1972.

In addition, the time for furnishing an Annual Report to the Director, Bureau of Railroad Safety, Federal Railroad Administration, Washington, D.C. 20590, as required by § 233.0(a) is extended to April 15, 1972.

Issued in Washington, D.C., on December 22, 1971.

JOHN W. INGRAM,
*Administrator.*

[FR Doc.71-18931 Filed 12-23-71;8:49 am]

## Hazardous Materials Regulations Board

[49 CFR Parts 172, 173]

[Docket No. HM-96; Notice No. 71-32]

## TRANSPORTATION OF HAZARDOUS MATERIALS

### Proposed Requirements for Shipment of Etiologic Agents

The Hazardous Materials Regulations Board is considering amendment of Parts 172 and 173 to add new §§ 173.386, 173.387, and 173.416 and to amend § 172.5, to provide for the shipment of etiologic agents.

Under the provisions of Public Law 86-710, the Interstate Commerce Commission was directed to formulate regulations for the safe transportation of etiologic agents. Upon the establishment of the Department of Transportation in 1967, the safety functions of the ICC were transferred to the Department.

This notice adopts by reference existing Department of Health, Education, and Welfare standards for classification and its current general packaging requirements of etiologic agents. In the FEDERAL REGISTER of May 13, 1971 (36 F.R. 8815), DHEW has proposed certain changes to these regulations. This Department would accept by reference any of the applicable changes made by those proposals. This notice also proposes application of performance test criteria for

packagings for etiologic agents. In addition, a new hazard warning label has been proposed for packages of etiologic agents. This label would incorporate the biological hazards warning symbol proposed by the National Institute of Health's National Cancer Institute.

Docket No. HM-8; Notice No. 71-13 (36 F.R. 9449) and Notice No. 70-13 (35 F.R. 11742), insofar as they apply to etiologic agents, are superseded by this notice of proposed rule making. The comments made on those notices were considered in preparing this notice. There was some objection to the symbol on the label, but it is being retained because it is a symbol in use. The Board proposes to rely on education of the public, as was originally done with the radioactive materials "trefoil".

In consideration of the foregoing, 49 CFR Parts 172 and 173 would be amended as follows:

## PART 172—COMMODITY LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 170–189 OF THIS CHAPTER

(A) Section 172.4 would be amended by adding the following entry to the list of explanation of signs and abbreviations, as follows:

**§ 172.4 Explanation of signs and abbreviations.**

(a) * * *

Etio. Ag.—Etiologic Agent

(B) In § 172.5(a), the Commodity List would be amended as follows:

**§ 172.5 List of hazardous materials.**

(a) * * *

| Article | Classed as— | Exemptions and packing (see sec.) | Label required if not exempt | Maximum quantity in one outside container by rail express |
|---|---|---|---|---|
| * * * | * * * | * * * | * * * | * * * |
| Etiologic agent, n.o.s. | Etio. Ag. | 173.386, 173.387 | Etiologic | 4 liters. |
| * * * | * * * | * * * | * * * | * * * |

* * * * * * *

## PART 173—SHIPPERS

(A) In Part 173, Table of Contents, Subpart G would be amended; §§ 173.386, 173.387, and 173.416 would be added to read as follows:

Subpart G—Poisonous Materials, Etiologic Agents, and Radioactive Materials; Definition and Preparation

Sec.
173.386 Etiologic agents; definition and scope.
173.387 Packaging requirements for etiologic agents.
173.416 Etiologic agents label.

(B) Subpart G would be amended to read as follows:

### Subpart G—Poisonous Materials, Etiologic Agents, and Radioactive Materials; Definition and Preparation

(C) Section 173.386 would be added to read as follows:

**§ 173.386 Etiologic agents; definition and scope.**

(a) *Definition.* For the purpose of Parts 170–189 of this chapter, an etiologic agent means a viable micro-organism, or its toxin which causes or is suspected to cause human disease.

(b) *Applicability.* The requirements specified in this section are applicable to the packaging and shipment of materials containing, or suspected of containing any of the etiologic agents listed in 42 CFR 72.25(c) of the regulations of the Department of Health, Education, and Welfare.

(c) *General provisions.* The requirements of these regulations (Parts 170–189 of this chapter) supplement the requirements of the Department of Health, Education, and Welfare's regulations contained in 42 CFR 72.25.

(d) *Exemptions.* The following substances are not subject to any requirements of Parts 170–189 of this chapter:

(1) Diagnostic specimens;

(2) Finished biological products for human or veterinary use bearing the U.S. Government license number of the manufacturer; or

(3) Finished biological products shipped prior to licensing for development or investigational purposes in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. sec. 301 et seq.) and rules and regulations promulgated thereunder.

(D) Section 173.387 would be added to read as follows:

**§ 173.387 Packaging requirements for etiologic agents.**

(a) No person may ship a package containing over 4 liters gross volume of an etiologic agent.

(b) In addition to the requirements of 42 CFR 72.25 (e), (f), and (g), each package containing an etiologic agent must be designed and constructed so that, if it were subject to the environment and test conditions prescribed in this section, there would be no release of the contents to the environment, and the effectiveness of the packaging would not be significantly reduced.

(1) *Environmental conditions.* (i) Heat—direct sunlight in an ambient temperature of 130° F. in still air.

(ii) Cold—an ambient temperature of minus 40° F. in still air and shade.

(iii) Reduced pressure—ambient atmospheric pressure of 0.5 atmosphere (7.3 p.s.i.a.).

(iv) Vibration—vibration normally incident in the mode of transportation the package is to be shipped.

(2) *Test conditions.* (i) Water spray—a water spray heavy enough to keep the entire exposed surface of the package (except the bottom) continuously wet during a period of 30 minutes. Packages for which the outer layer consists of metal, wood, ceramic, or plastic, or combination thereof, are exempt from this test.

(ii) Free drop—a free drop through a distance of 30 feet onto a flat, essentially unyielding horizontal target surface, the package striking the surface in a position for which maximum damage is expected.

(iii) Penetration—impact of the hemispheric end of a steel cylinder 1.25 inches in diameter and weighing 15 pounds, dropped from a height of 40 inches on to the exposed surface of the package expected to be most vulnerable to puncture. The long axis of the cylinder must be perpendicular to the impacted surface. This test is not required for a package subject to subdivision (iv) of this subparagraph.

(iv) Penetration (required for packages exceeding 15 pounds gross weight only)—a free drop of the package through a distance of 40 inches, striking the top end of a vertical cylindrical mild steel solid bar on an essentially unyielding surface, in a position for which maximum damage is expected. The bar must be 1.5 inches in diameter. The top of the bar must be horizontal, with its edge rounded to a radius not exceeding one-quarter inch. The bar must be of such length as to cause maximum damage to the package, but not less than 8 inches long. The long axis of the bar must be vertical to the unyielding horizontal impact surface of the package.

(3) *Testing procedure.* (i) At least one sample of each type package (maximum size and gross weight), filled with water, must be subjected to the water spray test unless exempted by subparagraph (2) (i) of this paragraph.

(ii) This sample package then must be given the free drop and one of the penetration tests, as applicable. Separate wetted sample packages may be used for the free drop and the penetration test.

(iii) If the sample package is exempted from the water spray test by subparagraph (2) (i) of this paragraph, at least one sample of each type package (maximum size and gross weight), filled with water, must be subjected consecutively to the free drop and the penetration test.

(E) In § 173.402, paragraph (a)(16) would be added to read as follows:

**§ 173.402 Labeling of hazardous materials.**

(a) * * *

(16) "Etiologic Agent" label as described in § 173.416 on packages containing etiologic agents.

* * * * *

(F) Section 173.416 would be added to read as follows:

§ 173.416 Etiologic agents label.

Labels for packages of etiologic agents must be diamond shape, measuring 4 inches (10 cm.) on each side, and white in color. Printing must be black, except for the symbol which is to be red, inside of a black border line one-fourth inch (6 mm.) inside the edge and parallel to the edge as illustrated below:

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before April 4, 1972, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831–835 of title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h)).

Issued in Washington, D.C., on December 21, 1971.

W. J. BURNS,
*Chairman, Hazardous Materials Regulations Board.*

[FR Doc.71-18852 Filed 12-28-71;8:45 am]

# DEPARTMENT OF LABOR

## Office of Federal Contract Compliance

## [41 CFR Part 60-30]

## DISCRIMINATION BECAUSE OF RELIGION OR NATIONAL ORIGIN

### Guidelines

Notice is hereby given that, pursuant to Executive Order 11246 (30 F.R. 12319), as amended by Executive Order 11375 (32 F.R. 14303), the Secretary of Labor is considering the addition of a new Part 60-30 to read as set forth below. These are interpretations as to the requirements of Executive Order 11246, as amended, for promoting and insuring equal employment opportunity for all persons, without regard to religion or national origin, applicable to Government contractors and subcontractors and to federally assisted construction contractors and subcontractors.

Interested persons are invited to submit written comments regarding the proposal to Mr. John L. Wilks, Director, Office of Federal Contract Compliance, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, DC 20210, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

The proposed Part 60-30 of 41 CFR Chapter 60 reads as follows:

## PART 60-30—GUIDELINES ON DISCRIMINATION BECAUSE OF RELIGION OR NATIONAL ORIGIN

Sec.
60-30.1 Purpose and scope.
60-30.2 Obligations of employers.
60-30.3 Accommodations to religious needs.

AUTHORITY: The provisions of this Part 60-30 issued under sec. 201, E.O. 11246, 30 F.R. 12319, and E.O. 11375, 32 F.R. 14303.

### § 60-30.1 Purpose and scope.

(a) The purpose of the provisions in this part is to set forth the interpretations and guidelines of the Office of Federal Contract Compliance regarding the implementation of Executive Order 11246, as amended, for promoting and insuring equal employment opportunity for all persons, without regard to religion or national origin, applicable to Government contractors and subcontractors and to federally assisted construction contractors and subcontractors. Experience has indicated that members of various religious groups, primarily Jews and Catholics, and members of certain ethnic groups, primarily of Eastern, Middle, and Southern European ancestry, such as Italians, Greeks, and Slavic groups, continue to be excluded from executive, middle-management, and other job levels because of discrimination based on their religion and/or national origin. These guidelines are intended to remedy such unfair treatment.

(b) These guidelines are to be read in connection with existing regulations, including those pertaining to recordkeeping, set forth in Part 60-1 of this chapter.

(c) Employment underutilization of Spanish-surnamed Americans, Orientals, and American Indians is treated separately under Part 60-2 of this chapter and under other regulations and procedures implementing Executive Order 11246, as amended. Accordingly, these guidelines shall not be applicable to the employment problems of these groups.

### § 60-30.2 Obligations of employers.

(a) All employers shall be expected to undertake the following affirmative action measures:

(1) Internal communication of the employer's obligation to provide equal employment opportunity without regard to religion or national origin in such a manner as to foster understanding, acceptance, and support among the employer's executive, management, supervisory personnel, and all other employees and to encourage such persons to take the necessary action to aid the employer in meeting this obligation.

(2) Enlist the assistance and support of all recruitment sources (including employment agencies, college placement directors, and business associates) for the employer's commitment to provide equal opportunity without regard to religion or national origin.

(3) Periodically inform all employees regarding the employer's commitment to fair employment practices.

(b) In addition to the requirements of paragraph (a) of this section, if an underutilization of a particular religious or ethnic minority group is called to an employer's attention (i.e. through a compliance review, complaints from employees, applicants or private organizations, or other means), such employer will also be expected to undertake a significant number of activities, such as those listed below, in order to remedy the underutilization of that particular religious or ethnic minority group:

(1) Review employment records to determine the availability of promotable and transferable members of that particular religious or ethnic minority group within the employer's organization.

(2) Establish meaningful contacts with the appropriate religious and/or national origin-oriented organizations for purposes of referral of potential employees, advice, education, and technical assistance.

(3) Initiate the use of the appropriate religious and/or national origin-oriented press for institutional and employment advertising.

(4) Engage in significant recruitment activities at educational institutions with substantial enrollments of that particular religious or ethnic minority group.

(5) Discuss the employer's affirmative action program with leaders of the appropriate religious or ethnic minority community and request that they refer applicants for employment.

(c) Whenever an underutilization of a religious or ethnic minority group is called to an employer's attention, the employer shall then make available for compliance reviews such information as may be reasonably obtainable on the approximate numbers of the various religious and ethnic minorities employed at the job levels in which a question of underutilization has been raised.

### § 60-30.3 Accommodations to religious needs.

Employers are encouraged to make reasonable accommodations to the religious needs and observances of employees and applicants who regularly observe Friday evening and Saturday, or some other day of the week, as their Sabbath or who observe certain religious holidays

during the year and who are conscientiously opposed to performing work or engaging in similar activity on such days, when such accommodations can be made without undue hardship on the conduct of the employer's business.

Signed at Washington, D.C., this 23d day of December 1971.

J. D. HODGSON,
*Secretary of Labor.*

[FR Doc.71-18991 Filed 12-28-71;8:51 am]

# FEDERAL RESERVE SYSTEM

[ 12 CFR Part 225 ]

[Reg. Y]

## BANK HOLDING COMPANIES

### Notice of Hearing Regarding Property Management Activities

By notice published in the FEDERAL REGISTER on September 14, 1971 (36 F.R. 18427), the Board of Governors proposed to add to the list of activities that it has determined to be closely related to banking or managing or controlling banks (§ 225.4(a) of Regulation Y) the following: "Performing property management services."

The National Association of Real Estate Boards has asked for a hearing on this matter. The Board has directed that such a hearing be held before available members of the Board in the Board Room of its building on 20th Street and Constitution Avenue NW., Washington, DC, on January 26, 1972, beginning at 10 a.m.

Among the issues that will be explored at the hearing is whether bank holding company activities in the area of property management should be limited to any one or more of the following:

(a) Properties held in a fiduciary capacity;

(b) Properties owned by the holding company or its subsidiaries for conducting its own bank and bank related operations;

(c) Properties acquired by the holding company or a subsidiary as a result of a default on a loan;

(d) Farm management;

(e) Properties that are part of a land redevelopment program;

(f) Management of office buildings and other business or industrial properties;

(g) Management of single and multifamily apartment buildings; or

(h) Management of the air rights above, or the oil and mineral rights below a parcel of land.

Interested persons are invited to participate by presenting their views on all issues raised by the pending proposal. Interested persons need not participate in the hearing through oral presentation in order to have their views considered. All views previously expressed in written comments on the pending proposal are under consideration by the Board and are available for inspection and copying in Room 1020 of the Board's building.

Persons interested in participating in the hearing by presenting material orally should inform the Secretary of the Board in writing not later than January 7, 1972. Each person admitted as a party to the proceeding will be given up to 30 minutes to present his views.

Anyone wishing to submit written comments on issues raised at the hearing may do so at any time before the close of business February 16, 1972.

By order of the Board of Governors, December 21, 1971.

[SEAL] TYNAN SMITH,
*Secretary of the Board.*

[FR Doc.71-18945 Filed 12-28-71;8:45 am]

# SMALL BUSINESS ADMINISTRATION

[ 13 CFR Part 121 ]

## JANITORIAL AND CUSTODIAL SERVICES

### Proposed Size Standard

On June 15, 1971, the Small Business Administration (SBA) published in the FEDERAL REGISTER (36 F.R. 11526) a notice that it proposed to lower the size standard for the purpose of bidding on Government procurements for custodial and janitorial services, from $3 million to $2 million in average annual receipts.

On September 16, 1971, pursuant to a notice published in the FEDERAL REGISTER on July 17, 1971 (36 F.R. 13277), the SBA held a public hearing on its proposal. The hearing panel consisted of Mr. Anthony Chase, Deputy Administrator; Mr. Claude Alexander, Assistant Administrator for Administration; and Mr. Clyde Bothmer, Deputy Associate Administrator for Procurement and Management Assistance.

Subsequently the hearing panel carefully considered all oral and written arguments in favor and opposed to the proposal and made the following findings of facts:

1. Prior to May 21, 1966, the procurement size standard applicable to custodial and janitorial services was $1 million. On that date, a $3 million standard was effected. The basis for the increase was the substantial increases in costs, prices, size of contracts and total market volume since the $1 million standard was first established. While there have been further increases in costs and prices, etc., since adoption of the $3 million standard, the increase was more than was justifiable at the time it was effected, and therefore it does not follow that the size standard should be raised at this time.

2. While it is true that a substantial number of concerns in this industry have receipts not exceeding $1 million, it also is true that there are several very large concerns now in the commercial market, which, in a tight economy, might reasonably be expected to seek entry into the Government market.

3. The proposal to lower the size standard was based in part on Department of Defense data which indicated that contracts in this field were in the range of $30,000 to $50,000. However it appears that contracts of other agencies are in the range of $1 million, and concerns which are of such size that they can compete effectively for contracts in the lower range, are not necessarily able to compete effectively for $1 million contracts.

4. Until recently the SBA had not indicated that it expected small concerns to pursue commercial business as soon as they were able to compete with reasonable success in such market. Several concerns with over $2 million, but not over $3 million in average annual receipts, have made the performance of set-aside contracts their sole business activity. If such a concern becomes ineligible as a small business, it has only two alternatives, to wit: to participate in Government procurements not set-aside for small business and/or to shift to commercial work. There is insufficient unrestricted Government custodial and janitorial work to support a concern with little or no commercial work. Further, while there is not such a significant difference in Government and commercial work as would proscribe a concern's changing from Government to commercial work, it might take some time for a concern which is wholly engaged in small business set-aside work, to convert to an operation principally dependent on commercial customers.

The panel noted that it is the Small Business Administration's current policy that the definition of small business for each industry should be limited to that segment struggling to become or remain competitive, that it should be lowered in any case where the SBA determines that a few concerns under the size standard umbrella have, because of their size, gained undue competitive strength as compared with other concerns under the umbrella, and that concerns which, with or without assistance under the Small Business Act, have grown to a size which exceed the applicable small business standard, should compete for Government contracts not reserved for small business concerns to the extent that such contracts are available or should seek commerical markets in the same or related fields. However it concluded that concerns with under $3 million in average annual receipts, particularly those firms whose receipts have principally been from business protected by a set-aside umbrella, are not at this juncture in a position to switch to and rely solely or even substantially on commercial work. Accordingly the panel recommended that the currently effective $3 million standard be retained and that concerns now relying on set-aside procurements be encouraged to take immediate steps to convert to commercial work.

I have accepted the Panel's recommendation and therefore have determined not to lower the custodial and janitorial services size standard at this time.

Dated: December 20, 1971.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.71-18939 Filed 12-28-71;8:40 am]

# Notices

## DEPARTMENT OF THE TREASURY

### Comptroller of the Currency

### REAL ESTATE LOAN ACTIVITIES

### Notice of Intention To Consider Regulations Prohibiting Discrimination Practices

Certain public interest groups have applied by petition to the Comptroller of the Currency for the issuance of a regulation implementing section 805 (42 U.S.C. 3605) of title VIII of the Civil Rights Act of 1968, the Fair Housing Act. Section 805 prohibits discrimination on the basis of race, religion or national origin by banks and other lending institutions in the making of residential real estate mortgage loans. Petitioners' proposed regulations would inter alia require each National bank to:

a. Keep on file a record of all loan applications, specifying the following:

1. Race, color, or minority group identification of each applicant,
2. Date of the application,
3. Date of the decision with respect to the loan,
4. If the application is disapproved, the reasons therefor,
5. The character and location of the property, surrounding properties, and general neighborhood in which the property is located, including racial and economic characteristics of the area and such other information as the Comptroller may determine is relevant.

b. Maintain a written log of oral inquiries about loans which are made in person, but do not result in a written application, such log to indicate the date upon which each inquiry was made, the nature of the inquiry, the name and address, and the race, color or minority group identification of the person making inquiry.

c. Publish and post a clear statement of the standards and criteria which the financial institution uses in reviewing and deciding on loan applications.

d. Prominently indicate, in a manner appropriate to the advertising media and format utilized, that the bank makes real estate loans without regard to race, color, religion, or national origin. No words, phrases, symbols, directions, forms, models, or other means shall be used to express, imply, or suggest a discriminatory preference or policy of exclusion in violation of the provisions of title VIII of the Civil Rights Act of 1968. Such notice shall include the address of the proper enforcement agency to be notified concerning any complaint alleging a violation of the nondiscrimination provisions of title VIII.

e. Conspicuously display in the public lobby of each of its offices a notice that incorporates a facsimile of the attached logotype[1] and attests to that institution's policy of compliance with the nondiscrimination requirements of title VIII of the Civil Rights Act of 1968. Such notice shall include the address of the Department of Housing and Urban Development as the agency to be notified concerning any complaint alleging a violation of the nondiscrimination provisions of title VIII.

Petitioners aver that rules implementing the above proposed rules must be adopted to insure proper compliance by banks with the provisions of title VIII of the 1968 Civil Rights Act.

In view of the nature of the issues raised and the desire of the Comptroller to examine the matter and to resolve those issues, the Comptroller is inviting written comment prior to the promulgation of a proposed rule embodying the substance of the remedy sought in the petition.

The closing date for submission of comments will be 60 days from publication of this notice in the FEDERAL REGISTER. Comments should be addressed to the Comptroller of the Currency, Treasury Department, Washington, D.C. 20220, Attention: Chief Counsel.

Dated: December 17, 1971.

[SEAL] WILLIAM B. CAMP,
*Comptroller of the Currency.*

STATEMENT OF POLICY ON CIVIL RIGHTS ACT NONDISCRIMINATION REQUIREMENTS IN REAL ESTATE LOAN ACTIVITIES

Section 805 of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3605) makes it unlawful for any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms and conditions of such loan or other financial assistance, because of his race, color, religion, or national origin.

Recognizing that increased public awareness of nondiscrimination requirements and the availability of complaint procedures is necessary for effective implementation of the Civil Rights Act's provisions imposed on financial institutions, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Board of Governors of the Federal Reserve System have adopted the following as minimum procedures to be utilized by all financial institutions subject to their supervisory authority.

1. *Advertisement notice of nondiscrimination compliance.* After March 1, 1972, any financial institution which directly or through third parties engages in any form of advertising of real estate lending services shall prominently indicate, in a manner appropriate to the advertising media and format utilized, that the financial institution makes real estate loans without regard to race, color, religion, or national origin. No words, phrases, symbols, directions, forms, models or other means shall be used to express, imply, or suggest a discriminatory preference or policy of exclusion in violation of the provisions of title VIII of the Civil Rights Act of 1968. Written advertisements relating to real estate shall include a facsimile of the logotype which is attached[1] in order to increase public recognition of the nondiscrimination requirements and guarantees of title VIII.

2. *Lobby notice of nondiscrimination compliance.* After March 1, 1972, every institution engaged in extending real estate loans shall conspicuously display in the public lobby of each of its offices at which residential real estate loans are made a notice that incorporates a facsimile of the attached logotype[1] and attests to that institution's policy of compliance with the nondiscrimination requirements of title VIII of the Civil Rights Act of 1968. Such notice shall include the address of the Department of Housing and Urban Development as the agency to be notified concerning any complaint alleging a violation of the nondiscrimination provisions of title VIII.

[1] See F.R. Doc. 71-19035, Federal Home Loan Bank Board, Title 12, Chapter V, Part 571, in the Rules and Regulations section of this issue.

[FR Doc.71-18332 Filed 12-28-71;8:52 am]

## FEDERAL DEPOSIT INSURANCE CORPORATION

### REAL ESTATE LOAN ACTIVITIES

### Consideration of Regulations Prohibiting Discrimination Practices

By petition to the Secretary of the Federal Deposit Insurance Corporation, certain public interest groups have applied pursuant to § 302.4 (12 CFR 302.4) of the rules of practice and procedure of the Federal Deposit Insurance Corporation for the issuance of a regulation implementing section 805 (42 U.S.C. 3605) of title VIII of the Civil Rights Act of 1968, the Fair Housing Act. Section 805 prohibits discrimination on the basis of race, religion or national origin by banks and other lending institutions in the making of residential real estate mortgage loans. Petitioners' proposed regulations would inter alia require each insured State nonmember bank to:

a. Keep on file a record of all loan applications, specifying the following:

1. Race, color, or minority group identification of each applicant,
2. Date of the application,
3. Date of the decision with respect to the loan,
4. If the application is disapproved, the reasons therefor,
5. The character and location of the property, surrounding properties, and

general neighborhood in which the property is located, including racial and economic characteristics of the area and such other information as the Corporation may determine is relevant.

b. Maintain a written log of oral inquiries about loans which are made in person, but do not result in a written application, such log to indicate the date upon which each inquiry was made, the nature of the inquiry, the name and address, and the race, color, or minority group identification of the person making inquiry.

c. Publish and post a clear statement of the standards and criteria which the bank uses in reviewing and deciding on loan applications.

d. Prominently indicate, in a manner appropriate to the advertising media and format utilized, that the bank makes real estate loans without regard to race, color, religion, or national origin. No words, phrases, symbols, directions, forms, models, or other means shall be used to express, imply, or suggest a discriminatory preference or policy of exclusion in violation of the provisions of title VIII of the Civil Rights Act of 1968. Written advertisements relating to real estate lending services shall include a facsimile of the logotype which is attached[1] in order to increase public recognition of the nondiscrimination requirements and guarantees of title VIII.

e. Conspicuously display in the public lobby of each of its offices a notice that incorporates a facsimile of the attached logotype[1] and attests to that bank's policy of compliance with the nondiscrimination requirements of title VIII of the Civil Rights Act of 1968. Such notice shall include the address of the Department of Housing and Urban Development as the agency to be notified concerning any complaint alleging a violation of the nondiscrimination provisions of title VIII.

Petitioners aver that rules implementing the above proposed rules must be adopted to insure proper compliance by banks with the provisions of title VIII of the 1968 Civil Rights Act.

In view of the nature of the issues raised and the desire of this Corporation to examine the matter and to resolve those issues, the Corporation is inviting written comment prior to the promulgation of a proposed rule embodying the substance of the remedy sought in the petition.

The closing date for submission of comments will be 60 days from publication of this notice in the FEDERAL REGISTER. Comments should be addressed to the Secretary, Federal Deposit Insurance Corporation 550 17th Street, NW., Washington, DC 20429.

[1] See F.R. Doc. 71-19035, Federal Home Loan Bank Board, Title 12, Chapter V, Part 571, in the Rules and Regulations section of this issue.

Dated at Washington, D.C., this 17th day of December 1971.

By order of the Board of Directors.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
*Secretary.*

[FR Doc.71-18780 Filed 12-28-71; 8:52 am]

## CIVIL RIGHTS ACT NONDISCRIMINATION REQUIREMENTS IN REAL ESTATE LOAN ACTIVITIES

### Statement of Policy

Section 805 of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3605) makes it unlawful for any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms and conditions of such loan or other financial assistance, because of his race, color, religion, or national origin.

Recognizing that increased public awareness of nondiscrimination requirements and the availability of complaint procedures are necessary for effective implementation of the Civil Rights Act's provisions imposed on financial institutions, the Federal Deposit Insurance Corporation has adopted the following as minimum procedures to be utilized by all financial institutions subject to its supervisory authority.

1. *Advertisement notice of nondiscrimination compliance.* After March 1, 1972, any insured bank, not a member of the Federal Reserve System, which directly or through third parties engages in any form of advertising of real estate lending services shall prominently indicate, in a manner appropriate to the advertising media and format utilized, that the bank makes real estate loans without regard to race, color, religion, or national origin. No words, phrases, symbols, directions, forms, models or other means shall be used to express, imply, or suggest a discriminatory preference or policy of exclusion in violation of the provisions of title VIII of the Civil Rights Act of 1968. Written advertisements relating to real estate lending services shall include a facsimile of the logotype which is attached[1] in order to increase public recognition of the nondiscrimination requirements and guarantees of title VIII.

2. *Lobby notice of nondiscrimination compliance.* After March 1, 1972, every insured bank, not a member of the Federal Reserve System, engaged in extending real estate loans shall conspicuously display in the public lobby of each of its offices a notice that incorporates a facsimile of the attached logotype[1] and attests to that bank's policy of compliance with the nondiscrimination requirements of title VIII of the Civil Rights Act of 1968. Such notice shall include the address of the Department of Housing and Urban Development as the agency to be notified concerning any complaint alleging a violation of the nondiscrimination provisions of title VIII.

[1] See F.R. Doc. 71-19035, Federal Home Loan Bank Board, Title 12, chapter V, Part 571, in the Rules and Regulations section of this issue.

Dated at Washington, D.C., this 17th day of December 1971.

By order of the Board of Directors.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
*Secretary.*

[FR Doc.71-18788 Filed 12-28-71;8:52 am]

# FEDERAL RESERVE SYSTEM

## CIVIL RIGHTS ACT NONDISCRIMINATION REQUIREMENTS IN REAL ESTATE LOAN ACTIVITIES

### Statement

The Board of Governors of the Federal Reserve System, on December 17, 1971, issued a statement on Civil Rights Act Nondiscrimination Requirements in Real Estate Loan Activities that is applicable to State member banks. The statement is a further step in a series of actions through which the Federal Reserve System is working with banks to encourage nondiscriminatory lending and to increase public awareness of nondiscrimination requirements of the Civil Rights Act of 1968 and of the availability of complaint procedures. Additional steps which have been undertaken by the Federal Reserve System include: The use of a civil rights questionnaire in all bank examinations; a special course of study on the requirements of the Civil Rights Act of 1968 in Federal Reserve schools for bank examiners; and bank examiner inquiry into bank compliance with Equal Employment Opportunity requirements of the Civil Rights Act of 1964.

The Civil Rights Nondiscrimination Statement is similar to statements adopted concurrently by the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board. The Board's statement and a facsimile[1] of the Equal Housing Lender Poster are set forth below:

STATEMENT

Section 805 of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3605) makes it unlawful for any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in

[1] See footnote at end of document.

whole or in part in the making of real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms and conditions of such loan or other financial assistance, because of his race, color, religion, or national origin.

Recognizing that increased public awareness of nondiscrimination requirements and the availability of complaint procedures is necessary for effective implementation of the Civil Rights Act's provisions imposed on financial institutions, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Board of Governors of the Federal Reserve System have adopted the following as minimum procedures to be utilized by all financial institutions subject to their supervisory authority.

1. *Advertisement notice of nondiscrimination compliance.* After March 1, 1972, any financial institution which directly or through third parties engages in any form of advertising of real estate lending services shall prominently indicate, in a manner appropriate to the advertising media and format utilized, that the financial institution makes real estate loans without regard to race, color, religion, or national origin. No words, phrases, symbols, directions, forms, models, or other means shall be used to express, imply, or suggest a discriminatory preference or policy of exclusion in violation of the provisions of title VIII of the Civil Rights Act of 1968. Written advertisements relating to real estate loans should include a facsimile of the logotype which is attached[1] in order to increase public recognition of the nondiscrimination requirements and guarantees of title VIII.

2. *Lobby notice of nondiscrimination compliance.* After March 1, 1972, every institution engaged in extending real estate loans shall conspicuously display in the public lobby of each of its offices a notice that incorporates a facsimile of the attached logotype[1] and attests to that institution's policy of compliance with the nondiscrimination requirements of title VIII of the Civil Rights Act of 1968. Such notice shall include the address and phone number of the Department of Housing and Urban Development as the agency to be notified concerning any complaint alleging a violation of the nondiscrimination provisions of title VIII.

By order of the Board of Governors, December 17, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-18989 Filed 12-28-71;8:52 am]

[1] See F.R. Doc. 71-19035, Federal Home Loan Bank Board, Title 12, Chapter V, Part 571, in the Rules and Regulations section of this issue.

## BARNETT BANKS OF FLORIDA, INC.

### Order Approving Acquisition of Bank

Barnett Banks of Florida, Inc., Jacksonville, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's prior approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Barnett Bank of Brandon, National Association, Brandon, Fla. (Bank), a proposed new bank.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant controls 29 banks with aggregate deposits of approximately $881 million, representing 6 percent of the total commercial bank deposits in the State and is the third largest banking organization in Florida. (All banking data are as of June 30, 1971, and reflect holding company formations and acquisitions approved by the Board through November 30, 1971.) Since Bank is a proposed new bank, acquisition of it by applicant would not change applicant's rank or percentage share of deposits.

Bank will be located in a growing residential area 10 miles east of Tampa. Although applicant presently has one subsidiary bank in Hillsborough County (in which Tampa is located), this subsidiary has only 1 percent of county deposits and does not draw a significant amount of business from the proposed service area of Bank. (Since applicant has such a small share of deposits in Hillsborough County, and Bank is a proposed new bank, there is no question of applicant obtaining a dominant position in the area.) There is presently only one other bank located in Bank's proposed service area so that approval of the application should have beneficial effects on competition by providing an alternative source of banking services. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

The financial and managerial resources and future prospects of applicant, its subsidiaries, and Bank appear to be satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application since, as mentioned above, the opening of Bank will provide a new competitor in an area where presently there is only one bank.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order; and (c) Barnett Bank of Brandon, National Association, shall be opened for business not later than 6 months after the date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] December 21, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-18946 Filed 12-28-71;8:45 am]

## CHEMICAL NEW YORK CORP.

### Order Approving Acquisition of Bank

Chemical New York Corp., New York, N.Y., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the Tappan Zee National Bank, Nyack, N.Y. (Bank).

The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant, the fourth largest banking organization in New York, has one subsidiary bank controlling total domestic deposits of $7.6 billion, representing 8.6 percent of total deposits held by commercial banks in the State. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions approved through October 31, 1971.) Upon acquisition of Bank ($42 million deposits), applicant's share of deposits in the State would increase by only 0.1 percentage points, and its present ranking would not change. Bank operates in the Rockland County banking market and is the fifth largest of seven banks located in the market, controlling 10.6 percent of market deposits.[2]

Applicant's subsidiary banking office closest to Bank is located 8.2 miles east of Bank, in adjoining Westchester

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, and Brimmer.

[2] Banking data relating to size in the market are as of June 30, 1970.

County and that subsidiary is presently prohibited from branching into Rockland County. Due to the fact that the markets are separated geographically by the Hudson River, no meaningful existing competition would be eliminated by consummation of the proposal.

Some potential competition between applicant and Bank might be foreclosed upon consummation of the proposal, since applicant could enter Bank's market de novo or through acquisition of a smaller bank. However, neither alternative appears to be as desirable to applicant since State law limits de novo bank expansion to two branches per year (beginning 1 year after the date of charter) until 1976, and acquisition of a smaller bank would not offer applicant an immediate opportunity for development of meaningful competition with the larger banks in the market. Applicant is paying a premium for the acquisition of Bank. However, such premium does not appear to be excessive nor does it appear that it is being paid for the purchase of monopoly power within the market. Rockland County is a dynamic economic area that promises to continue growing rapidly and, therefore, will be an attractive location for new banking organizations. Applicant's acquisition of Bank will not raise barriers to entry into the market by other holding companies nor place applicant in a dominant position in the market. The presence of three of the largest banking organizations in the State in Rockland County, and the number of potential entrants into the market minimize the slightly adverse competitive effect of applicant's acquisition of Bank. Based upon the foregoing, the Board finds that consummation of the proposal would have no adverse effects on existing competition and no significant adverse effect on potential competition.

The financial and managerial resources of applicant and Bank are generally satisfactory, and consistent with approval. Although there is no evidence that significant banking needs of the communities involved are going unserved, Bank, as a result of its affiliation with applicant, will provide installment loans at lower rates, will have a larger lending limit and will provide the community with an alternative source of specialized banking services. Accordingly, considerations relating to convenience and needs of the community lend some weight toward approval. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

Upon the consummation of the proposed transaction, applicant shall not retain or acquire any nonbank shares or engage in any nonbanking activities to a greater extent or for a longer period than would apply in the case of a bank holding company which became such on the date of such consummation, except to the extent otherwise permitted in any regulation of the Board hereafter adopted specifically relating to the effect of the acquisition of an additional bank on the status of nonbank shares and activities of a one-bank holding company formed prior to 1971, or unless the Board fails to adopt any such regulation before the expiration of 2 years after the consummation of the proposed acquisition.

By order of the Board of Governors,[3] December 21, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-18947 Filed 12-28-71;8:45 am]

## COLORADO NATIONAL BANKSHARES, INC.

### Acquisition of Bank

Colorado National Bankshares, Inc., Denver, Colo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Boulevard National Bank, Denver, Colo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 24, 1972.

Board of Governors of the Federal Reserve System, December 22, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-18948 Filed 12-28-71;8:45 am]

## HARRIS BANKCORP, INC.

### Order Approving Formation of Bank Holding Company

Harris Bankcorp, Inc., Chicago, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent or more of the voting shares (less directors' qualifying shares) of the successor by merger to Harris Trust and Savings Bank, Chicago, Ill. (Bank).

The bank into which Bank is to be merged has no significance except as a means of acquiring the voting shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant is a newly organized corporation formed for the purpose of becoming a bank holding company. Bank, with deposits of $1.6 billion as of June 30, 1971, is the third largest bank in the city of Chicago and the State of Illinois.

Inasmuch as the proposal constitutes a corporate reorganization and reflects no expansion of corporate interests or significant change in the character of the banking facilities involved, consummation of the proposal would eliminate neither existing nor potential competition, nor does it appear that there would be any adverse effects on any bank in the area.

The financial and managerial resources and prospects of applicant and Bank are regarded as generally satisfactory and consistent with approval of the application. The convenience and needs of the communities involved would not be immediately affected by consummation of this proposal but improved services may be provided in the future under the more flexible corporate structure of the holding company. It is the Board's judgment that the transaction would be in the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] December 21, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-18949 Filed 12-28-71;8:46 am]

## HTS BANK

### Order Approving Merger of Banks

HTS Bank, a proposed member State bank of the Federal Reserve System, has applied pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), for the Board's prior approval to merge with Harris Trust and Savings Bank, Chicago, Ill.,

[3] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel and Brimmer. Voting against this action: Governor Robertson.

Dissenting Statement of Governor Robertson filed as part of original document and available upon request to Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

[1] Voting for the action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, and Brimmer.

under the charter of the former and the name of the latter. Notice of the proposed merger, in form approved by the Board, has been published as required by said Act.

In accordance with the Act, the Board requested reports on competitive factors involved from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered all relevant material contained in the record in the light of the factors set forth in the Act.

On the basis of the record, the application is approved for the reasons summarized in the Board's order of this date relating to the application of Harris Bankcorp, Inc., to become a bank holding company, provided that said merger shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] December 21, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-18950 Filed 12-28-71;8:46 am]

## UB FINANCIAL CORP.

### Proposed Retention of H. S. Pickrell Co.

UB Financial Corp., Phoenix, Ariz., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain voting shares of H. S. Pickrell Co., Phoenix, Ariz. Notice of the application was published in newspapers and circulated in:

Phoenix, Ariz. Arizona Weekly Gazette, October 26, 1971.
Tucson, Ariz. The Daily Reporter, October 22, 1971.
Casa Grande, Ariz., Casa Grande Dispatch, October 25, 1971.
Yuma, Ariz. News-Enterprise, October 27, 1971.

Applicant states that the proposed subsidiary would engage in the activities of the origination and servicing of mortgage loans; the purchase and sale of land, primarily in connection with the origination of mortgages on new residential properties; and acting as joint venturer or partner in real estate developments. With the exception of the purchase and sale of land, and acting as joint venturer or partner in real estate developments, such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(d).

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, and Brimmer.

The activities of the purchase and sale of land, and acting as joint venturer or partner in real estate developments are in issue with respect to this application, to which interested persons may express their views on whether either or both of such activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or sound banking practices." Any request for hearing on this question, or on the issue of whether the purchase and sale of land and acting as joint venturer or partner in real estate developments are closely related to banking should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 24, 1972.

Board of Governors of the Federal Reserve System, December 22, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-18951 Filed 12-28-71;8:46 am]

# DEPARTMENT OF AGRICULTURE

## Office of the Secretary

## OKLAHOMA

### Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) and section 232 of the Disaster Relief Act of 1970 (Public Law 91-606), it has been determined that in the following counties in the State of Oklahoma natural disasters have caused a general need for agricultural credit:

COUNTIES

| | |
|---|---|
| Choctaw. | McCurtain. |
| Latimer. | Pushmataha. |
| Le Flore. | |

Emergency loans will not be made in the above-named counties under this designation pursuant to applications received after June 30, 1972, except subsequent loans to qualified borrowers who received initial loans under this designation.

The urgency of the need for emergency loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 23d day of December 1971.

EARL L. BUTZ, *Secretary.*

[FR Doc.71-19011 Filed 12-28-71;8:52 am]

## VIRGINIA

### Designation of Areas for Emergency Loans

For the purpose of making Emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) and section 232 of the Disaster Relief Act of 1970 (Public Law 91-606), it has been determined that in the following counties in the State of Virginia natural disasters have caused a general need for agricultural credit:

COUNTIES

| | |
|---|---|
| Charles City. | Lancaster. |
| City of Chesapeake. | Mathews. |
| City of Virginia Beach. | Middlesex. |
| Essex. | New Kent. |
| Gloucester. | Northampton. |
| James City. | Northumberland. |
| King and Queen. | Richmond. |
| King William. | Westmoreland. |
| | York. |

Emergency loans will not be made in the above-named counties under this designation pursuant to applications received after June 30, 1972, except subsequent loans to qualified borrowers who received initial loans under this designation.

The urgency of the need for Emergency loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 23d day of December 1971.

EARL L. BUTZ, *Secretary.*

[FR Doc.71-19012, Filed 12-28-71;8:52 am]

# DEPARTMENT OF COMMERCE

## Bureau of International Commerce

[File 23(67)-39 etc.]

## HYMAN B. MANN AND MANIX DISTRIBUTORS

### Order Terminating Indefinite Denial Order

In the matter of Hyman B. Mann and Manix Distributors, Rose Bay, New South Wales, Australia, Respondent, File 23 (67)-39 et al.

On August 20, 1968, effective as of August 27, 1968 (33 F.R. 12148), an order

was entered against the above respondents denying them for an indefinite period, all privileges of participating in transactions involving commodities or technical data exported or to be exported from the United States. This order was issued in accordance with § 388.15 of the Export Control Regulations because respondents failed to answer interrogatories without showing good cause for such failure.

The respondents have now furnished responsive answers to the interrogatories and pursuant to § 388.15 are entitled to have the indefinite denial order terminated.

Accordingly, the above mentioned indefinite denial order of August 20, 1968 is hereby terminated.

Dated: December 21, 1971.

RAUER H. MEYER,
*Director, Office of Export Control.*

[FR Doc.71-18978 Filed 12-28-71;8:49 am]

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[File No. 28(71)-23]

## LINCOLN ROBINSON ET AL.

### Order Temporarily Denying Export Privileges

In the matter of Lincoln Robinson, Lincaloy Inc., Atlantic Equipment & Supply Co., West Hazleton, Pa., Respondents, File No. 28(71)-23.

The Director, Compliance Division, Office of Export Control, Bureau of International Commerce, pursuant to § 388.11 of the Export Control Regulations, has applied to the Compliance Commissioner for an order against the above respondents temporarily denying all United States export privileges. The Compliance Commissioner has reviewed the application and the evidence and has recommended that the application be granted and that a temporary denial order be issued for 90 days.

On the evidence presented there is reasonable basis to believe the following: The respondent, Lincoln Robinson, is engaged in several lines of business and has places of business in West Hazleton, Pa., Aguadilla, Puerto Rico, and Grand Cayman, Grand Cayman Islands, B.W.I.; he controls a number of corporations and he and the corporations conduct business under several different trade styles; the firm Lincaloy Inc., of West Hazleton, Pa., which is controlled by Robinson, participated in the transactions hereinafter described and some aspects of said transactions were carried out by Robinson in the name of Atlantic Equipment & Supply Co. of West Hazleton, Pa. There is also reasonable basis to believe that Robinson, acting in the name of Lincaloy Inc., and Atlantic Equipment & Supply Co., ordered and received from U.S. suppliers certain strategic electronic equipment which required validated licenses for exportation from the United States to all destinations (except Canada); that pursuant to directions from Robinson, said equipment in five different shipments from March through June 1971 was exported to Vienna, Austria, without validated licenses; that in said exportations the commodities were misdescribed so as to indicate that validated licenses were not required; that respondents knew or had reasons to know that validated licenses were required for such exportations; that the total value of the equipment so exported was approximately $115,000. Further, there is reasonable basis to believe that in July and August 1971 respondents exported similar strategic electronic equipment to Grand Cayman, Grand Cayman Islands, B.W.I., without the necessary validated export licenses and that said equipment was reexported to Vienna, Austria. On the evidence presented there is also reasonable basis to believe that respondents have ordered from one of the aforementioned U.S. suppliers strategic equipment valued at approximately $150,000.

The investigation relating to the participation of respondents in the foregoing transactions is continuing. I find that it is reasonably necessary for the protection of the public interest pending final disposition of the investigation to issue an order against respondents denying all U.S. export privileges for a period of 90 days.

On the evidence presented there is reasonable basis to believe that the respondent Robinson controls the following companies or trade styles under which said companies do business:

Holstein Shoe Supply.
Bay Colony Rubber Co., West Hazleton, Pa.

Atlantic Equipment & Supply Co.
Bay Colony Trading Co.
Bahia Trading Co.
Lincaloy Co.
Holstein Shoe Supply.
Lincedt Parts.
Bay Colony Rubber Co.
Bahia Trading Ltd., all of Aguadilla, Puerto Rico.

Lincaloy Inc.
Lincaloy Bahia Trading Co., Grand Cayman, Grand Cayman Islands, B.W.I.

I find that these firms or trade styles are related parties to one or more of the respondents within the meaning of § 388.1(b) of the Export Control Regulations and this order is made applicable to them.

*Accordingly, it is hereby ordered,*

I. All outstanding validated export licenses in which respondents appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondents, their assigns, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing on any export license application or reexportation authorization or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith. It has been determined that the following firms or trade styles are related parties to one or more of the respondents:

Holstein Shoe Supply.
Bay Colony Rubber Co., West Hazleton, Pa.

Atlantic Equipment & Supply Co.
Bay Colony Trading Co.
Bahia Trading Co.
Lincaloy Co.
Holstein Shoe Supply.
Lincedt Parts.
Bay Colony Rubber Co., Bahia Trading Ltd. all of Aguadilla, Puerto Rico.

Lincaloy Inc.
Lincaloy Bahia Trading Co., Grand Cayman, Grand Cayman Islands, B.W.I.

IV. This order shall become effective forthwith and shall remain in effect for a period of 90 days unless it is hereafter extended, modified, or vacated in accordance with the provisions of the U.S. Export Control Regulations.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents, or whereby the respondents may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any respondent, or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served on respondents and related parties.

VII. In accordance with the provisions of § 388.11(c) of the Export Control Regulations, the respondents may move at any time to vacate or modify this temporary denial order by filing with the Compliance Commissioner, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Compliance Commissioner, at Washington, D.C., at the earliest convenient date.

Dated: December 23, 1971.

RAUER H. MEYER,
*Director, Office of Export Control.*

[FR Doc.71-19019 Filed 12-28-71;8:52 am]

## Maritime Administration

[Docket No. S-276]

## NATIONAL TRANSPORT CORP. AND COLONIAL TANKERS CORP.

### Notice of Application

Notice is hereby given that National Transport Corp. and Colonial Tankers Corp., the owners of the S/T *National Defender* (71,054 d.w.t.) and the S/T *Western Hunter* (72,254 d.w.t.), respectively, have filed applications for operating-differential subsidy covering an experimental period of about 2 years. The vessels are proposed to be operated for the worldwide carriage of liquid and dry bulk cargo in the foreign commerce of the United States, primarily commercial cargo but including government-impelled cargo at competitive foreign-flag rates, and the carriage of cargoes between foreign ports. These vessels will not operate in the domestic trades unless authorized by the Maritime Subsidy Board pursuant to statute.

Any party having an interest in such applications and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the worldwide carriage of liquid and dry bulk cargoes moving in the foreign commerce of the United States or in any particular trade in the foreign commerce of the United States is inadequate, must, on or before January 10, 1972, notify the Secretary in writing of his interest and of his position and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Merchant Marine Act, 1936, as amended, and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event that a section 605(c) hearing is ordered to be held, the purpose of such hearing will be to receive evidence relevant to whether the service already provided by vessels of U.S. registry for the worldwide movement of liquid and dry bulk cargoes in the foreign ocean-borne commerce of the United States is inadequate and whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated: December 27, 1971.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.71-19107 Filed 12-28-71;8:52 am]

## National Oceanic and Atmospheric Administration

[Docket No. B-530]

## RONALD FRANTZ

### Notice of Loan Application

DECEMBER 21, 1971.

Ronald Frantz, 219 South Ninth Avenue, Brigantine, NJ 08203, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 70-foot in length, to engage in the fishery for lobsters, scallops, scup, fluke, whiting, butterfish, herring, weakfish, and mackerel.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
*Director.*

[FR Doc.71-18929 Filed 12-28-71;8:48 am]

[Docket No. G-522]

## WILLIAM CHARLES HAYWOOD

### Notice of Loan Application

DECEMBER 21, 1971.

William Charles Haywood, Route No. 2, Box 578A, Abbeville, LA 70510, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new wood vessel, about 28-foot in length, to engage in the fishery for blue crab, shrimp, flounders, sea trout, and drums.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
*Director.*

[FR Doc.71-18923 Filed 12-28-71;8:48 am]

# DEPARTMENT OF TRANSPORTATION

## Coast Guard

[CGFR 71-168]

## ALTERATION OF THREE BRIDGES ACROSS CHATTAHOOCHEE RIVER AND PROPOSED BRIDGE ACROSS APALACHICOLA RIVER

### Notice of Public Hearing on Vertical Clearances Over Waterway

Notice is hereby given that a public hearing will be held on January 26, 1972, regarding the vertical clearances of the Central of Georgia Railroad bridge across the Chattahoochee River near Columbia, Ala.; Seaboard Coast Line Railroad bridge and Highway 84 bridge across the Chattahoochee, near Alega, Ala.; and the Interstate Highway 10 bridge across the Apalachicola River near Shady Grove, Fla. This hearing is being held under the authority of 54 Stat. 497, as amended, section 502 et seq., 60 Stat. 947, as amended, section 4(f), 80 Stat. 934, as amended, sections 6(g)(3) and 6(g)(6)(C); 80 Stat. 941; 33 U.S.C. 511 et seq., 525 et seq.; 49 U.S.C. 1653(f), 1655(g)(3) and (6)(C); 33 CFR 115.60(c) and 116.20; 49 CFR 1.45(c)(6) and (10).

The hearing will be held in the hearing room of the Florida State Department of Transportation, Burns Building, 605 Suwannee Street, Tallahassee, FL, beginning at 9:30 a.m. on January 26, 1972.

The purpose of the hearing is to determine if a vertical clearance over the waterway greater than 35.6 feet can be justified on the Chattahoochee River bridges and the I-10 bridge.

The Coast Guard has scheduled the alteration work on the three Chattahoochee River bridges to commence prior to June 30, 1972, under the terms of the Truman-Hobbs Act. The Coast Guard has also received, for approval, a permit to build a bridge across the Apalachicola River at the proposed I-10 crossing.

All interested parties are invited to be present or be represented at the hearing. They will be given opportunity to express their views concerning the vertical clearances over the waterway. Written statements are encouraged in place of or in addition to oral statements and will be made a part of the record of hearing. Such statements may be delivered at the hearing on January 26, 1972, or mailed to prior to that date to the Commander (oan), Eighth Coast Guard District, Customhouse, New Orleans, La. 70130.

Dated: December 22, 1971.

J. M. AUSTIN,
*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.*

[FR Doc.71-18975 Filed 12-28-71;8:48 am]

[CGFR 71-167]

## UNION PACIFIC RAILROAD CO. BRIDGE, COLUMBIA RIVER

### Notice of Public Hearings Concerning Proposed Bridge Alteration

Notice is hereby given that two public hearings regarding the Union Pacific Railroad Co. bridge across the Columbia River at mile 323.5 will be held on February 2 and 3, 1971. The hearing on February 2, 1971 will be held at 6:30 p.m. in the auditorium of the Federal Building, Richland, Wash. The hearing on February 3, 1971 will be held at 1:30 p.m. in the auditorium of the Department of Interior, Bonneville Power Administration Building, 1002 Northeast Holladay Street, Portland, OR. These hearings are being held under the authority of Section 3 of the Act of June 21, 1950 (Truman-Hobbs Act) 54 Stat. 498, 33 U.S.C. 513; section 4(f), 80 Stat. 934, as amended, 49 U.S.C. 1653(f); section 6(g)(3), 80 Stat. 937, 49 U.S.C. 1655(g)(3); 33 CFR 116.20 and 49 CFR 1.46(c)(6).

The existing bridge which has a swing span provides minimum horizontal clearances of 113 feet through both the north and south openings and a vertical clearance of 10 feet above low water in the closed position. A number of complaints have been received alleging that the bridge is unreasonably obstructive to navigation. The purpose of the hearing is to determine whether alterations are needed and, if so, what alterations are required having due regard for the necessity of free and unobstructed navigation upon the river. The needs of rail traffic will also be considered.

Public comment, views, and data are required as to whether the bridge unreasonably obstructs navigation, whether vessels have unreasonable difficulty in passing through the openings of the swing span, the changes necessary to render navigation through or under the bridge reasonably free, easy and unobstructed, the character and amount of commerce affected, and whether the commerce affected is sufficient to justify alteration of the bridge and the impact of the alteration, if made, upon the quality of the human environment.

Any person who wishes to appear and be heard at either of the two sessions may do so and is requested to notify the Commander, Thirteenth Coast Guard District, 618 Second Avenue, Seattle, WA 98104, any time prior to the hearing indicating which session he will appear and the amount of time required. Depending upon the number of scheduled statements it may be necessary to limit the amount of time allocated to each person. Limitations of time allocated, if required, will be announced at the beginning of each session. For accuracy of the record written statements and exhibits are encouraged in place of or in addition to oral statements. Written statements and exhibits may be delivered at the hearing or mailed in advance to the Commander, Thirteenth Coast Guard District.

Dated: December 23, 1971.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.71-18986 Filed 12-28-71;8:50 am]

[CGFR 71-168]

## PROPOSED INTERSTATE ROUTE I-90 HIGHWAY BRIDGE AT LAKE WASHINGTON

### Notice of Public Hearing

Notice is hereby given that a public hearing will be held by the Commander, Thirteenth Coast Guard District at 9 a.m., January 27, 1972 in Room 200, Building 1, 1519 Alaskan Way South, Seattle, WA.

This hearing is to consider the application of the Washington State Highway Commission dated September 23, 1971 for a 4-year extension of time until November 17, 1975 for completion of construction of the Interstate Route I-90 bridge project across Lake Washington between Bellevue, Mercer Island, and Seattle, Wash. The work was authorized by a permit signed on November 17, 1965 by the Secretary of the Army and subsequently amended August 31, 1967. The time for commencing and completion of work was extended to November 17, 1969 and November 17, 1971. Work on the project commenced November 4, 1969. Due to the complexities of the project, it has not been possible to complete the project by November 17, 1971. In addition to the request for extension of time to complete construction, an application dated November 16, 1971 was made for approval of a minor deviation from plans for the highway ramps at the Seattle end of the project. The deviation consists of reducing the number of separated ramps from three to two and reducing the overall width at the shoreline from 119 feet to 107 feet.

Interested persons were given opportunity until December 20, 1971 to submit written comment on the application to the Commander, Thirteenth Coast Guard District by Public Notice No. 71-N-29 dated November 16, 1971. In response to this notice a number of persons submitted objections to the project on the basis of its affect on navigation and the environment. These objections included requests for a public hearing so that these views may be publicly aired. Therefore, this hearing is being held to hear these views and to gather any additional information that may be available from the general public.

The decision as to whether approval of the extension of time and the minor deviation will be granted will rest primarily upon the effect of the bridge project on navigation. Consideration of the effect of the bridge on the quality of the human environment is not a subject for comment under this notice. The Environmental Impact Statement for the highway project, which includes this bridge project as required by section 102(2)(C) of the National Environmental Policy Act of 1969 was prepared and is being processed by the Federal Highway Administration in accordance with the Guidelines promulgated by the Council on Environmental Quality and Department of Transportation Order No. 5610.1A. The Federal Highway Administration is the lead agency within the Department of Transportation for the highway project and is responsible for the required procedures and consideration of the effect of the project on the environment. Duplication of these procedures within the Department of Transportation by the Coast Guard is not required.

The hearing will be informal and will be conducted by a representative of the Commander, Thirteenth Coast Guard District, who will make an opening statement and announce the procedures for conduct of the hearing. A transcript of the hearing will be made and anyone may purchase a copy of the transcript from the reporting service.

Any person wishing to make an oral statement is requested to notify the Commander, Thirteenth Coast Guard District, 618 Second Avenue, Seattle, WA 98104 prior to the hearing and indicate the amount of time necessary to make his presentation. Depending upon the number of persons wishing to make oral statements the time allowed for each presentation may be limited. Limitation of time if necessary will be announced at the opening of the hearing. Written comment, data and views are encouraged in lieu of or in addition to oral statements and will be made part of the record. Interested persons who are unable to attend the hearing may also participate in this consideration by submitting written comments, data, and views on or before the hearing date.

All communications received will be made part of the record and will be fully

considered by the Commander, Thirteenth Coast Guard District, who will forward the record and his recommendation to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard, Washington, D.C., who will make a final determination on the requested extension of time to complete the project.

(Sec. 502, 60 Stat. 847, as amended; sec. 4(f) and 6(g)(6)(C), 80 Stat. 934 and 941, as amended; 33 U.S.C. 525; 49 U.S.C. 1653(f) and 1655(g)(6)(C); 33 CFR 115.60 and 49 CFR 1.46(c)(10))

Dated: December 23, 1971.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.71-18987 Filed 12-28-71;8:50 am]

[CGFR 71-169]

## IDAHO STATE HIGHWAY DEPARTMENT MEMORIAL HIGHWAY BRIDGE, CLEARWATER RIVER, LEWISTON, IDAHO

### Notice of Public Hearing on Alteration of Bridge

Notice is hereby given that a public hearing regarding the Idaho State Highway Department Memorial highway bridge across the Clearwater River at mile 2, Lewiston, Idaho will be held on February 1, 1972 at 6:30 p.m. in the Lewis and Clark Hotel, Lewiston, Idaho.

The purpose of this hearing is to obtain information concerning the reasonable needs of navigation which will pass through or under this bridge after flooding of the Lower Granite dam pool scheduled for 1975. The water surface at Lewiston is projected to be controlled at elevation 738 feet.

The bridge provides a horizontal clearance of 100 feet in the several spans. The vertical clearance is dependent upon which opening is being navigated due to the Lewiston end of the bridge being higher than the north bank end. The vertical clearances through the third and ninth spans counted from the Lewiston end of the bridge, having the deepest usable channels at the time of construction now provide 35.6 feet and 26.5 feet respectively at low water elevation 724.2 feet. These spans will provide 21.8 feet and 12.7 feet respectively at the projected controlled level at elevation 738 feet.

The public is requested to submit comments, views, and data on whether or not it will be necessary to alter the bridge in order to provide for the reasonable needs of navigation, which can prospectively be expected to pass through or under the bridge. Information is also desired concerning the size and type of vessels which will be operated on the waterway, the character and amount of commerce expected, the clearances necessary to allow unobstructed navigation through and under the bridge, and the impact such alteration may have on the quality of the human environment.

Any person who wishes to appear at the hearing and be heard may do so. Persons planning to attend the hearing should notify the Commander, Thirteenth Coast Guard District, 618 Second Avenue, Seattle, WA 98104, prior to the hearing and indicate the amount of time necessary to make their presentation. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Limitation of time if required will be announced at the beginning of the hearing. For accuracy of the record written statements and exhibits are encouraged in place of or in addition to oral statements. Written statements and exhibits may be delivered at the hearing or mailed to advance to the Commander, Thirteenth Coast Guard District.

Dated: December 23, 1971.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.71-18988 Filed 12-28-71;8:50 am]

# ATOMIC ENERGY COMMISSION

[Docket No. 50-367]

## NORTHERN INDIANA PUBLIC SERVICE CO.

### Notice of Hearing on Application for Construction Permit

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, Licensing of Production and Utilization Facilities, and Part 2, Rules of Practice, notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Northern Indiana Public Service Co. (the applicant), for a construction permit for a boiling water nuclear reactor designated as the Bailly Generating Station—Nuclear 1 (the facility) which is designed for initial operation at approximately 1,931 thermal megawatts with a net electrical output of approximately 657 megawatts. The proposed facility is to be located at the applicant's site on the south end of Lake Michigan, in Westchester Township, Porter County, Ind., approximately 12 miles east-northeast of Gary, Ind. The hearing will be held in the vicinity of the site of the proposed facility.

The Board will be designated by the Atomic Energy Commission (Commission). Notice as to its membership will be published in the FEDERAL REGISTER.

The date and place of a prehearing conference will be set by the Board. The date and place of the hearing will be set at or after the prehearing conference. In setting these dates due regard will be had for the convenience and necessity of the parties or their representatives, as well as of the Board members. Notices of the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

Upon completion by the Commission's regulatory staff of a favorable safety evaluation of the application and an environmental review, the Director of Regulation will consider making affirmative findings on Items 1-3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of a construction permit to the applicant:

ISSUES PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) The applicant has described the proposed design of the facility including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted a research and development program associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facility, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicant is technically qualified to design and construct the proposed facility;

3. Whether the applicant is financially qualified to design and construct the proposed facility; and

4. Whether the issuance of a permit for construction of the facility will be inimical to the common defense and security or to the health and safety of the public.

ISSUE PURSUANT TO NATIONAL ENVIRONMENT POLICY ACT OF 1969 (NEPA)

5. Whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permit should be issued as proposed.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n) of the Commission's rules of practice, the Board will (1) without conducting a de novo review of the application, consider the issues of whether the application and the record of the proceeding contain sufficient information, and the review of the Commission's regulatory staff has been adequate, to support the findings proposed to be

made by the Director of Regulation on Items 1–4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the construction permit proposed to be issued by the Director of Regulation; and (2) determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.

In the event that this proceeding becomes a contested proceeding, the Board will decide any matters in controversy among the parties and consider and initially decide, as issues in this proceeding, Items 1–5 above as a basis for determining whether the construction permit should be issued to the applicant.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (1) determine whether the requirements of section 102 (2) (C) and (D) of NEPA and Appendix D of 10 CFR Part 50 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (3) determine whether the construction permit should be granted, denied, or appropriately conditioned to protect environmental values.

As they become available, the application, the proposed construction permit, the applicant's summary of the application, the report of the Commission's Advisory Committee on Reactor Safeguards (ACRS), the Safety Evaluation by the Commission's regulatory staff, the applicant's Environmental Report, the Detailed Statement on Environmental Considerations, and the transcripts of the prehearing conference and of the hearing, will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at the West Chester Township Public Library, 125 South Second Street, Chesterton, IN 46304, for inspection by members of the public during regular business hours. Copies of the proposed construction permits, the ACRS report, the regulatory staff's Safety Evaluation and the Detailed Statement on Environmental Considerations may be obtained, when available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

Any person whose interest may be affected by the proceeding, who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR 2.714 of the Commission's rules of practice, must be received in the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating only to matters outside the Commission's jurisdiction will be denied. A petition for leave to intervene which is not timely will be denied unless, in accordance with 10 CFR 2.714, the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the applicant not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and 20 conformed copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's rules of practice, and has made the delegation pursuant to paragraph (a) (1) of that section. The Appeal Board is composed of Algie A. Wells, Esq., and Dr. John Buck, with a third member to be designated by the Commission.

A "Notice of Receipt of Application for Construction Permit and Operating License; Time for Submission of Views on Antitrust Matters" was published in the FEDERAL REGISTER on March 5, 12, 19, and 26, 1971. The notice afforded an opportunity for any person wishing to have his views on the antitrust aspects of the application presented to the Attorney General for consideration to submit such views to the Commission within 60 days after March 5, 1971.

Dated at Germantown, Md., this 21st day of December 1971.

UNITED STATES ATOMIC ENERGY COMMISSION,
F. T. HOBBS,
*Acting Secretary of the Commission.*

[FR Doc.71-18979 Filed 12-28-71;8:49 am]

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[Docket No. 50-285]

## OMAHA PUBLIC POWER DISTRICT

### Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a report entitled "Revised Environmental Report," for the Fort Calhoun Station, Unit No. 1, submitted by the Omaha Public Power District, has been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Blair Public Library, 1665 Lincoln Street, Blair, NE 68008. The report is also being made available to the public at the State Office of Planning and Programming, State Capitol, Box 94601, Lincoln, NE 68509.

This report discusses environmental considerations related to the proposed construction of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebr.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft detailed statement. The summary notice will request comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to

the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 21st day of December 1971.

For the Atomic Energy Commission.

R. C. DEYOUNG,
*Assistant Director, for Pressurized Water Reactors, Division of Reactor Licensing.*

[FR Doc.71-18941 Filed 12-28-71;8:45 am]

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[Docket No. PRM-30-51]

## PACKARD INSTRUMENT CO., INC.

### Filing of Petition

Notice is hereby given that the Packard Instrument Co., Inc., 2200 Warrenville Road, Downers Grove, IL, by letter dated November 17, 1971, has filed with the Atomic Energy Commission a petition for rule making to increase the license exempt quantity of iodine-129 set out in § 30.71, Schedule B of Part 30, from one-tenth of a microcurie to 1 microcurie.

The petitioner states that a source of 1 microcurie of iodine-129 would be of great use to people who are currently working with iodine-125 and require a longer half-life source for calibration purposes. Iodine-125 has a half-life of 60 days whereas iodine-129 has a half life of 16 million years.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

Dated at Germantown, Md., this 21st day of December 1971.

For the Atomic Energy Commission.

F. T. HOBBS,
*Acting Secretary of the Commission.*

[FR Doc.71-18942 Filed 12-28-71;8:45 am]

# CIVIL AERONAUTICS BOARD

[Docket No. 23852]

## NORTHWEST-NATIONAL MERGER AGREEMENT

### Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on January 25, 1972, at 10 a.m., local time, in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues and other details involved in this proceeding, interested persons are referred to the prehearing conference report, served November 16, 1971, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 22, 1971.

[SEAL] ROBERT L. PARK,
*Associate Chief Examiner.*

[FR Doc.71-18996 Filed 12-28-71;8:50 am]

# FEDERAL COMMUNICATIONS COMMISSION

## COMMON CARRIER SERVICES INFORMATION [1]

[Report No. 575]

### Domestic Public Radio Services Applications Accepted for Filing [2]

DECEMBER 20, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
*Secretary.*

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cut-off rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

3437-C2-P-72—Harry J. Kaindl, Jr. (New), for a new two-way station to be located at 0.8 mile west of Burnet, Tex., to operate on 152.12 MHz.

3438-C2-P-72—Gerard T. Uht (KEK289), relocate facilities at location No. 2 from North Tonawanda, N.Y., to 7001 Buffalo Avenue, Niagara Falls, NY, operating on 152.06 MHz.

3439-C2-P-72—Phenix Communications Co., Inc. (KLJ351), for additional facilities to operate on 152.18 MHz base, located at approximately 3.5 miles west of Phenix City, Ala.

3440-C2-P-72—Indiana Bell Telephone Co. (KSJ626), for an additional channel to operate on 152.72 MHz base, located at 4 miles southeast from center of South Bend, Ind.

3441-C2-P-72—General Telephone Co. of the Southwest (KLB791), for an additional channel to operate on 152.75 MHz base, located 3.3 miles west of Texarkana, Tex., and change the antenna system.

3442-C2-P-72—General Telephone Co. of Indiana, Inc. (KSA269), relocate facilities operating on 152.81 MHz to 31 North Ninth Street, Richmond, IN, and change the antenna system, and replace transmitter for same.

3443-C2-P-72—Mahaffey Message Relay (KRS656), for additional facilities to operate on 158.70 MHz base, at a new location described as location No. 2: 165 Madison Avenue, Memphis, TN.

3444-C2-P-72—AAA Anserphone, Inc.—Jackson (KRH666), for an additional channel to operate on 152.09 MHz base, located 4 miles south-southeast of Natchez, Miss.

3467-C2-TC-72—Midway Telephone Co. (KSJ753), location: Medford, Wis., consent to transfer of control from Midway Telephone Co., and LeRoy T. Carlson, Transferors, to Telephone & Data Systems, Inc., Transferee.

3468-C2-P-72—Anserphone (KIG341), for additional channel to operate on 152.06 MHz base, at a new location described as location No. 3: 1609 Old Louisburg Road, Raleigh, NC.

3469-C2-P-72—Electrocom Corp. (KCB891), for an additional channel to operate on 35.53 MHz at a new site described as location No. 3: City Water Tower, Marlboro, Mass.

3470-C2-P-(3)-72—Mobilfone of Kansas (KLF655), for additional facilities to operate on 454.05 MHz, 454.100 MHz, and 454.175 MHz located at Merchants National Bank Building, Topeka, Kans.

3473-C2-P-(4)-72—RCA Alaska Communications, Inc. (New), for a new two-way station to be located 1.3 mile north-northwest of King Salmon WACS, Alaska, to operate on 152.51 MHz, 152.60 MHz, 152.75 MHz, and 152.78 MHz.

3474-C2-P-(4)-72—RCA Alaska Communications, Inc. (New), for a new two-way station to be located 70 miles northeast of King Salmon, Big Mountain WACS, Alaska, to operate on 152.51 MHz, 152.60 MHz, 152.75 MHz, and 152.78 MHz.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

3475-C2-MP-(2)-72—Northwestern Bell Telephone Co. (KSV950), modification of C.P. to replace transmitters operating on base frequencies 152.63 and 152.73 MHz located at 1.5 miles north of Mandan, N. Dak.

3476-C2-P-(2)-72—Sherman M. Wolf, doing business as Zipcall (KCB890), add base facilities at location No. 5: City Water Tower Marlboro, Mass., to operate on 43.58 MHz and additional base channel to operate on 43.58 MHz at location No. 6: 0.7 mile west of Priscilla Beach, Manomet, Mass.

3495-C2-AL-72—Mobile Communications (KSV943), consent to assignment of license from James W. McIver and Harry Kaindl, doing business as Mobile Communications, Assignor, to: Mobile Communications, Inc., Assignee. Location: Palestine, Tex.

3496-C2-MP-72—Pomona Radio Dispatch Corp. (KSV928), modification of C.P. to install an additional channel to operate on 158.70 MHz at a new site to be described at location No. 2: Sunset Ridge approximately 3 miles north of Pomona, Calif.

3501-C2-P-(3)-72—Mobilfone Communications, Inc. (KKX714), for additional facilities to operate on 454.10, 454.15, and 454.20 MHz base, at location No. 1: top of hill, 1 mile west of city limits of Austin, Tex.

3510-C2-P-72—Orville E. Lone, doing business as Mitchell Radio Paging (New), for a new one-way station to be located Route No. 37, 0.8 mile south of Old U.S. Highway No. 16, Mitchell, S. Dak., to operate on 158.70 MHz.

*Major Amendment*

3784-C2-P-70—Silver Beehive Telephone Co. (New), amended to change location of base station to Grouse Creek, Utah, operating on frequency 35.38 MHz and establish an additional location on frequency 35.26 MHz located at Park Valley, Utah. All other particulars are to remain as listed on Public Notice dated Jan. 19, 1970.

RURAL RADIO SERVICE

3477-C1-P-72—RCA Alaska Communications, Inc. (New), new rural subscriber station to be located approximately 118 miles north-northeast from King Salmon, Pedro Bay, Alaska, to operate on 157.77 MHz, 157.86 MHz, 158.01 MHz, and 158.04 MHz.

3478-C1-P-72—RCA Alaska Communications, Inc. (New), new rural subscriber station to be located Iliamna Lake Lodge, Alaska, to operate on 157.77 MHz, 157.86 MHz, 158.01 MHz, and 158.04 MHz.

3479-C1-P-72—RCA Alaska Communications, Inc. (New), new rural subscriber station to be located approximately 94.4 miles north-northeast from King Salmon, Newhalen, Alaska, to operate on 157.77 MHz, 157.86 MHz, 158.01 MHz, and 158.04 MHz.

3480-C1-P-72—RCA Alaska Communications, Inc. (New), new rural subscriber station to be located southern part of township, Nondalton, Alaska, to operate on 157.77 MHz, 157.86 MHz, 158.01 MHz, and 158.04 MHz.

3481-C1-P-72—RCA Alaska Communications, Inc. (New), new rural subscriber station to be located approximately 83 miles north-northeast from King Salmon, Kakhonak, Alaska, to operate on 157.77 MHz, 157.86 MHz, 158.01 MHz, and 158.04 MHz.

3482-C1-P-72—RCA Alaska Communications, Inc. (New), new rural subscriber station to be located approximately 52 miles north from King Salmon, Igiugig, Alaska, to operate on 157.77 MHz, 157.86 MHz, 158.01 MHz, and 158.04 MHz.

3483-C1-P-72—RCA Alaska Communications, Inc. (New), new rural subscriber station to be located at approximately center of South Nakney, Alaska, to operate on 157.77 MHz, 157.86 MHz, 158.01 MHz, and 158.04 MHz.

3484-C1-P-72—RCA Alaska Communications, Inc. (New), new rural subscriber station to be located approximately 30.2 miles north-northwest from King Salmon, Leelock, Alaska, to operate on 157.77 MHz, 157.86 MHz, 158.01 MHz, and 158.04 MHz.

3485-C1-P-72—RCA Alaska Communications, Inc. (New), new rural subscriber station to be located Egegik, Alaska, to operate on 157.77 MHz, 157.86 MHz, 158.01 MHz, and 158.04 MHz.

3497-C1-P-72—The Mountain States Telephone & Telegraph Co. (KPX93), replace transmitter operating on 157.86 MHz, located at 16.3 miles northeast of Crowheart, Wyo.

*Major Amendment*

2027-C1-P-71—Silver Beehive Telephone Co. (New), amended to change location to (latitude 41°13'15" N., longitude 112°52'22" W.) and class of station change to Interoffice. All other particulars are to remain as listed on Public Notice of Oct. 18, 1971.

*Major Amendment*—Continued

2026-C1-P-71—Silver Beehive Telephone Co. (New), amended to change class of station to Interoffice. All other particulars are to remain as listed on Public Notice of Oct. 18, 1971.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

3445-C1-P-72—Southern Bell Telephone & Telegraph Co. (KIU54), location: 205 West Railroad Avenue, Chipley, FL, latitude 30°46'47" N., longitude 85°32'28" W. To add frequency 4130 MHz toward Double Branch Pond, Fla.

3446-C1-P-72—Southern Bell Telephone & Telegraph Co. (KIU64), location: Approximately 5 miles southwest of Wausau, Fla. (Double Branch Pond), latitude 30°34'56" N., longitude 85°38'41" W. To add frequency 3850 MHz toward Chipley, Fla., and to replace frequency 4070 and 4150 MHz with 4090 and 4170 MHz and add 3850 MHz toward Merial Lake, Fla.

3447-C1-P-72—Southern Bell Telephone & Telegraph Co. (KIV58), location: Approximately 6.5 miles northwest of Southport, Fla. (Merial Lake), latitude 30°22'42" N., longitude 85°40'34" W. To add frequency 4130 MHz and change 3710 and 3790 MHz to 3730 and 3810 MHz toward Double Branch Pond, Fla., and add 3810 MHz and replace 3710 and 3790 MHz with 4050 and 4130 MHz and change polarization from horizontal to vertical on frequency 3970 MHz toward Panama City, Fla.

3448-C1-P-72—Southern Bell Telephone & Telegraph Co. (KIV59), location: 111 East Fifth Street, Panama City, FL, latitude 30°09'26" N., longitude 85°39'34" W. To add frequency 4170 MHz and replace 3750 and 3830 MHz with 3770 and 3850 MHz toward Merial Lake, Fla.

3449-C1-P-72—American Telephone & Telegraph Co. (KEM68), location: 1.7 miles south of Clarksville, N.Y., latitude 42°32'26" N., longitude 73°58'25" W. Add frequencies 6286.2, 6345.5 and 6404.8 MHz toward Stephentown, N.Y.

3450-C1-P-72—American Telephone & Telegraph Co. (New), location: 1.9 miles northeast of West Stephentown, N.Y., latitude 42°36'20" N., longitude 73°27'38" W. Frequencies: 6034.2, 6093.5, and 6152.8 MHz toward Clarksville, N.Y., and toward Peru, Mass. A new station.

3451-C1-P-72—American Telephone & Telegraph Co. (KCD30), location: 0.4 mile west of Peru, Mass., latitude 42°26'12" N., longitude 73°03'13" W. Add frequencies 6286.2, 6345.5, and 6404.8 MHz toward Stephentown, N.Y., and Wendell, Mass.

3452-C1-P-72—American Telephone & Telegraph Co. (KCD31), location: 1.9 miles south of Wendell, Mass., latitude 42°31'14" N., longitude 72°24'18" W. Add frequencies 6034.2, 6093.5, and 6152.8 MHz toward Peru and Ashburnham, Mass.

3453-C1-P-72—American Telephone & Telegraph Co. (KCD65), location: 3.5 miles northeast of Ashburnham, Mass., latitude 42°40'27" N., longitude 71°52'06" W. Add frequencies 6286.2, 6345.5, and 6404.8 MHz toward Wendell, Mass.

3454-C1-P-72—Madison Valley Telephone Co. (New), a new station located a 30.5 miles southwest of Bozeman, Mont. (Big Sky), latitude 45°16'05" N., longitude 111°17'24" W. Frequencies: 10,915 and 11,155 MHz toward Mount Bell Twin Peak, Mont., via passive reflector.

3458-C1-P-72—American Telephone & Telegraph Co. (KKH66), location: Adams, 3.5 miles northeast of Frisco, Tex., latitude 33°10'31" N., longitude 96°46'18" W. To add frequency 4110 MHz toward Roanoke, Tex.

3459-C1-P-72—American Telephone & Telegraph Co. (KYZ91), location: 4.9 miles northwest of Roanoke, Tex., latitude 33°01'41" N., longitude 97°18'05" W. To add frequency 4150 MHz toward Adams, Tex.

3460-C1-ML-72—American Telephone & Telegraph Co. (KLS32), location: Laredo Junction, 13.8 miles east-northeast of Laredo, Tex., latitude 27°35'02" N., longitude 99°18'02" W. To change frequency 4150 to 3770 MHz toward Encinal, Tex.

3461-C1-ML-72—American Telephone & Telegraph Co. (KLS31), location: 11 miles west-southwest of Encinal, Tex., latitude 27°59'52" N., longitude 99°31'47" W. To change frequency 4110 to 3730 MHz toward Cotulla No. 2, Tex., and 3710 to 4050 MHz toward Laredo Junction, Tex.

3462-C1-ML-72—American Telephone & Telegraph Co. (KLS30), location: 3 miles southwest of Cotulla, Tex., latitude 28°23'52" N., longitude 99°15'37" W. To change frequency 4150 to 3770 MHz toward Hindes, Tex., and 3750 to 4030 MHz toward Encinal, Tex.

3463-C1-ML-72—American Telephone & Telegraph Co. (KLS29), location: 4.5 miles south of Hindes, Tex., latitude 28°33'56" N., longitude 98°46'31" W. To change frequency 4110 to 3730 MHz toward Pleasanton, Tex., and 3710 to 4050 MHz toward Cotulla No. 2, Tex.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

3464-C1-ML-72—American Telephone & Telegraph Co. (KLS28), location: 5.5 miles southeast of Pleasanton, Tex., latitude 28°53'55" N., longitude 98°25'26" W. To change frequency 4150 to 3770 MHz toward Floresville, Tex., and 3750 to 4090 MHz toward Hindes, Tex.

3465-C1-ML-72—American Telephone & Telegraph Co. (KLS27), location: 5 miles northeast of Floresville, Tex., latitude 29°11'21" N., longitude 98°06'20" W. To change frequency 3710 to 4050 MHz toward Pleasanton, Tex.

3486-C1-P-72—New England Telephone & Telegraph Co. (KOL66), location: Off Haggetts Pond Road, 4.2 miles west of Andover, Mass., latitude 42°39'15" N., longitude 71°13'14" W. To add frequency 10,795 and 11,035 MHz toward Lawrence, Mass.

3487-C1-P-72—New England Telephone & Telegraph Co. (KOL67), location: 232 Common Street, Lawrence, MA, latitude 42°42'29" N., longitude 71°09'37" W. To add frequency 11,245 and 11,485 MHz toward Andover, Mass.

3488-C1-P-72—South Central Bell Telephone Co. (KIT25), location: 411 Nashville Avenue, Sheffield, AL, latitude 34°45'45" N., longitude 87°41'52" W. To add frequency 3890 MHz toward Town Creek, Ala.

3489-C1-P-72—South Central Bell Telephone Co. (KIT24), location: Approximately 3 miles north of Town Creek, Ala., latitude 34°43'49" N., longitude 87°24'25" W. To add frequency 3930 MHz toward Sheffield and Decatur, Ala.

3490-C1-P-72—South Central Bell Telephone Co. (KIW75), location: 425 Grant Street, Decatur, AL, latitude 34°36'05" N., longitude 86°58'53" W. To add frequency 3890 MHz toward Town Creek, Ala.

3492-C1-P-72—The Chesapeake & Potomac Telephone Co. of Virginia (KIR29), location: 703 East Grace Street, Richmond, VA, latitude 37°32'26" N., longitude 77°26'13" W. To replace transmitter with WE TM-1. Frequency: 6390.0 MHz toward Chesterfield County, Va.

3498-C1-P-72—Pacific Northwest Bell Telephone Co. (KOJ92), location: Bluelight Hill, 6 miles northeast of Bickleton, Wash. To add frequency 6172.5 MHz toward Joe Butte, Wash.

3499-C1-P-72—Pacific Northwest Bell Telephone Co. (KOJ93), location: Joe Butte, 7 miles south of Kennewick, Wash., latitude 46°06'12" N., longitude 119°07'52" W. Frequency: 6345.5 MHz toward Bluelight Hill, Wash.

3500-C1-P-72—Pacific Northwest Bell Telephone Co. (New), a new station located north side of Abedie Street, 200 feet east of Woodland Avenue, Walla Walla, Wash., latitude 46°03'46" N., longitude 118°21'30" W.

3502-C1-P-72—American Telephone & Telegraph Co. (KIT28), location: 1.8 miles east of Villa Rica, Ga., latitude 33°43'43" N., longitude 84°53'09" W. To add frequencies 3910, 3990, and 4070 MHz toward Mableton, Ga.

3503-C1-P-72—American Telephone & Telegraph Co. (WGI23), location: 3 miles north of Mableton, Ga., latitude 33°51'54" N., longitude 84°35'37" W. To add frequencies 3870, 3950, and 4030 MHz toward Villa Rica and Atlanta, Ga.

3504-C1-P-72—American Telephone & Telegraph Co. (WGI24), location: 3.3 miles east of Smyrna, Ga., latitude 33°52'47" N., longitude 84°27'25" W. To add frequencies 3910, 3990, and 4070 MHz toward Mableton, Ga., and 3990, 4070, and 4150 MHz toward Tucker, Ga.

3505-C1-P-72—American Telephone & Telegraph Co. (WGI25), location: 2 miles southeast of Tucker, Ga., latitude 33°49'54" N., longitude 84°11'23" W. To add frequencies 3950, 4030, and 4110 MHz toward Atlanta, Ga., and Jersey, Ga.

3506-C1-P-72—American Telephone & Telegraph Co. (KRS98), location: 2.2 miles northeast of Jersey, Ga., latitude 33°43'51" N., longitude 83°46'00" W. To add frequencies 3990, 4070, and 4150 MHz toward Tucker and Monticello, Ga.

3507-C1-P-72—American Telephone & Telegraph Co. (WGI26), location: 5 miles northwest of Monticello, Ga., latitude 33°20'16" N., longitude 83°45'59" W. To add frequencies 3950, 4030, and 4110 MHz toward Jersey, Ga.

*Major Amendment*

5066-C1-P-71—The Mountain States Telephone & Telegraph Co. (KPR35), change frequency 6303.4 to 10,715 MHz at station located at 107 East First North Street, Price, UT.

5067-C1-P-71—The Mountain States Telephone & Telegraph Co. (WGI61), change frequency 6056.7 MHz to 11,645 MHz at station located at 150 North First West Street, Huntington, UT. All other particulars same as reported in Public Notice dated Mar. 29, 1971.

*Major Amendment*—Continued

2099-C1-ML-72—United Video, Inc. (KSJ62), modification of license at Plainfield, Ill., to derive, via subcarrier, four audio program channels for transmission on its microwave system.

2100-C1-ML-72—United Video, Inc. (KSI55), modification of license at Norway, Ill., to deliver, via subcarrier, four audio program channels to Peru, Ill.

2101-C1-ML-72—United Video, Inc. (KXQ54), modification of license at Galesburg, Ill., to deliver, via subcarrier, four audio program channels to Monmouth, Ill.

2103-C1-ML-72—United Video, Inc. (KXQ36), modification of license at Kewanee, Ill., to deliver, via subcarrier, four audio program channels to Galesburg, Ill.

(INFORMATIVE: In these applications, Files Nos. 2099 through 2101 and 2103-C1-ML-72, United proposes to deliver four Chicago FM signals (WFMT, WEFM, WFMF, and WKFM) to customers in Peru, Galesburg, and Monmouth, Ill.)

3421-C1-ML-71—Western Tele-Communications, Inc. (KSQ32), modification of license at Salt Lake City, Utah, to derive, via subcarrier, one audio program channel for transmission on its microwave system.

3420-C1-ML-71—Western Tele-Communications, Inc. (KZA87), modification of license at East Butte, Idaho, to deliver, via subcarrier, one audio program channel to Pocatello, Idaho.

(INFORMATIVE: In the above applications, Files Nos. 3421 and 3420-C1-ML-71, Western proposes to deliver the signal of the Mutual Radio Network to customer in Pocatello, Idaho.)

4358-C1-ML-71—Mountain Microwave Corp. (KOB37), Modification of license at Colorow Hill, Colo., to derive, via subcarrier, two audio program channels for transmission on its microwave system.

4359-C1-ML-71—Mountain Microwave Corp. (KAQ88), modification of license at Mount Coolidge, S. Dak., to deliver, via subcarrier, two audio program channels to Rapid City, S. Dak.

4360-C1-ML-71—Mountain Microwave Corp. (KVD68), modification of license at Julesburg, Colo., to deliver, via subcarrier, two audio program channels to Ogallala, Nebr.

(INFORMATIVE: In these applications, Files Nos. 4358 through 4360-C1-ML-71, Mountain proposes (a) to relocate the pickup point for existing Denver FM signals to Colorow Hill, and (b) to provide two Denver FM signals (KLIR-FM and KOSI-FM) to customers in Rapid City, S. Dak., and Ogallala, Nebr.)

3466-C1-TC-(3)-72—Laredo Microwave, Inc., consent to transfer of control of Laredo Microwave, Inc., from: United Artists Theatre Circuit, Inc., Transferor to: UA Cablevision, Inc., Transferee. Stations: KLH77, Miguel, Tex., KLH78, Cotulla, Tex., and KLH79, Encinal, Tex.

3514-C1-P-72—Racom, Inc. (KYZ85), C.P. at Mount Washington, N.H., to add frequencies 5960.0 MHz (via power split) and 6078.6 MHz toward new point of communication at Berlin, N.H. (latitude 44°30'40" N., longitude 71°11'05" W.) on azimuth 20°00'.

(INFORMATIVE: Racom proposes to deliver the television signals of Stations WSBK-TV and WKBG-TV of Boston, Mass., to Paper City TV Cable Corp. at Berlin, N.H., for service to Berlin and Gorham, N.H.)

3515-C1-P-72—Frank K. Spain, doing business as Microwave Service Co. (KNK45), to add frequency 11,035 MHz on azimuth 253°50' at station located on Edon Hill, 4 miles northwest of Thousand Palms, Calif., at latitude 33°51'58" N., longitude 116°26'03" W. Applicant proposes to provide the local television origination programing produced by the Palm Desert TV Cable Co. to Palm Springs, Calif.

3516-C1-P-72—United Video, Inc. (New), a new station at 8.25 miles east-northeast of Preston, Okla., at latitude 35°44'45" N., longitude 95°50'35" W. Frequencies 11,345H and 11,505H MHz on azimuth 97°27'. Applicant proposes to provide the television signals of Stations KTVT and KDTV of Fort Worth-Dallas, Tex., to Com-West, Inc., in Muskogee, Okla.

[FR Doc.71-18847 Filed 12-28-71;8:45 am]

# FEDERAL MARITIME COMMISSION

[Docket No. 71-97]

## ALVAREZ SHIPPING CO., INC.

### Independent Ocean Freight Forwarder Application; Order of Investigation and Hearing

By letter dated October 27, 1971, Alvarez Shipping Co., Inc., 3854 Third Avenue, Bronx, NY 10457, was notified of the Federal Maritime Commission's intent to deny its application for an independent ocean freight forwarder license.

The reason for the intended denial is that the applicant engaged in at least 142 instances of illegal freight forwarding without a license in apparent violation of section 44(a), Shipping Act, 1916.

Alvarez Shipping Co., Inc., has requested a hearing to show that denial of the application is unwarranted.

*Therefore, it is ordered,* Pursuant to sections 22 and 44 of the Shipping Act, 1916 (46 U.S.C. 821 and 841(b)), that a proceeding is hereby instituted to determine whether, in view of its past activities, Alvarez Shipping Co., Inc., is fit, willing, and able properly to carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, within the meaning of that statute; and whether its application should be granted or denied.

*It is further ordered,* That this proceeding determine whether Alvarez Shipping Co., Inc., has violated section 44(a), Shipping Act, 1916.

*It is further ordered,* That Alvarez Shipping Co., Inc., be made respondent in this proceeding and that the matter be assigned for hearing before an Examiner of this Commission's Office of Hearing Examiners on a date and place to be announced.

*It is further ordered,* That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notices of hearing be served on the respondent.

*It is further ordered,* That any persons other than the respondent, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with a copy to respondent.

*It is further ordered,* That all future notices issued by or on behalf of the Commission in this proceeding including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-18998 Filed 12-28-71;8:49 am]

## EL FARO SHIPPING CO. AND TRANSWAY CORP.

### Notice of Intent To Reject Deficient Tariffs

The domestic offshore files of the Federal Maritime Commission contain tariffs which have, for a period of time, not been in conformity with the Commission's regulations as required by section 2 of the Intercoastal Shipping Act, 1933, and the Commission's Tariff Circular No. 3. The following carriers have such tariffs on file:

El Faro Shipping Co., 100 Scholes Street, Brooklyn, NY 11206.

Transway Corp., 2888 Valena Street, Honolulu, HI.

Although numerous letters have been sent to them specifically identifying the tariff deficiencies, the Commission's staff has been unable to persuade the tariff filers over a period of 1 year or more to correct their tariffs to comply with the Commission's regulations. El Faro's tariff fails to publish its bill of lading provisions, fails to definitely state the rates in cents or in dollars and cents, and many words throughout the tariff are not legible. Transway tariff fails to provide a rule governing the shipments of automobiles as required by § 531.5(i) of Title 46 CFR.

Section 2 of the Intercoastal Shipping Act, 1933, provides:

> The Commission shall by regulations prescribe the form and manner in which the schedules required by this section shall be published, filed, and posted; and the Commission is authorized to reject any schedule filed with it which is not in consonance with this section and with such regulations. Any schedule so rejected by the Commission shall be void and its use shall be unlawful.

Deficient tariffs are ambiguous, reflect inaccurate information to the shipping public and violate the Commission's regulations as published in Tariff Circular No. 3. Further, Rule 13(d) of Tariff Circular No. 3, as amended (46 CFR 531.13 (d)), states that the fact a tariff publication is on file with the Commission does not relieve carriers from responsibility for any violation of law or regulations of the Commission issued thereunder; and, accordingly, the Commission proposes to reject their deficient tariffs in the absence of a showing of good cause as to why they should not be rejected.

*Now, therefore it is ordered,* That the above carriers advise the Director, Bureau of Compliance, at 1405 I Street NW., Washington, DC 20573, in writing within 30 days after the publication of this order in the FEDERAL REGISTER of any reasons why the Commission should not reject these deficient tariffs;

*It is further ordered,* That a copy of this order be sent by registered mail to the last known address of the carriers listed herein;

*It is further ordered,* That this notice be published in the FEDERAL REGISTER and a copy thereof filed in place of any tariff rejected pursuant to this notice.

By the Commission pursuant to authority delegated by section 7.01 of Commission Order No. 1 (Revised) dated September 29, 1971 (34 F.R. 15416).

AARON W. REESE, *Managing Director.*

[FR Doc.71-18999 Filed 12-28-71;8:50 am]

## GALVESTON WHARVES AND LYKES BROS. STEAMSHIP CO., INC.

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, maybe submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. C. S. Devoy, Port Director and General Manager, Galveston Wharves, Post Office Box 328, 802 Rosenberg, Galveston, TX 77550.

Agreement No. T-2522-1, between the Board of Trustees of the Galveston Wharves (Galveston) and Lykes Bros. Steamship Co., Inc., modifies the original agreement which provides for a 3-year lease providing for first call on berth privileges for Lykes' Seabee barges at a barge marshaling yard at Pelican Island, Galveston, Tex. The purpose of the modification is to change the effective date of the agreement to April 15, 1972.

Dated: December 23, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-18983 Filed 12-28-71;8:50 am]

[Independent Ocean Freight Forwarder License No. 454]

## FRANK J. MARKWALTER & CO.

### Order of Revocation

By letter dated November 18, 1971, Frank J. Markwalter & Co., 90 West Street, New York, NY 10006 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 454 would be automatically revoked or suspended unless a valid

surety bond was filed with the Commission on or before December 16, 1971.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Frank J. Markwalter & Co. has failed to furnish a surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(g) (dated September 29, 1970);

*It is ordered,* That the Independent Ocean Freight Forwarder License of Frank J. Markwalter & Co. be returned to the Commission for cancellation.

*It is further ordered,* That the Independent Ocean Freight Forwarder License of Frank J. Markwalter & Co. be and is hereby revoked effective December 16, 1971.

*It is further ordered,* That a copy of this order be published in the FEDERAL REGISTER and served upon Frank J. Markwalter & Co.

AARON W. REESE,
*Managing Director.*

[FR Doc.71-18997 Filed 12-28-71;8:50 am]

# FEDERAL POWER COMMISSION

## NATIONAL GAS SURVEY

### Order Directing Study and Analysis of Natural Gas Reserves and Prescribing Procedures

DECEMBER 21, 1971.

On February 23, 1971, the Commission authorized the establishment of National Gas Survey advisory committees and prescribed procedures under which the National Gas Survey would be carried out. Subsequent Commission orders have established particular committees. Paragraph 7 of these establishing orders stated that the advice and recommendations of the members of these committees may be presented to the Commission, but provided that the ultimate decisions based on the committees' advice or recommendations are reserved to the Federal Power Commission.

In our order of February 23, 1971, we stated the following:

> To accomplish the objectives of the Natural Gas Act, in providing for the ultimate consumer an adequate and reliable supply of natural gas at a reasonable price and the Nation a vital energy resource base, the Commission will direct the conduct of the survey through the members of the Commission and its staff.

A report presenting a preliminary draft for procedures concerning a survey and analysis of natural gas reserves was received by the National Gas Survey Coordinating Committee on October 12, 1971, and by the National Gas Survey Executive Advisory Committee on October 21, 1971. The Task Force on Natural Gas Supply to the Survey's Supply Technical Advisory Committee recommended procedures for such a survey and analysis at its December 14, 1971 meeting. Those procedures, as reviewed and modified by the Commission, are set forth below as appendix A. We believe that an analysis of natural gas reserves is an important step in the accomplishment of the objectives sought by the National Gas Survey.

The Commission finds: A survey and analysis of natural gas reserves to be conducted by the National Gas Survey in the manner hereinafter prescribed is necessary and appropriate to the purposes of the Natural Gas Act and is in the public interest.

The Commission orders:

(A) A survey and analysis of natural gas reserves in the United States shall be conducted, following in general the procedures prescribed in appendix A hereto subject to such other and further orders as the Commission may hereafter adopt.

(B) Any nonpublic commercial information concerning an individual natural gas company's reserves obtained during the course of this survey and analysis shall be treated as confidential without public disclosure by the staff of the Commission and its agents, including any accounting firm selected by the Commission to assist in this survey and analysis, unless otherwise directed by the Commission. The provisions of section 8 (b) of the Natural Gas Act (15 U.S.C. 717g(b)) and 5 U.S.C. 552(b) (4) and (9) (Freedom of Information Act) shall apply.

(C) The procedures specified in appendix A do not preclude the undertaking of such other procedures or reserves studies or the obtaining of such further information or data relating to gas supply as may be determined by the Commission or staff to be necessary or appropriate in carrying out the Commission's National Gas Survey to serve the public interest.

(D) The ultimate form of reporting of natural gas reserves data shall be as determined by the Commission.

(E) In order that this portion of the National Gas Survey may proceed immediately, this initial survey and analysis shall estimate reserves as of December 31, 1970, the latest date for which complete information is presently available.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

APPENDIX A—NATIONAL GAS RESERVES STUDY

The Federal Power Commission (FPC), acting through the National Gas Survey, will direct an independent estimation of proved recoverable reserves of natural gas of the United States. This estimation will deal with naturally occurring gas which analysis of geologic and engineering data demonstrates with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. The study will not include gas in storage.

Natural gas is defined to be a mixture of hydrocarbon compounds and small quantities of various nonhydrocarbons existing in gaseous phase or in solution with oil in natural underground reservoirs at reservoir conditions.

Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test.

Estimated gas reserves will be reported in cubic feet at 14.73 pounds per square inch absolute pressure and 60° F. temperature as of December 31, 1970.

All definitions and terminology will conform to that used by the American Gas Association (A.G.A.) Committee on Natural Gas Reserves as set forth in the report, "Reserves of Crude Oil, Natural Gas Liquids, and Natural Gas in the United States and Canada and U.S. Productive Capacity as of December 31, 1970," and the American Petroleum Institute (API) Technical Reports Nos. 1 and 2.

I. Formation of organization:

To conduct the survey, independent experts will be employed or commissioned by the FPC and organized in four work disciplines.

A. Gas field identification will be provided by a comprehensive list of all gas fields in the United States. The list will assure that all fields with gas reserves are identified for survey. The Oil Information Center (OIC) at the University of Oklahoma Research Institute will be commissioned by the FPC and charged with this responsibility. Mr. Jack L. Morrison is the director of the Oil Information Center.

B. Independent reserve teams will be supervised by Mr. Lawrence R. Mangan, FPC Assistant Section Head of the Gas Supply Section. The teams are to be made up of geologists, engineers and other professional staff members of the Federal Power Commission to review data ordinarily needed to determine gas reserves, with assistance, as available, from the U.S. Geological Survey, U.S. Bureau of Mines, and from colleges and universities.

C. The independent accounting agent will be selected by the Federal Power Commission. This agent will be commissioned by the Federal Power Commission to:

1. Provide security for individual field reserve estimates;

2. Classify gas fields by reserve size and age; perform random selection of fields for reserve estimations as prescribed by the statistical validation team;

3. Consolidate the findings of the reserve teams; and

4. Report U.S. gas reserves estimates to the National Gas Survey.

D. A statistical validation team will be supervised by Dr. Marie D. Wann, Chief Mathematical Statistician, Statistical Policy Division, U.S. Office of Management and Budget. The team will consist of other experts from the Office of Management and Budget and others commissioned by the FPC. This team will have the responsibility of prescribing sampling procedures for valid reserve estimation.

E. Task Force Advisory Sections, which shall perform as work teams and not Industry Advisory Committees, will be selected from the membership of the Supply-Technical Advisory Task Force-Natural Gas Supply. These sections will perform the tasks assigned by the Supply-Technical Advisory Task Force-Natural Gas Supply as indicated in attachment A[1] (items B, F, N, P, and W), and other tasks as assigned.

II. Security considerations:

Individual companies must, for competitive reasons, protect highly confidential information in competitive areas such as offshore Louisiana. The security problem will be accommodated by:

A. Requiring that all company-furnished data be evaluated at the companies' offices with no data or worksheets leaving the premises. All independent reserve team generated worksheets will be preserved in the companies' offices until July 1, 1974.

B. Having the complete list of A.G.A. individual field reserve estimates available only to the independent accounting agent. All these records are to be returned to the member of the A.G.A. Committee on Natural Gas Reserves assigned to the particular area involved as soon as the study is completed.

C. Having the A.G.A. reserve estimates for the randomly selected sample fields for independent reserve estimation available to Mr. Lawrence R. Mangen, supervisor of reserve teams.

III. Detailed procedures are diagrammed on the information flow chart, attachment A.[1] Information boxes on the chart bear the same letter designation as the corresponding descriptive paragraphs which follow.

A. The National Gas Survey requests that the industry representatives who provide A.G.A. reserves also submit those reserves by fields on a confidential basis directly to the selected accounting agent.

B. A Natural Gas Supply Task Force Advisory Section (item B, attachment A)[1] will recommend a data for recording U.S. gas fields and reserves. The format will be readily convertible to computer cards and will record the following information for each gas field:

1. A.G.A. District.
2. State.
3. Railroad Commission District or State Subdivision.
4. Field Name or Names.
5. Discovery Date.
6. Gas Reserves as of December 31, 1970.

C. A Task Force Advisory Section (item B, attachment A)[1] will meet with the industry representatives and will explain the data format. A request will be made that each A.G.A. subcommittee chairman provides the indicated data on all gas fields in his area.

D. A computer card will be punched for each gas field. A computer program will be written for error checking and sorting as is needed.

E. A listing of all gas fields for which reserve data has been submitted will be prepared by the accounting agent and forwarded to the Oil Information Center (OIC) at the University of Oklahoma Research Institute. This list will provide the state, field name, and discovery date—but no reserve information.

F. The field list developed from the A.G.A. records will be compared by the OIC with a list from the U.S. Government Interagency Oil and Gas Field Study. The "government" data is presently stored by computer in a data bank at the OIC.

G. Screening and verification of the field lists will be done by the OIC. This operation will reconcile field names and identify duplications and omissions. Other information sources such as U.S. government publications, state geological survey publications, and oil and gas regulatory agency publications will be used, if necessary. A Task Force Advisory Section (item F, attachment A)[1] of the Supply-Technical Advisory Task Force-Natural Gas Supply, will assist in clarifying field nomenclature.

[1] Attachment A filed as part of the original document.

H. The OIC will compile the complete list of gas fields in the United States. It will include all gas fields with remaining recoverable gas reserve as of December 31, 1970. The fields will be grouped by state and substate areas. The listing will be alphabetical and will convey field name and date of discovery.

I. A copy of the gas field identification list and a supplemental list of "A.G.A. omitted fields" will be forwarded by OIC to the accounting agent. National Gas Survey teams will later estimate reserves for any omitted field.

J. A copy of the gas field identification list will be forwarded to the National Gas Survey together with a statement of accuracy. Both documents will appear in the final reserves publication.

K. The independent accounting agent will stratify all fields in each A.G.A. subcommittee area by size and age so that a statistically valid sampling procedure can be prescribed.

L. The statistical validation team will prescribe the number of fields to be surveyed independently in each A.G.A. subcommittee area by size and age category in order to project a statistically valid reserve estimation with a reasonable degree of accuracy and certainty.

Sampling will be started on a minimum basis to test the magnitude of deviation. If, in the initial field reserve estimations, the standard deviation of the percentage differences from their mean is too large to assure the desired certainty and accuracy, additional sampling will be carried out as required or the specifications will be modified. The National Gas Survey will balance the time required against the desired accuracy so as to obtain the best results in a reasonable time.

M. The accounting agent will select the fields to be surveyed in each category as prescribed by the statistical validation team and will furnish a list of field names to the independent reserve team supervisor with a copy to the Task Force Advisory Section (item N, attachment A).[1] The list of "A.G.A. omitted fields" will also be submitted for independent reserve estimations.

N. The Task Force Advisory Section (item N, attachment A)[1] will assign each sample field to a company, and will schedule reserve team visits to the various companies. Valid results will require a company to furnish data for each randomly selected field.

O. Companies will prepare to furnish, if available:

1. A working area with telephone connections. Materials should include a calculator, adding machine, planimeter, and normal office work desks, tables, and equipment.

2. The type of information which may be requested of the companies for use during reserve team visits is listed for reference:

a. For each field: It will probably be necessary to supply the following items, if available:

(1) A map of the field area showing the location and completion of all wells drilled prior to December 31, 1970.

(2) Electrical well surveys to illustrate the depth and configuration of all gas-bearing reservoirs.

(3) Core analysis needed for basic rock properties.

(4) Reservoir production histories may be needed which tabulate oil, gas, condensate and water production for each gas reservoir on a yearly basis to December 31, 1970.

(5) Specific gravity of gas.

(6) Formation temperature.

(7) Original reservoir pressure.

b. For fields in which porosity-area reserve estimates have been made, the following additional information may be requested:

(1) Effective porosity—electric well surveys and core analysis.

(a) Porosity.

(b) Salt water saturation.

(2) Productive reservoir volume—copies of isopach maps should be available for examination. Planimetered volumes should be available.

c. For fields in which pressure-volume reserve estimations have been made, the following additional information may be requested:

(1) A tabulated record of reservoir pressure measurement versus gas withdrawals.

(2) Backup data for each pressure measurement.

d. Questions on interpretive data, such as estimated recovery efficiency, may be furnished by companies, if requested by the reserve teams.

P. The National Gas Survey will provide an appropriate seminar for the independent reserve teams prior to beginning the field surveys. The seminar will be conducted by a team of qualified geologists; engineers and other qualified personnel selected from government agencies and/or colleges and universities. The seminar will be held at an early date for the purpose of assuring quality reserve estimations, the use of standard techniques, and definitions.

Q. Independent reserve estimations will be made in the offices of the various companies. Each company will furnish a qualified representative who is familiar with all the reserve data pertaining to the subject field. He will furnish these data to the reserve teams as needed and will insure that no data other than the independently derived field reserve are taken from the working area. He will be available to answer inquiries of the reserve teams but will not be a member of the team.

R. Independent reserve estimations are transmitted on a confidential basis to the reserve team supervisor. The reserve team supervisor will compare the independent field reserve estimates with reserve estimates from the A.G.A. He may compare them with any other source including (but not limited to) the following:

1. OIC Data Bank at the Oklahoma University Research Institute.
2. Natural Gas Companies' Annual Report of Gas Supply—FPC Form 15.
3. Industry professional publications.
4. U.S. Geological Survey data.

At his discretion, he may call for a recheck of the work of the first reserve team or he may call for a reexamination of the data by a "senior reserve team" of his choice. A final reserve estimate for each field will be transmitted to the accounting agent.

S. When the accounting agent has received all final reserve estimates, he determines the deviation from the mean of the sample. He forwards the deviation information to the statistical validation team.

T. The statistical validation team determines the adequacy of the sample. Additional sampling will be prescribed if it is required to obtain the desired accuracy and certainty.

U. The accounting agent will randomly select the additional fields. Additional reserve estimations will be made by the reserve teams in accordance with the original procedure, and the results will be compiled and examined as before.

V. When sampling is sufficient to assure the desired accuracy, the statistical validation team reports to the National Gas Survey. The report will include a description of the sampling procedure and a statement of the reliability of the survey.

W. One independent reserve team will have the responsibility of compiling and reporting U.S. dissolved gas reserve statistics as needed. The Task Force Advisory Section for dissolved gas (item W, attachment A)[1] will furnish historical data.

X. The accounting agent submits a report to the National Gas Survey on U.S. gas reserves as of December 31, 1970. When the report is accepted by the National Gas Survey, the accounting agent will dispose of all records which reflect gas reserves by field in the manner prescribed in paragraph II-B.

Y. The reserve team supervisor will submit a detailed summary of the methods and procedures used to make the independent reserve estimations. He will receive assistance from the personnel conducting the reserves seminar and will be advised by the Task Force Section on reserve determinations methods (item P, attachment A).[1] The reserve team supervisor will return all A.G.A. records which reflect gas reserves by field to the member of the A.G.A. Committee on Natural Gas Reserves assigned to the particular area involved when the accounting agent's report is accepted.

Z. The National Gas Survey will publish its initial reserves report in the following form:

1. Complete list of gas fields in the United States by States and substate areas with year of discovery. A statement of accuracy by the Director of the Oil Information Center, University of Oklahoma Research Institute.
2. Detailed description of sampling procedures. A statement of statistical accuracy by the leader of the statistical validation team.
3. Detailed description of methods and procedures of reserve determination by the reserve team supervisor.
4. Report of reserves from the accounting agent. Report will include:
   a. Gas field size distribution.
   b. Gas reserves by States.
5. Recommendations relating to future estimations of national gas reserves.

[FR Doc.71-18960 Filed 12-28-71;8:52 am]

[1] Attachment A filed as part of the original document.

## TECHNICAL ADVISORY COMMITTEE TASK FORCES

### Establishment, Coordination, and Designation of Membership

DECEMBER 21, 1971.

The Federal Power Commission determines that the establishment of respective Task Forces to the Technical Advisory Committee—Supply, Technical Advisory Committee — Transmission, Technical Advisory Committee—Distribution and the Coordinating Committee, is in the public interest and establishes such Task Forces, as identified below, all in accordance with the provisions of the Commission's orders issued February 23, 1971, 36 F.R. 3851, April 6, 1971, 36 F.R. 6922 and May 10, 1971, 36 F.R. 8910.

1. *Purpose.* The purposes of the Technical Advisory Committee Task Forces are as set forth in the Commission's April 6, 1971, Order Establishing National Gas Survey Technical Advisory Committees and Designating Initial Membership, and the purposes of the National Gas Survey Coordinating Task Force are to further the discharge of the purposes as set forth in the Commission's May 10, 1971, Order Establishing National Gas Survey Coordinating Committee and Designating its Membership and Chairmanship. The Technical Advisory Committee Task Forces are organizationally subordinate to their respective Technical Advisory Committees, and the Coordinating Task Force is organizationally subordinate to the National Gas Survey Coordinating Committee.

The Commission's order issued February 23, 1971, states in part as follows:

> To assist the actions of the Commissioners and Commission staff, the Commission will use various advisory committees which shall be conducted under the general direction of the Commission and in accordance with the provisions of Executive Order No. 11007, February 26, 1962 (27 F.R. 1875). * * * All will be conducted pursuant to the general requirements as set forth in this order. The Commission contemplates the issuance of specific order or orders from time-to-time establishing each committee and denominating its membership and chairmanship.
>
> The advice of all committees shall be limited to matters relating solely to the planning and carrying out of the National Gas Survey. The Commission will have complete responsibility for the National Gas Survey with respect to its conduct, scope, the ultimate recommendations and the acceptance of the final report. In discharging these responsibilities; the Commission will approve the Survey's objectives, scope of work, organization and schedule of performance, make any required policy determinations and give its advice directed toward the coordination and cooperation between the Survey and any intergovernmental, State, industry, agency, or representative, including any other expertise as required.

2. *Membership.* With respect to each Task Force, the Task Force Chairman (who shall be designated Director), the Deputy Director, the FPC Survey Coordinating Representative and Secretary, the Alternate FPC Survey Coordinating Representative and Secretary, the FPC Representative and the other Task Force members, shall be selected by the Chairman of the Commission, with the approval of the Commission, and are designated in the appendix hereto, and any additional persons that may be designated to serve on the Task Forces shall be selected by the Chairman of the Commission, with the approval of the Commission, provided, however, the Chairman of the Commission may select and designate additional persons to serve in the capacity of Alternate FPC Survey Coordinating Representative and Secretary. The person or persons who are designated as the FPC Survey Coordinating Representative and Secretary shall be full-time salaried officers or employees of the Commission. The FPC Survey Coordinating Representative and Secretary, or alternates, shall be designated by the Chairman and serve as Secretary of the Task Force Committee for which selected. The Directors, Deputy Directors, FPC Survey Coordinating Representatives and Secretaries and alternates, the FPC Representatives and the other Task Force members, as selected and approved in accordance with this order, are designated in the appendix hereto.

3. The following paragraphs of the aforementioned Commission order, issued February 23, 1971, are hereby incorporated by reference:

3. Conduct of meetings.
4. Minutes.
5. Secretary of the Committee.
6. Location and time of meetings.
7. Advice and recommendations offered by the Committee.
8. Duration of the Committee.

4. In accordance with the provisions of section 6(e) of Executive Order No. 11007, 27 F.R. 1875, none of the Task Forces herein established shall be permitted to receive, compile or discuss data or reports showing the past, current or projected nonpublic commercial operations of identified business enterprises. Data or reports of a nonpublic nature that are requested by the Federal Power Commission, its staff, National Gas Survey Advisory Committees and Task Forces from identified business enterprises shall be submitted directly to the Director of the National Gas Survey, or to such person on his staff as designated by the Director, or any other designated agents of the Federal Power Commission, and such data or reports will be composited with that submitted by other identified business enterprises and reported on a composite basis and the provisions of section 8(b) of the Natural Gas Act (15 U.S.C. 717g(b)) and 5 U.S.C. 552(b) (4) and (9) [the Freedom of Information Act] shall apply.

The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER in accordance with the provisions of the Office of Management and Budget Circular No. A-63.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY COMMITTEE

SUPPLY-TECHNICAL ADVISORY TASK FORCE—NATURAL GAS SUPPLY

TF Director—Ralph W. Garrett, Exploration Analysis Manager, Humble Oil & Refining Co.

TF Deputy Director—Worthy Warnack, Geologist, Humble Oil & Refining Co.

TF FPC Survey Coordinating Representative and Secretary—Paul J. Root, Technical Director, National Gas Survey, Federal Power Commission.

Alternate TF FPC Survey Coordinating Representative and Secretary—Donald L. Martin, Regional Engineer (Fort Worth), Federal Power Commission.

FPC Representative—Edward A. Albares, Head, Gas Supply Section, Federal Power Commission.

*Task Force Members*

Charles M. Allen, General Gas Geologist, Phillips Petroleum Co.

John P. Bricker, Chairman of the Board, Exchange Oil Corp.

G. C. Carlson, Gas Manager, Union Oil Co. of California.

F. L. Carpenter, Petroleum Engineering Advisor, Gulf Oil Corp.

William B. Cleary, Sr., President, Cleary Petroleum Corp.

John K. Driedale, Manager of Petroleum Engineering, Texaco, Inc.

E. S. Garner, Staff Engineer, Reserves, Standard Oil Co. of California.

R. E. Geiger, Evaluation and Analysis Manager, Exploration and Production Department, Mobil Oil Corp.

B. B. Gibbs, Manager, Gas Availability Department, United Gas Pipe Line Co.

P. N. Glover, Manager of Exploration Economics, Shell Oil Co.

H. J. Gruy, President, H. J. Gruy and Associates, Inc.

J. M. Hanley, Vice President, Northern Natural Gas Co.

Wayne H. Hardin, Manager Engineering and Evaluation, George Mitchell & Associates.
Kenneth E. Hill, Manager of Corporate Finance, Eastman Dillon Union Securities & Co.
Frank Jordan, Economic Analyst, Independent Petroleum Association of America.
Frank T. Lloyd, Director of Special Projects, Reservoir Engineering Department, Atlantic Richfield Co.
William C. Lonquist, Jr., Manager, Contracts and Lands, Texas Eastern Transmission Corp.
H. Alan Nelson, President, Calvert Exploration Co.
E. A. Rassinier, Director of Resource Planning, Trunkline Gas Co.
Ralph P. Roe, Staff Engineer, Amoco Production Co.
Edward Symonds, Senior Economist, First National City Bank of New York.

SUPPLY-TECHNICAL ADVISORY TASK FORCE—REFORMER GAS

TF Director—L. A. Goldstein, Manager, Crude Oil Supply Planning, Shell Oil Co.
TF Deputy Director—Dr. R. J. Howe, Coordinator, Energy Policy Development, Humble Oil & Refining Co.
TF FPC Survey Coordinating Representative and Secretary—Paul J. Root, Technical Director, National Gas Survey, Federal Power Commission.
Alternate TF FPC Survey Coordinating Representative and Secretary—Charles A. Gallagher, Engineer, Federal Power Commission.

*Task Force Members*

Donald E. Anderson, Gas Compressor Superintendent, Consumers Power Co.
Murray E. Brooks, Vice President of Engineering Development and Resources, The Lumus Co.
John E. Cohoon, Assistant Vice President, The Brooklyn Union Gas Co.
C. Vernon Foster, Manager, Process Engineering Department, Continental Oil Co.
Richard Goode, Vice President, Power Corp. of America.
A. Grossberg, Manager, Process Design Division, Chevron Research Corp.
John W. McCutcheon, Assistant Manager, Economics and Resources Division, Planning and Economics Department, United Gas Pipeline Co.
C. H. Stanton, Senior Engineer, Columbia Gas System Service Corp.
Elwood R. Volpe, Load Schedule Engineer, Public Service Electric & Gas Co.

SUPPLY-TECHNICAL ADVISORY TASK FORCE—LIQUEFIED NATURAL GAS (LNG)

TF Director—George D. Carameros, Jr., Vice President, El Paso Natural Gas Co.
TF Deputy Director—Barry Hunsaker, Assistant Vice President, El Paso Natural Gas Co.
TF FPC Survey Coordinating Representative and Secretary—Paul J. Root, Technical Director, National Gas Survey, Federal Power Commission.
Alternate TF FPC Survey Coordinating Representative and Secretary—Randolph E. Mathura, Industry Economist, Federal Power Commission.

*Task Force Members*

L. C. Ackerman, President and Chief Executive Officer, Newport News Shipbuilding & Drydock Co.
Richard A. Bleakney, Vice President, Boston Gas Co.
W. B. Emery II, Manager, Natural Gas Division, Marathon Oil Co.
John E. Hoffman, Advisor, New LNG Projects, Standard Oil Co. (New Jersey).
Howard A. McKinley, Vice President, Continental Oil Co.
Keith C. McKinney, Director of Systems Planning and Economics, Pacific Lighting Service Co.
Mark J. Millard, Partner, Loeb-Rhodes & Co.
Dr. C. M. Sliepcevich, Professor of Chemical Engineering, University of Oklahoma.
Arthur E. Uhl, Chief Engineer, Gas and LNG Systems, Bechtel, Inc.
Harold E. Vaughan, Assistant to Vice President, Transcontinental Gas Pipe Line Corp.

SUPPLY-TECHNICAL ADVISORY TASK FORCE—NATURAL GAS TECHNOLOGY

TF Director—Lloyd E. Elkins, Director of Production Research, Amoco Production Co.
TF Deputy Director.
TF FPC Survey Coordinating Representative and Secretary—Paul J. Root, Technical Director, National Gas Survey, Federal Power Commission.
Alternate TF FPC Survey Coordinating Representative and Secretary—John W. Olson, Geologist, Federal Power Commission.

*Task Force Members*

Charles Atkinson, Project Leader, Petroleum Engineering, Bureau of Mines, Department of the Interior.
Dr. Henry F. Coffer, Vice President, CER Geonuclear Corp.
P. A. Dennie, Assistant to Vice President, Production, Shell Oil Co.
John S. Kelly, Director, Division of Peaceful Nuclear Explosives, Atomic Energy Commission.
Robert J. Lantz, Geologist, Geological Survey, Department of the Interior.
Dr. Richard A. Morse, Professor of Petroleum Engineering, Texas A. & M. University.
G. W. Oliver, Senior Staff Evaluations Geologist, Standard Oil Co. of California.
Fred H. Poettman, Associate Research Director, Marathon Oil Co.
Phillip Randolph, Manager of Nuclear Group, El Paso Natural Gas Co.
Miles Reynolds, Jr., Assistant to Vice President, Austral Oil Co.
Dr. Edward Teller, University Professor, University of California, Lawrence Radiation Laboratory.
Dr. T. H. Timmons, Senior Research Engineer, Mobil Research & Development Corp.
J. W. Wolfe, Production Operations Manager, Esso Production Research Co.

SUPPLY-TECHNICAL ADVISORY TASK FORCE—SYNTHETIC GAS-COAL

TF Director—James R. Garvey, Executive Vice President, National Coal Association.
TF Deputy Director.
TF FPC Survey Coordinating Representative and Secretary—Paul J. Root, Technical Director, National Gas Survey, Federal Power Commission.
Alternate TF FPC Survey Coordinating Representative and Secretary—Ellis R. Boyd, Jr., Engineer—PE—Federal Power Commission.

*Task Force Members*

Neal P. Cochran, Chief, Division of Utilization, Office of Coal Research, Bureau of Mines.
William L. Crentz, Director, Coal Research, Bureau of Mines.
William N. Doty, Vice President, New Business, Western Hemisphere Division, Continental Oil Co.
Dr. Martin A. Elliott, Corporate Scientific Advisor, Texas Eastern Transmission Co.
Douglas T. King, Director, Research and Engineering, American Gas Association.
Dr. Henry R. Linden, Director, Institute of Gas Technology.
R. M. Lundberg, General Staff Engineer, Production Control and Efficiency Department, Commonwealth Edison Co.
M. F. Oxenreiter, Assistant Director of Process Research, American Oil Co.
J. F. Shomaker, Director of Corporate Planning, Panhandle Eastern Pipe Line Co.
Howard M. Siegel, Manager, Synthetic Fuels, Engineering Division, Esso Research & Engineering Co.

SUPPLY-TECHNICAL ADVISORY TASK FORCE—REGULATION AND LEGISLATION

TF Director—R. Earle Wright, Vice President, Gas Department, Texaco, Inc.
TF Deputy Director—Joe P. Hammond, General Counsel, Amoco Production Co.
TF FPC Survey Coordinating Representative and Secretary—Paul J. Root, Technical Director, National Gas Survey, Federal Power Commission.
Alternate TF FPC Survey Coordinating Representative and Secretary—Leo E. Forquer, Solicitor, Federal Power Commission.

*Task Force Members*

J. Donald Annett, Attorney, Texaco, Inc.
Francis J. Barker, Vice President, Natural Gas and Gas Liquids, Union Oil Co. of California.
J. E. Earnest, Vice President, Mobil Oil Corp.
Martin N. Erck, Senior Counsel, Humble Oil & Refining Co.
Kenneth Heady, Associate General Counsel, Phillips Petroleum Co.
Don D. Little, Manager, Natural Gas Utilization, Standard Oil Co. of California.
Warren M. Sparks, Associate General Counsel, Warren Petroleum Co.
Fred C. Sweat, Manager, Gas Department, Shell Oil Co.

NATIONAL GAS SURVEY TRANSMISSION-TECHNICAL ADVISORY COMMITTEE

TRANSMISSION-TECHNICAL ADVISORY TASK FORCE—OPERATIONS

TF Director—Orval C. Davis, President, Natural Gas Pipeline Co. of America.
TF Deputy Director—Ronald R. MacNicholas, Assistant Chief Engineer, Natural Gas Pipeline Co. of America.
TF FPC Survey Coordinating Representative and Secretary—Thomas H. Jenkins (Acting) Director, National Gas Survey, Federal Power Commission.
Alternate TF FPC Survey Coordinating Representative and Secretary—Ellery K. Johnson, Engineer, Federal Power Commission.

*Task Force Members*

J. H. Echterhoff, Vice President of Operations, United Gas Pipe Line Co.
L. J. Fast, Staff Manager, Pipelines, Pacific Lighting Service Co.
Gerald Mardis, Assistant General Superintendent, Pipelines Department, Florida Gas Transmission Co.
Henry Martch, Pipeline Systems Engineer, El Paso Natural Gas Co.
E. O. Nelson, Vice President, Transmission Operations, Trunkline Gas Co.
Thomas Perry, Manager, Administrative Services, Tennessee Gas Pipeline Co.
D. S. Willhelm, Senior Vice President, Transcontinental Gas Pipe Line Corp.
F. T. Zitzo, Director, Engineering Standards, Kansas-Nebraska Natural Gas Co., Inc.

TRANSMISSION-TECHNICAL ADVISORY TASK FORCE—FACILITIES

TF Director—John W. Morton, President, Cities Service Gas Co.
TF Deputy Director—Richard C. Jackson, Vice President, Engineering and Purchasing, Cities Service Gas Co.

TF FPC Survey Coordinating Representative and Secretary—Thomas H. Jenkins (Acting) Director, National Gas Survey, Federal Power Commission.
Alternate TF FPC Survey Coordinating Representative and Secretary—Weldon L. Thomas, Engineer, Federal Power Commission.

*Task Force Members*

C. C. Barnett, Senior Vice President, Gas Supply, United Gas Pipe Line Co.
Malcolm H. Boswell, Senior Engineer, El Paso Natural Gas Co.
W. C. Day, Senior Engineer, Columbia Gas System Service Corp.
M. E. Fuller, Manager, System Transmission Engineering, Pacific Lighting Service Co.
L. E. Hanna, Vice President, Engineering, Panhandle Eastern Pipe Line Co.
Robert V. Mallonee, Chief Engineer, Cities Service Gas Co.
R. R. Olson, Chief Engineer, Colorado Interstate Corp.
Russell A. Sault, Assistant Vice President and Chief Engineer, Northern Illinois Gas Co.
Charles E. Schorre, Manager, Engineering and Planning, Transcontinental Gas Pipe Line Corp.

TRANSMISSION-TECHNICAL ADVISORY TASK FORCE—ECONOMICS

TF Director—Wilbur H. Mack, President, Michigan Wisconsin Pipe Line Co.
TF Deputy Director—Ray L. Lynch, Executive Vice President, Michigan Wisconsin Pipe Line Co.
TF FPC Survey Coordinating Representative and Secretary—Thomas H. Jenkins (Acting) Director, National Gas Survey, Federal Power Commission.
Alternate TF FPC Survey Coordinating Representative and Secretary—Louis W. Mendonsa, Special Assistant to Bureau Chief, Federal Power Commission.
FPC Representative—M. Cecile Pinette, Economist, Federal Power Commission.

*Task Force Members*

Page Anderson, Vice President, Panhandle Eastern Pipe Line Co.
Herbert Bickel, Treasurer, Texas Eastern Gas Transmission Corp.
Robert F. Dangel, Treasurer, Michigan Wisconsin Pipe Line Co.
U. V. Goodwyn, Vice President and Treasurer, Southern Natural Gas Co.
Virgil Meythaler, Senior Vice President, Texas Gas Transmission Corp.
Wayne Simpson, Executive Vice President, Natural Gas Pipeline Co. of America.
Charles Webb, Vice President, Tenneco, Inc.

TRANSMISSION-TECHNICAL ADVISORY TASK FORCE—REGULATION AND LEGISLATION

TF Director—George F. Kirby, President, Texas Eastern Transmission Corp.
TF Deputy Director—Jack D. Head, Vice President and General Counsel, Texas Eastern Transmission Corp.
TF FPC Survey Coordinating Representative and Secretary—Thomas H. Jenkins (Acting) Director, National Gas Survey, Federal Power Commission.
Alternate TF FPC Survey Coordinating Representative and Secretary—Gordon Gooch, General Counsel, Federal Power Commission.

*Task Force Members*

G. Scott Cuming, Vice President and General Counsel, El Paso Natural Gas Co.
John Ormasa, Vice President and General Counsel, Pacific Lighting Service Co.
R. O. Koch, Executive Vice President, Texas Gas Transmission Corp.
F. Vinson Roach, Vice President and General Counsel, Northern Natural Gas Co.
Raymond N. Shibley, General Counsel, Panhandle Eastern Pipe Line Co.
Peter G. Smith, Executive Vice President and General Counsel, Southern Natural Gas Co.
H. P. Sullivan, General Counsel, Consolidated Natural Gas Co.

NATIONAL GAS SURVEY DISTRIBUTION-TECHNICAL ADVISORY COMMITTEE

DISTRIBUTION-TECHNICAL ADVISORY TASK FORCE—GENERAL

TF Director—Ralbern H. Murray, Director, Marketing, Consolidated Natural Gas Service Co., Inc.
TF Deputy Director—T. M. Hogan, Administrative Assistant to the President, The East Ohio Gas Co.
TF FPC Survey Coordinating Representative and Secretary—Kenneth B. Lucas, Assistant to the Chairman, Federal Power Commission.
Alternate TF FPC Survey Coordinating Representative and Secretary—Charles A. Gallagher, Engineer, Federal Power Commission.
FPC Representatives:
Warren W. Morrison, Economist, Federal Power Commission.
Gordon K. Zareski, Head, National Supply and Demand Estimates Section, Analysis and Procedures Division—BNG, Federal Power Commission.

*Task Force Members*

Leonard L. Beebe, Chief Economist, Columbia Gas System, Inc.
Leonard W. Fish, Director, Planning Division, American Gas Association.
Carrington Mason, Senior Vice President, Houston Natural Gas Corp.
William C. McDonnell, Research Engineer, Pacific Lighting Service Co.
Dr. John J. Schanz, Jr., Director, Future Requirements Agency, Denver Research Institute, University of Denver.

NATIONAL GAS SURVEY COORDINATING TASK FORCE

TF Director—Richard C. Young, Member of Coordinating Committee and Deputy to W. M. Elmer.
FPC (NGS) Representative—Thomas H. Jenkins, Member of Coordinating Committee and Transmission—TAC.[1]
TF FPC Survey Coordinating Representative and Secretary—Kenneth B. Lucas, Member of Coordinating Committee and Distribution—TAC.[1]
Alternate TF FPC Survey Coordinating Representative and Secretary—Paul J. Root, Member of Coordinating Committee and Supply—TAC.[1]

*Task Force Members*

Ferdinand L. Gagne, Member of Coordinating Committee, Deputy Vice Chairman—Transmission TAC.[1]
Ralbern H. Murray, Member of Coordinating Committee, Deputy Vice Chairman—Distribution TAC.[1]
William T. Slick, Member of Coordinating Committee, Deputy Vice Chairman—Supply—TAC.[1]

[FR Doc.71-18957 Filed 12-28-71;8:46 am]

[1] TAC—Technical Advisory Committee.

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[Docket No. CP72-165]

## DISTRIGAS CORP.

### Notice of Application

DECEMBER 23, 1971.

Take notice that on December 21, 1971, Distrigas Corp. (applicant), 125 High Street, Boston, MA 02110, filed in Docket No. CP72-165 an application pursuant to section 3 of the Natural Gas Act for authorization to import liquefied natural gas (LNG) from Algeria, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to import for delivery to its Everett, Mass., terminal up to three shiploads of LNG of approximately 1.1 trillion B.t.u. each during the period of January through March 1972. Applicant states that the LNG will be purchased from British Methane Ltd., and transported from Arzew, Algeria, to Everett, Mass., by the cryogenic tanker, *Descartes*, at a total cost of approximately $1.20 per million B.t.u.

Applicant states that the purpose of the proposed importation is to provide a supplemental supply of LNG which is vitally needed by a number of East Coast distributors to meet the gas requirements of their customers during the present heating season.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene.

Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before January 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.71-18963 Filed 12-23-71;8:47 am]

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[Docket No. CP72-150]

## KANSAS NEBRASKA NATURAL GAS CO., INC.

### Notice of Application

DECEMBER 21, 1971.

Take notice that on December 6, 1971, Kansas Nebraska Natural Gas Co., Inc. (applicant), 300 North St. Joseph Avenue, Hastings, NE 68901, filed in Docket No. CP72-150 a budget-type application, pursuant to section 7(b) of the Natural Gas Act, as implemented by § 157.7(e) of the regulations under said Act, for permission to abandon during 1972 certain direct sales measuring, regulating, and minor facilities and, pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction during 1972 and

operation of certain gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of the application is to augment applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas and in abandoning and removing direct sales measuring, regulating and minor facilities. Applicant states that it will not abandon any service under this requested authorization unless it has received a written request, or written permission from the customer to terminate the service. The total cost of the new facilities will not exceed $3,200,000, with no single project to exceed $800,000. Applicant proposes to finance the cost of the facilities out of current working capital or through interim bank loans which would be funded by a security issue at a later date.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.71-18964 Filed 12-28-71;8:47 am]

[Docket No. CP72-10]

## LOWELL GAS CO.

### Notice of Petition To Amend

DECEMBER 21, 1971.

Take notice that on December 6, 1971, Lowell Gas Co. (petitioner), 95 East Merrimack Street, Lowell, MA 01853, filed in Docket No. CP72-10 a petition to amend the order of the Commission issued pursuant to section 3 of the Natural Gas Act in said docket on August 5, 1971, by authorizing the importation from Canada of an additional 2,275,000 gallons of liquefied natural gas (LNG), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner requests that the Commission increase the volume of LNG which may be imported from 7,850,000 to 10,225,000 gallons, an increase of 2,375,000 gallons. Petitioner states that its supplier, Gaz Metropolitain, Inc., of Montreal, Canada, will have this additional supply of LNG available to be taken between November 1, 1971, and April 1, 1972. Petitioner plans to use the additional volumes of LNG for peak shaving purposes and expects no changes in operations as a result of the increased import volumes of LNG.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 10, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.71-18965 Filed 12-28-71;8:47 am]

[Docket No. CP72-149]

## NORTHERN NATURAL GAS CO.

### Notice of Application

DECEMBER 21, 1971.

Take notice that on December 1, 1971, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP72-149 a budget-type application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the relocation, during the calendar year 1972, and operation of unspecified small field compressor units and minor appurtenant facilities on its gathering systems, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to take into its pipeline system natural gas purchased from producers by the installation of small field compressor units which will serve to offset normal declines in wellhead pressures. The total cost of the gathering system compressor relocations will not exceed $1 million. Applicant states that these costs will be financed from cash on hand and from funds generated through operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.71-18966 Filed 12-28-71;8:47 am]

[Docket No. RI72-156, etc.]

## SOHIO PETROLEUM CO. ET AL.

### Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes to Become Effective Subject to Refund [1]

DECEMBER 21, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

| Docket No. | Respondent | Rate schedule No. | Supplement No. | Purchaser and producing area | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per Mcf* Rate in effect | Cents per Mcf* Proposed increased rate | Rate in effect subject to refund in docket Nos. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RI72-156 | Sohio Petroleum Co. | 109 | 8 | El Paso Natural Gas Co. (Ignacio Blanco Field, La Plata County, Colo.). | $72,343 | 11-29-71 | ..... | 5-03-72 | [6]14.0 | [6]29.23 | RI69-501. |
| RI72-157 | Pennzoil United, Inc. | 15 | 6 | Transwestern Pipeline Co., West Rojo Caballos Field, Reeves and Pecos Counties, Tex.) (Permian Basin). | 4,332 | 11-29-71 | ..... | 1-03-72 | 16.8923 | [1]17.8973 | RI70-705. |
| RI72-158 | Union Oil Co. of California | 206 | 2 | El Paso Natural Gas Co. (Gomez Field, Pecos County, Tex. and La Rica Field, Lea County, N. Mex.) (Permian Basin). | [3]83,712 | 11-22-71 | ..... | 1-23-72 | [3]21.34 | [3][5]23.70 | |
| | | | | | [4]105,270 | 11-22-71 | ..... | 1-23-72 | [4]23.10 | [4][5]29.15 | |

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] 18.5-cent base rate plus 0.0778-cent tax reimbursement minus 0.7105 downward B.t.u. adjustment and treating charges.
[2] Initial rate under Mitchell type certificate.
[3] Texas production.
[4] New Mexico production.
[5] Increase to contract rate (20.5-cent base rate plus or minus B.t.u. adjustment).
[6] Pressure base is 15.025 p.s.i.a.

The proposed increase by Sohio Petroleum Co. for a sale to El Paso in San Juan Basin is based on a favored-nation clause which was allegedly activated by Aztec Oil & Gas Co.'s unilateral rate increase to 29.23 cents which became effective subject to refund in Docket No. RI71-744 on August 1, 1971. El Paso Natural Gas Co. and Southern California Gas Co. are expected to protest this favored nation increase, as they have previous filings, on the basis that it is not contractually authorized. In view of the contractual problem presented, the hearing herein shall concern itself with the contractual basis for this favored-nation filing as well as the justness and reasonableness of the proposed increased rate. The proposed increase exceeds the corresponding rate filing limitations imposed in Southern Louisiana and therefore is suspended for 5 months.[1]

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56). Except for Sohio's proposed rate, the proposed increased rates do not exceed the corresponding rate filing limitations imposed in Southern Louisiana and they are therefore suspended for 61 days from the date of filing, or 1 day from the contractual effective date, whichever is later.[2]

In view of all the facts and circumstances in this case, the Commission's action herein of permitting the subject rate increases to become effective, subject to refund, at the expiration of the respective suspension periods ordered herein pending Commission determination of the justness and reasonableness of such increased rates is consistent with the Economic Stabilization Act of 1970, as amended, and regulations existing thereunder.

[FR Doc.71-18958 Filed 12-28-71;8:46 am]

[1] Even if this proposed increase did not exceed the applicable ceiling, it would be suspended for 5 months in these special circumstances. See order issued Sept. 3, 1971 in Shell Oil Company, Docket No. RI72-64 et al.

[2] Union's proposed increases do exceed the ceiling for a 1-day suspension period, but the sales are made pursuant to a Mitchell-type certificate.

[Docket No. RP72-64]

## TEXAS GAS TRANSMISSION CORP.

### Order Permitting Intervention and Establishing Hearing and Conference Procedures

DECEMBER 21, 1971.

By order issued November 30, 1971, in this proceeding, the Commission suspended until May 1, 1972, and such further time as such are made effective in the manner prescribed by the Natural Gas Act, First Revised Sheet Nos. 90, 91, and 92 and Original Sheet Nos. 92-A, 148, 149, 150, and 151 of Texas Gas Transmission Corp.'s (Texas Gas) FPC Gas Tariff, pertaining to curtailment procedures, elimination of demand charge credit, imposition of an overrun penalty and the clarification of Force Majeure provisions.

Petitions requesting leave to intervene in this proceeding were timely filed by the following petitioners:

American Olean Tile Co.
Arkansas Louisiana Gas Co.
Arkansas-Missouri Power Co.
Cincinnati Gas & Electric Co. and Lawrenceburg Gas Transmission Corp.
City of Carrollton, Ky.
City of Elizabethtown, Ky.
City of Hamilton, Ohio.
City of Henderson, Ky.
City of Leitchfield, Ky.
City of Lewisport, Ky.
Columbia Gas Transmission Corp.
Consolidated Gas Supply Corp.
Hoosier Gas Corp.
Indiana Gas Co., Inc. and Ohio River Pipeline Corp.
Louisville Gas and Electric Co.
Memphis Light, Gas and Water Division, City of Memphis, Tenn.
Mississippi Power & Light Co.
Mississippi Valley Gas Co.
Ohio Valley Gas Corp., Ohio Valley Gas, Inc., and Dome Gas Co., Inc.
Terre Haute Gas Corp.
Texas Eastern Transmission Corp.
United Cities Gas Co.
Western Kentucky Gas Co.

In addition, the Tennessee Public Service Commission filed a timely notice of intervention.

Untimely petitions seeking leave to intervene were filed by Louisiana Gas Service Co. and the Jackson Utility Division of the city of Jackson, Tenn. Although petitioners gave no reason for their late filings, it will be in the public interest to accept them since no delay in this proceeding will result therefrom.

A substantial number of petitioners assert that implementation of the proposed tariff sheets would have an adverse effect upon their operations. The cities of Carrollton, Elizabethtown, Henderson,

Leitchfield, and Lewisport, Ky. allege that the proposed tariff provisions are arbitrary, unreasonable, and inequitable, especially with regard to small volume customers. Arkansas Louisiana Gas Co., Consolidated Gas Supply Corp., and Louisiana Gas Service Co. aver that such tariff provisions may be unduly discriminatory. Most petitioners request or assume that a hearing will be held.

Review of Texas Gas' filing and the aforementioned comments indicates that the proposed tariff provisions raise issues which may require development in evidentiary proceedings.

We believe that Texas Gas should be required to submit evidence in support of its revised tariff provisions pertaining to curtailment procedures, elimination of demand charge credit, imposition of an overrun penalty and the clarification of Force Majeure provisions. We also are of the view that a conference should be held thereafter to attempt a settlement of the issues that have been raised herein. The evidence to be submitted by Texas Gas should include, inter alia, backup supply, demand and other data upon which curtailment programs are based and the impact on each customer under the proposed curtailment plan for each season. Evidence bearing upon any environmental factors that may be present as well as the environmental impact of the proposed curtailment procedures also should be distributed. Following the distribution of this evidence, we shall schedule the conference referred to above. If the conference does not produce a settlement, we are directing the Examiner to proceed immediately to schedule the distribution of answering and rebuttal evidence and a hearing date for cross-examination.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning lawfulness of the proposed changes in Texas Gas' FPC Gas Tariff and that the issues in this proceeding be scheduled for hearing in accordance with the procedures herein set forth.

(2) Although some of the petitions were not timely filed, good cause exists for permitting such interventions.

(3) The participation in this proceeding of the above-named petitioners may be in the public interest.

The Commission orders:

(A) Texas Gas shall distribute on or before January 14, 1972, the evidentiary support for the proposed tariff provisions pertaining to curtailment procedures, elimination of demand charge credit, imposition of an overrun penalty and the clarification of Force Majeure provisions, all as indicated in the recital above.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held in this proceeding to be presided over by the Presiding Examiner which shall be held on February 1, 1972, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, for the purpose of incorporating into the record the testimony and exhibits previously distributed. Immediately thereafter the Presiding Examiner will convene a conference and in the event that a settlement of the issues does not result from said conference, the Presiding Examiner will schedule dates for the distribution of answering and rebuttal evidence, and the date for the commencement of hearings for the purpose of cross-examination and will rule on all data requests or any other relevant matters presented at such hearing.

(C) The above-named petitioners are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene: *And provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(D) The Tennessee Public Service Commission is hereby permitted to intervene in this proceeding.

(E) A Presiding Examiner to be designated by the Chief Examiner (See Delegation of Authority, 18 CFR 3.5(d)) shall preside at, and control these proceedings in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-18961 Filed 12-28-71;8:46 am]

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[Docket No. CP71-7]

## WASHINGTON NATURAL GAS CO.

### Notice of Petition To Amend

DECEMBER 20, 1971.

Take notice that on December 3, 1971, Washington Natural Gas Co. (petitioner), Post Office Box 1869, Seattle, WA 98111, filed in Docket No. CP71-7 a petition to amend further the order granting a certificate of public convenience and necessity in said docket (44 FPC 1322) pursuant to section 7(c) of the Natural Gas Act by authorizing petitioner to construct additional storage facilities and modify existing storage facilities during 1972 and to operate said facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner is presently authorized in the subject docket to operate the Jackson Prairie Storage Project in Lewis County, Wash. Petitioner proposes to construct and operate additional storage project wells, additional instrumentation, gas and field lines and water disposal facilities and rework existing wells. Total cost of the project is not to exceed $365,000, which will be shared equally by Washington Natural Gas Co., El Paso Natural Gas Co., and the Washington Water Power Co. Applicant states that the purpose of the application is to assure maintenance of the storage project's operational capability sufficient to provide continued maximum deliverability of 180,000 Mcf a day, to effect proper distribution withdrawal from the various segments of the reservoir, and to provide some expanded seasonal capability of the reservoir.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-18967 Filed 12-28-71;8:47 am]

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[Docket No. CP70-267]

## ARKANSAS LOUISIANA GAS CO.

### Notice of Availability of Environmental Statement for Inspection

DECEMBER 27, 1971.

Take notice that, on December 10, 1971, an Environmental Statement prepared by Arkansas Louisiana Gas Co. (Ark-La) was placed in the public files of the Federal Power Commission associated with the proceeding in Docket No. CP70-267 involving Ark-La's request for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act. The Environmental Statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC.

The Environmental Statement contains information on each of the five statutory points listed in section 102(c) of the National Environmental Policy Act of 1969 and is information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality and to § 2.82 of the Commission's rules of practice and procedure.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene together

with a detailed statement of the nature of the evidence to be submitted. Written comments by persons not wishing to present evidence may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before January 25, 1972. The Commission will evaluate all responses to the Environmental Statement before taking further action in this proceeding.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.71-19084 Filed 12-28-71;8:52 am]

# GENERAL SERVICES ADMINISTRATION

[FSS 1095.1A]

## ENVIRONMENTAL STATEMENTS

### Preparation Procedures

Notice is hereby given of the procedures to be followed by the Federal Supply Service in preparing environmental statements.

Dated: December 20, 1971.

L. E. SPANGLER,
*Acting Commissioner,*
*Federal Supply Service.*

DECEMBER 20, 1971.

SUBJECT: Environmental statements.

1. *Purpose.* This order prescribes the procedures to be followed in implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190), hereinafter referred to as the Act; Executive Order 11514 of March 5, 1970, entitled Protection and Enhancement of Environmental Quality; section 309 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.); and the Guidelines issued by the Council on Environmental Quality (CEQ) for preparing environmental statements, 36 F.R. 7723 (Apr. 23, 1971).

2. *Cancellation.* GSA Order FSS 1095.1, Subject: National Environmental Policy Act, is canceled.

3. *Background.* a. Section 102 of the Act directs all Federal agencies: (1) to develop methods and procedures which will insure that presently unquantified environmental amenities and values are given appropriate consideration in decisionmaking along with economic and technical considerations and (2) to include a detailed statement in every recommendation or report on proposals for legislation and other Federal actions that would significantly affect the quality of the human environment. Executive Order 11514 of March 5, 1970, Protection and Enhancement of Environmental Quality, effectuates the purpose and policy of this Act, and Guidelines implementing the Act have been issued by the CEQ. A copy of these Guidelines is included as Appendix A.[1]

b. It is also considered appropriate to provide summaries on actions taken in the development and maintenance of Federal specifications and standards. Changes in individual specifications and standards may not be sufficiently significant to constitute major actions and thus warrant preparation of an environmental statement. Therefore, the Assistant Commissioner for Standards and Quality Control will prepare quarterly summaries of actions taken in the development and maintenance of Federal specifications and standards which will affect the quality of the environment.

c. Section 309 of the Clean Air Act, as amended, provides that the Administrator of the Environmental Protection Agency (EPA) shall review and comment in writing on the environmental impact of major Federal actions to which section 102(2)(C) of the Act applies when areas of EPA responsibility are significantly affected. Further, section 309 requires that all proposed legislation and regulations related to EPA duties and responsibilities must be submitted to the Administrator of EPA for review and comment. EPA responsibilities include air and water quality, noise abatement and control, pesticide regulation, solid waste disposal, and radiation criteria and standards.

4. *Procedures.* Procedures for implementing subpar. 3b are contained in Appendix B and procedures for implementing subparagraphs 3 a and c are contained in Appendix C.

5. *Reports.* The reports required by this order are exempt from the reports control program.

L. E. SPANGLER,
*Acting Commissioner,*
*Federal Supply Service.*

APPENDIX B—QUARTERLY SUMMARIES OF FEDERAL SPECIFICATIONS AND STANDARDS

1. *Responsible official for submission of quarterly summary statements.* The Assistant Commissioner for Standards and Quality Control will have responsibility for preparing the quarterly summary statements. The statements will be forwarded by the Commissioner, Federal Supply Service, to the Office of Environmental Affairs. Upon concurrence by the Office of Environmental Affairs, the statements will be signed by the Deputy Adminstrator and sent to the Council on Environmental Quality.

2. *Content of the quarterly summary statements.* The quarterly statements shall report upon all specifications and standards activity undertaken in the quarter that relates to or concerns the environment. Specifically, the quarterly statements will have the following format.

a. *Cover sheet.* A cover sheet, as illustrated in figure B-1, shall be prepared for each statement.[2]

b. *Text.* A text shall be prepared and shall consist of a summary sheet, a brief description of each specification change, and the reason the change was made. In addition, an enclosure will be prepared for each action providing detailed information including specification number, dollar and unit purchase volume, environmental factors, other agencies or groups consulted before the action was taken, and a copy of the specification.

3. *Quarterly summary statement preparation and submission.* The quarterly summaries will be prepared as of the first of January, April, July, and October of each year. The summaries shall be forwarded to the Office of Environmental Affairs not later than 15 working days after the end of that quarter for which the statement was prepared.

APPENDIX C—PREPARATION AND SUBMISSION OF ENVIRONMENTAL STATEMENTS

1. *Responsible officials for submission of environmental statements.* The official initially responsible (1) for determining whether an action is major and will significantly affect the quality of the human environment and (2) for preparation and submission of the environmental statement is the Assistant Commissioner of FSS responsible for the proposed action.

2. *Determination of whether an action is a "major Federal action significantly affecting the quality of the human environment."* This is in large part a judgment based on the circumstances of the proposed action. Subparagraphs 5 (b) and (c) of the Guidelines, Appendix A, prescribe the criteria to be used in determining whether an action is a "major Federal action significantly affecting the quality of the human environment."

3. *Actions having an environmental impact.* If the Assistant Commissioner, FSS, having responsibility for the area to which the action is applicable determines that the proposed action constitutes a "major Federal action significantly affecting the quality of the human environment," an environmental statement shall be prepared. The Office of Environmental Affairs is available for consultation to aid in questions of whether a proposed action constitutes a "major Federal action significantly affecting the quality of the human environment."

4. *Responsibility for environmental statement preparation in multiagency actions.* When two or more agencies are involved in an action, the "lead agency" (the one having primary authority for committing the Federal Government to a course of action) shall prepare the statement. Where there is a question as to primary authority, the Assistant Commissioner, FSS, having responsibility for the area to which the action is applicable will report the conflict to the Office of Environmental Affairs for resolution. In cases where GSA is the "lead agency" but one or more other agencies have partial responsibility for an action, the other agencies shall be requested to provide such information to the responsible FSS official as may be necessary to prepare a suitable and complete environmental statement.

5. *Preparation of draft environmental statement.* Each environmental statement shall be prepared in accordance with the precept in section 102(2)(A) of the Act that all agencies of the Federal Government "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on man's environment." Each statement must reflect that the particular economic and technical benefits of its proposed action have been assessed and then weighed against the environmental costs. It is advisable, in the early stages of draft environmental statement preparation, for the responsible FSS official to consult with those Federal, State, and local agencies possessing environmental expertise on potential impacts of a proposed action. This will assist in providing the necessary data and guidance for the analyses required to be included in environmental statements as described below.

[1] Appendix A filed as part of the original document.

[2] Figure B-1 filed as part of the original document.

a. *Technical content.* (1) A description of the proposed action, including information and technical data adequate to permit a careful assessment of the environmental impact of proposed action by commenting agencies;

(2) The probable impact of the proposed action on the environment, including impact on ecological systems such as wildlife, fish, and marine life. Consequences of direct and indirect impacts on the environment shall be included in the analysis. For example, any affect of the action on population distribution or concentration shall be estimated and an assessment made of the effect of any possible change in population patterns upon the resources of the area, including land use, water supply, public services, and traffic patterns;

(3) Any probable adverse environmental effects that cannot be avoided, such as water or air pollution, undesirable land use patterns, damage to life systems, urban congestion, threats to health or other consequences as adverse to the environmental goals set out in section 101(b) of the Act;

(4) Section 102(2)(D) of the Act requires the responsible agency to "study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." A rigorous exploration and objective evaluation of possible alternative actions that might avoid some or all of the adverse environmental effects is essential. Sufficient analysis of such alternatives and their costs and impact on the environment shall accompany the proposed action through the agency review process so as not to prematurely foreclose consideration of options which might have less detrimental effects;

(5) The relationship between local short term uses of man's environment and the maintenance and enhancement of long term productivity shall be discussed. This in essence requires assessment of the action for cumulative and long term effects from the perspective that each generation is trustee of the environment for succeeding generations;

(6) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. Identify the extent to which the action curtails the range of beneficial uses of the environment;

(7) The economic and environmental costs and benefits of the proposed action must be balanced. Alternate courses of action must be discussed as to their effect upon this cost and benefit balance. If a formal cost benefit analysis on the proposed action(s) is prepared, it shall be submitted with the statement.

b. *Format requirements.* (1) Type draft and final environmental statements on 8½ x 11 white paper with clear black type;

(2) Assign a special accession (order) number to each action. This number shall be the GSA control number followed by the symbols ES and number assigned in numerical sequence to environmental statements.

(3) A summary sheet shall be prepared in accordance with the format prescribed in Appendix 1 of the Guidelines, Appendix A, and shall be attached to the environmental statement as the second page; and

(4) A cover sheet shall also be prepared for each environmental statement. (See figure C-1).[3]

6. *Submission and distribution of draft environmental statements.* a. The appropriate FSS official will submit the necessary copies of the draft environmental statement to the Deputy Administrator. Simultaneously, the Central Office FSS will prepare and forward letters to the Deputy Administrator for his signature soliciting comments relative to the draft environmental statement from CEQ, the Governor of the State, the U.S. Senators from the State, and the U.S. Representatives from the congressional districts involved. Copies of the comments received from these officials will be used in drafting the final text of the environmental statement. The draft environmental statement will automatically be made available to the public by the National Technical Information Service (NTIS) of the Department of Commerce. Refer all requesters for copies of draft and final environmental statements to NTIS quoting to them the accession (order) number assigned (see subparagraph 5b(2)).

b. Upon receipt of the signed copy of the transmittal letter to CEQ, the responsible FSS official shall immediately send copies of the draft environmental statement to the appropriate Federal, State, and local agencies for comment. (See also subparagraphs c, d, and e, below.) If appropriate, the comments of State, regional, or metropolitan clearinghouses (using the procedures in the Office of Management and Budget Circular A-95 Revised) shall be solicited unless the Governor of the State involved has designated some other point for obtaining this review. The allowable commenting period for draft environmental statements shall be 30 calendar days, except that EPA shall have a 45-day commenting period. All commenting parties shall be advised that if no reply is received within the appropriate period it will be presumed that they have no comments to offer. However, if requests for extensions are made, a maximum period of 15 calendar days may be granted whenever practicable, except for EPA which is held to its 45-day review period. The transmittal letters sent to commenting parties shall indicate that the draft environmental statement is based on the best information currently available.

c. The Federal agencies that shall be asked to comment on draft environmental statements are those which have "jurisdiction by law or special expertise with respect to any environmental impact involved" or "which are authorized to develop and enforce environmental standards." These Federal agencies (depending on the aspect or aspects of the environment involved) include components of the:

(1) Advisory Council on Historic Preservation;
(2) Department of Agriculture;
(3) Department of Commerce;
(4) Department of Defense;
(5) Department of Health, Education, and Welfare;
(6) Department of Housing and Urban Development;
(7) Department of the Interior;
(8) Department of State;
(9) Department of Transportation;
(10) Atomic Energy Commission;
(11) Federal Power Commission;
(12) Environmental Protection Agency; and
(13) Office of Economic Opportunity.

For actions specifically affecting the environment of their geographic jurisdictions, the following Federal and Federal-State agencies are also to be consulted:

(1) Tennessee Valley Authority;
(2) Appalachian Regional Commission;
(3) National Capital Planning Commission;
(4) Delaware River Basin Commission; and
(5) Susquehanna River Basin Commission.

d. The FSS official circulating draft environmental statements for comment, shall have determined which of the above-listed agencies are appropriate to consult on the basis of the areas of expertise identified in Appendix 2 of the Guidelines. Draft environmental statements shall be submitted for comment to the regional contact points of agencies being consulted when such offices have been established pursuant to section 7 of the Guidelines, Appendix A.

e. In implementing the provisions of section 309 of the Clean Air Act, as amended, the responsible official will submit to the appropriate regional office of EPA for review and comment seven (7) copies of all draft environmental statements related to air or water quality, noise abatement and control, pesticide regulation, solid waste disposal, and radiation criteria and standards, or other provisions of the authority of the Administrator of EPA, if EPA is involved, including his enforcement authority.

7. *Preparation of the final environmental statements.* Whenever a draft environmental statement is prepared, a final statement must also be prepared by the responsible FSS official before the proposed action can be initiated. Preparation of the final statement entails attaching all comments received on the draft statement from Federal, State, and local agencies and officials, and a revision of the text of the draft to take these comments into consideration. If some environmental aspects of a project have been certified by an agency having appropriate jurisdiction and responsibility, GSA still has the overall responsibility for project evaluation.

8. *Submission and distribution of final environmental statements.* The Commissioner, FSS, shall transmit 10 copies of the final environmental statement as soon as practicable, together with the original and two copies of each agency's comments to the Deputy Administrator for submission to CEQ. Public availability is provided automatically by the National Technical Information Service of the Department of Commerce.

9. *Time requirements for preparation and submission of draft and final environmental statements.* a. To the maximum extent practicable, no action is to be taken sooner than 90 calendar days after a draft environmental statement has been circulated for comment, and furnished to CEQ. Action also is not to be taken sooner than 30 calendar days after the final text of the environmental statement has been made available to CEQ and the public. If the final text of an environmental statement is filed at least 60 days after a draft statement has been furnished to CEQ and made public, the 30-day period and 90-day period may run concurrently to the extent that they overlap.

b. Time requirements prescribed in this order shall be followed to the maximum practicable extent, except where (1) advanced public disclosure of a proposed action will result in significantly increased costs to the Government; (2) emergency circumstances make it necessary to proceed without conforming to time requirements; and (3) there would be impaired program effectiveness if such time requirements were not followed. Any deviation from standard procedures must be approved by the Deputy Administrator.

[FR Doc.71-18992 Filed 12-28-71;8:51 am]

[3] Figure C-1 filed as part of the original document.

# POSTAL SERVICE

## POSTAL RATES AND FEES

### Notice Placing Into Effect on January 24, 1972, Certain Previously Announced Temporary Changes

*Correction*

In F.R. Doc. 71-18927 appearing at page 24953 in the issue of Friday, December 24, 1971, the page reference in the

second and third lines of the first paragraph, now reading "(36 F.R. 15474)", should read "(36 F.R. 14711–14712; as corrected by 36 F.R. 15474)".

# SECURITIES AND EXCHANGE COMMISSION

[812-3081]

## GUARDIAN INSURANCE & ANNUITY CO., INC., ET AL.

### Notice of Application for Exemption

DECEMBER 20, 1970.

Notice is hereby given that The Guardian Insurance & Annuity Co., Inc. (Guardian), a stock life insurance company organized under the laws of Delaware, and The Guardian Variable Account 1 (Account 1), a separate account of Guardian registered as a unit investment trust under the Investment Company Act of 1940 (Act), and Glicoa Associates, Inc. (Glicoa), 201 Park Avenue South, New York, NY 10003, registered as a broker-dealer under the Securities Exchange Act of 1934 and the principal underwriter of Account 1 (collectively called the "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of section 26(a) and 27(c)(2) of the Act, to the extent noted below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Account 1 was established by Guardian in connection with the proposed sale of three types of individual variable annuity contracts which are qualified for special tax treatment under sections 401 or 403(b) of the Internal Revenue Code. A registration statement covering the proposed sale of these securities has been filed with the Commission.

The contracts will be sold by persons who are registered representatives of Glicoa and who also are insurance agents or brokers for Guardian. These persons generally will also be agents or brokers of The Guardian Life Insurance Company of America (Guardian Life). Guardian and Glicoa are both wholly owned subsidiaries of Guardian Life. The assets of Account 1 will be exclusively invested in the shares of The Guardian Park Avenue Fund, Inc. (Fund).

Hartford National Bank Trust Co., Hartford, Conn., is the custodian for Account 1 and is also the custodian and transfer agent for the Fund.

Sections 26(a) and 27(c)(2), as here pertinent, provide in substance that a registered unit investment trust and any depositor and underwriter for the trust are prohibited from selling periodic payment plan certificates unless the proceeds of all payments other than the sales load are deposited with a qualified bank as trustee or custodian, and held under an indenture or agreement containing specified provisions. Such agreement must provide, inter alia, that the bank (i) shall have possession of all property of the unit investment trust and segregate and hold the same in trust subject only to the charges and collections specifically allowed under clauses (A), (B), and (C) of section 26(a)(2) until distribution to the security holders of the trust; (ii) shall not resign until the trust has been liquidated or a successor has been appointed, (iii) may collect from the income and, if necessary, from the corpus of the trust such fees for services performed and reimbursement of expenses incurred as are provided for in the agreement, and (iv) shall not allow as an expense any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself. Although the assets of Account 1 are held under a custodian agreement with a bank having the qualifications prescribed in section 26(a) of the Act, the agreement does not create a trust with respect to the assets of Account 1 because Guardian as a life insurance company must retain ownership and control of the disposition of its property. Accordingly, an exemption is requested from the foregoing provisions to the extent necessary to make the requirement of a trust inapplicable.

In support of the requested exemption from the foregoing provisions of the Act, Applicants state that under the custodian agreement the assets of Account 1 will be held by the custodian and will be physically segregated and separated from the property of any other person, that Guardian is required to maintain records of the names and addresses of persons having an interest in Account 1, and that it will notify interested persons of substitutions of securities. Applicants also assert that they are subject to extensive supervision and control by the New York and Delaware Superintendents of Insurance, which includes filing required reports to the Superintendents and being subject to review or examination by the Superintendents and their agents at all times, that Account 1 has been established pursuant to a Delaware law which provides that its assets shall not be chargeable with liabilities arising out of any business Guardian may conduct and all obligations arising under contracts participating in Account 1 are general obligations of Guardian, and that Guardian may not abrogate its obligations under such contracts. Applicants contend that the foregoing laws, regulations and arrangements provide substantial assurance that all obligations under contracts participating in Account 1 will be performed and that the orphanage of the account will not occur.

Applicants have consented to the requested exemptions being subject to the following conditions:

1. That the charges to contractholders under the contracts for administrative services shall not exceed such reasonable amount as the Commission shall prescribe, and that the Commission may reserve jurisdiction for such purpose; and

2. That the payment of sums and charges out of the assets of Account 1 shall not be deemed to be exempted from regulation by the Commission by reason of the order, provided that the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of Account 1 other than charges for administrative services, and Applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of person, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 6, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-18931 Filed 12-28-71;8:48 am]

[812-3082]

## GUARDIAN INSURANCE & ANNUITY CO., INC., ET AL.

### Notice of Application for Exemption

DECEMBER 20, 1971.

Notice is hereby given that The Guardian Insurance & Annuity Co., Inc. (Guardian), a stock life insurance company organized under the laws of Delaware, and The Guardian Variable Account 2 (Account 2), a separate account of Guardian registered as a unit investment trust under the Investment Company Act of 1940 (Act), and Glicoa Associates, Inc. (Glicoa), 201 Park Avenue South, New York, NY 10003, registered as a broker-dealer under the Securities Exchange Act of 1934 and the principal underwriter of Account 2 (collectively called the "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of section 26(a) and 27(c)(2) of the Act, to the extent noted below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Account 2 was established by Guardian in connection with the proposed sale of three types of individual variable annuity contracts which are not qualified for special tax treatment under sections 401 or 403(b) of the Internal Revenue Code. A registration statement covering the proposed sale of these securities has been filed with the Commission.

The contracts will be sold by persons who are registered representatives of Glicoa and who also are insurance agents or brokers for Guardian. These persons generally will also be agents or brokers of The Guardian Life Insurance Company of America (Guardian Life). Guardian and Glicoa are both wholly owned subsidiaries of Guardian Life. The assets of Account 2 will be exclusively invested in the shares of The Guardian Park Avenue Fund, Inc. (Fund).

Hartford National Bank Trust Co., Hartford, Conn., is the custodian for Account 2 and is also the custodian and transfer agent for the Fund.

Sections 26(a) and 27(c)(2), as here pertinent, provide in substance that a registered unit investment trust and any depositor and underwriter for the trust are prohibited from selling periodic payment plan certificates unless the proceeds of all payments other than the sales load are deposited with a qualified bank as trustee or custodian, and held under an indenture or agreement containing specified provisions. Such agreement must provide, inter alia, that the bank (i) shall have possession of all property of the unit investment trust and segregate and hold the same in trust subject only to the charges and collections specifically allowed under clauses (A), (B), and (C) of section 26(a)(2) until distribution to the security holders of the trust; (ii) shall not resign until the trust has been liquidated or a successor has been appointed, (iii) may collect from the income and, if necessary, from the corpus of the trust such fees for services performed and reimbursement of expenses incurred as are provided for in the agreement, and (iv) shall not allow as an expense any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself. Although the assets of Account 2 are held under a custodian agreement with a bank having the qualifications prescribed in section 26(a) of the Act, the agreement does not create a trust with respect to the assets of Account 2 because Guardian as a life insurance company must retain ownership and control of the disposition of its property. Accordingly, an exemption is requested from the foregoing provisions to the extent necessary to make the requirement of a trust inapplicable.

In support of the requested exemption from the foregoing provisions of the Act, Applicants state that under the custodian agreement the assets of Account 2 will be held by the custodian and will be physically segregated and separated from the property of any other person, that Guardian is required to maintain records of the names and addresses of persons having an interest in Account 2, and that it will notify interested persons of substitutions of securities. Applicants also assert that they are subject to extensive supervision and control by the New York and Delaware Superintendents of Insurance, which includes filing required reports to the Superintendents and being subject to review or examination by the Superintendents and their agents at all times, that Account 2 has been established pursuant to a Delaware law which provides that its assets shall not be chargeable with liabilities arising out of any business Guardian may conduct and all obligations arising under contracts participating in Account 2 are general obligations of Guardian, and that Guardian may not abrogate its obligations under such contracts. Applicants contend that the foregoing laws, regulations and arrangements provide substantial assurance that all obligations under contracts participating in Account 2 will be performed and that the orphanage of the Account will not occur.

Applicants have consented to the requested exemptions being subject to the following conditions:

1. That the charges to contractholders under the contracts for administrative services shall not exceed such reasonable amount as the Commission shall prescribe, and that the Commission may reserve jurisdiction for such purpose; and

2. That the payment of sums and charges out of the assets of Account 2 shall not be deemed to be exempted from regulation by the Commission by reason of the order, provided that the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of Account 2 other than charges for administrative services, and Applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 6, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20459. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-18932 Filed 12-28-71;8:48 am]

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[812-2681]

## LOOMIS-SAYLES CAPITAL DEVELOPMENT FUND, INC.

### Notice of Filing of Application for Order Exempting Sale by Open-End Company of Its Shares at Other Than Public Offering Price

DECEMBER 20, 1971.

Notice is hereby given that Loomis-Sayles Capital Development Fund, Inc.

(Applicant), 225 Franklin Street, Boston, MA 02110, a Massachusetts corporation registered under the Investment Company Act of 1940 (Act) as an open-end, diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act the proposed issuance of its shares in exchange for substantially all of the assets of Macomber Enterprises, Inc. (Macomber). Applicant offers its shares to the public at the net asset value per share next computed after receipt by Applicant of the purchase order and payment. Since provision has been made to adjust the net asset value of Macomber's assets for a proportional excess of capital appreciation, if any, the price at which Applicant will issue its shares to Macomber may differ from the amount of the public offering price described in Applicant's prospectus. Accordingly, an exemption from the requirements of section 22(d) of the Act, which provides that open-end registered investment companies may sell their shares only at the current public offering price described in the prospectus, has been requested. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Macomber, a Massachusetts corporation, is a personal holding company having six shareholders. It is not making and does not propose to make a public offering of its securities and is exempt from registration under the Act by reason of section 3(c)(1) thereof. Applicant and Macomber have negotiated an agreement providing for the transfer of substantially all the assets of Macomber to Applicant in exchange for shares of Applicant. The shares of Applicant received by Macomber will be distributed to its shareholders and Macomber will dissolve.

On September 7, 1971, the net assets of Applicant amounted to approximately $72,228,000 and the net assets of Macomber to approximately $593,000. Applicant's per share asset value as of September 7, 1971, was $12.16. If the exchange had been consummated as of that day, 48,195 shares would have been delivered to Macomber. The net value of the assets of Macomber to be transferred and the net asset value of the shares of Applicant to be issued in exchange therefor will be determined as of the time of closing.

No officer or director of Macomber is an affiliated person of Applicant or its investment adviser, Loomis, Sayles & Co., Inc. (Loomis). Loomis has acted as investment adviser to Macomber since 1964. There is no other relationship involving Applicant and Macomber. Applicant states that the agreement was negotiated at arm's length by the officers of Macomber and the Applicant and has been approved by the board of directors of each company.

Notice is further given that any interested person may, not later than January 10, 1972 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-18933 Filed 12-28-71;8:48 am]

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[812-2991]

## PITTSBURGH COKE & CHEMICAL CO.

### Notice of Filing of Application for Order Exempting Proposed Merger

DECEMBER 21, 1971.

Notice is hereby given that The Hillman Co. (Applicant), a Pennsylvania corporation, has filed an application pursuant to section 17(b) of the Investment Company Act of 1940 (Act) for an order exempting from the provisions of section 17(a) of the Act the proposed merger pursuant to which Pittsburgh Coke & Chemical Co. (Pittsburgh Coke), 603 Goldsborough Building, Wilmington, DE 19801, a closed-end, nondiversified investment company registered under the Act, will be merged into Pittsburgh-Wilmington, Inc. (Surviving Corporation), a Delaware corporation. All interested persons are referred to the application, as amended, for a complete statement of Applicant's representations therein, which are summarized below.

Applicant owns 715,004 shares (approximately 96 percent of the 742,893 issued and outstanding shares of common stock of Pittsburgh Coke. The remaining 27,889 shares of such outstanding common stock are owned of record by approximately 245 stockholders.

Applicant proposes to transfer its shares of the common stock of Pittsburgh Coke to the Surviving Corporation in exchange for all of the authorized stock of the Surviving Corporation. Thereafter, the Surviving Corporation will adopt a plan of reorganization pursuant to which it, as owner of approximately 96 percent of the issued and outstanding shares of common stock of Pittsburgh Coke, will merge Pittsburgh-Coke into itself under section 253 of the General Corporation Law of the State of Delaware. Section 253 does not require the merger to be approved by the stockholders of either the Surviving Corporation or Pittsburgh Coke or by the board of directors of Pittsburgh Coke. However, the board of directors of Pittsburgh Coke will adopt the plan of reorganization providing for the merger.

The resolutions of the board of directors of the Surviving Corporation authorizing such merger will provide that upon the effective date of such merger all the issued shares of common stock of Pittsburgh Coke will be canceled and that the stockholders of Pittsburgh Coke other than the Surviving Corporation, upon surrendering to the Surviving Corporation the certificates representing their respective shares of such common stock, shall be paid in cash for each of such shares the value per share to be calculated as described below. The name of the Surviving Corporation will be changed to Wilmington Securities, Inc., on the effective date of the merger. The board of directors of the Surviving Corporation has reserved the right to abandon the proposed merger at any time prior to the effective date of the merger, but no such action is anticipated at this time. It is anticipated that the merger will become effective on the day on which the Commission issues the order applied for herein.

The Applicant states that the value per share of Pittsburgh Coke common stock will be calculated by using the closing prices of securities traded on national securities exchanges and the last bid prices of securities traded in the over-the-counter market, in each case as of the close of business on the business day immediately preceding the effective date of the merger. In determining the value of all other assets, the boards of directors of Pittsburgh Coke and the Surviving Corporation will rely upon the independent appraisal as of September 30, 1971 of an investment banking firm, as adjusted to reflect the sale on November 11, 1971 of the shares of Farbenfabriken Bayer held by Pittsburgh Coke. If during the period between the issuance of this notice and the issuance of the order sought by Applicant, any event should occur which in the opinion of the boards of directors results in any significant increase in the value of any of the majority-owned subsidiaries, Applicant has undertaken to file with the Commission a further amendment to its application reflecting such increase in terms of value per share of Pittsburgh Coke common stock.

The Applicant states the value per share will reflect an appropriate deduction for income taxes on unrealized appreciation. Computation of such deduction will be based upon the following assumptions:

(a) That the stocks of controlled affiliates will not be sold in the foreseeable future. Therefore no tax will be deducted from the present unrealized appreciation on those stocks.

(b) That the stock of Marquette Cement Manufacturing Co. and one-half of the stock of Merck & Co., Inc., owned by Pittsburgh Coke may be sold within the next year or so. Therefore a tax computed at statutory rates will be deducted from the net unrealized appreciation on these two securities.

(c) That the remaining Merck stock plus the securities of Universal Airlines Co., Edgewater Corp., Shakespeare Co., Tele-Tape Productions, Inc., and Koehring Co. owned by Pittsburgh Coke may be held for as long as 10 years. Therefore the unrealized appreciation on these securities will be discounted for a period of 10 years at a discount rate of 3 percent compounded annually and the tax computed on this net present value figure.

Applicant states that the value per share of common stock of Pittsburgh Coke, calculated in accordance with the foregoing formula and based upon closing or last bid prices of traded securities as of the close of business on December 8, 1971, was $121.03.

Upon the effective date of the merger, the corporate existence of Pittsburgh Coke will cease by operation of law and the Surviving Corporation will acquire all the assets of Pittsburgh Coke. Thus, the merger may be viewed as a purchase by an affiliate, the Surviving Corporation, of property from a registered investment company, Pittsburgh Coke, within the meaning of section 17(a) of the Act. In addition, certain directors and officers of Pittsburgh Coke who own shares of common stock of Pittsburgh Coke will be paid the value of their respective shares as described above. Therefore, the Applicant is seeking an order of the Commission under section 17(b) of the Act exempting the proposed merger from section 17(a).

Section 17(a) of the Act, among other things, makes it unlawful for any affiliated person of a registered investment company to purchase from such registered investment company any security or other property, except securities of which the seller is the issuer, unless the Commission upon application grants an exemption from such prohibitions pursuant to section 17(b) of the Act after finding that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Notice is further given that any interested person may, not later than January 10, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant, The Hillman Co., 1900 Grant Building, Pittsburgh, Pa. 15219. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

RONALD F. HUNT,
*Secretary.*

[FR Doc.71-18934 Filed 12-28-71;8:48 am]

# SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30 (Rev. 13) Amdt. 8]

## REGIONAL DIRECTOR ET AL.

### Delegation of Authority to Conduct Program Activities in the Field Offices

Delegation of Authority No. 30 (Revision 13) (36 F.R. 5881), as amended (36 F.R. 7625, 36 F.R. 11129, 36 F.R. 13713, 36 F.R. 14712, 36 F.R. 15769, 36 F.R. 22876), is hereby further amended by revising Part III, section A, to read as follows:

*Part III. Loan Administration (LA) Program.— Section A. Loan administration, servicing, collection, and liquidation authority.*

* * * * *

2. To contract for the services of fee appraisers, engineering, marketing and feasibility studies, and other required services, in conjunction with loan processing, servicing, and loan liquidation.

a. Regional director.

b. Chief and Assistant Chief, Regional LA Division.

c. Supervisory Loan Officer, Regional LA Division.

d. District Director.

e. Chief, District LA Division.

3. To take all necessary action in liquidating Economic Development Administration. * * *

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Effective date: December 16, 1971.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.71-18930 Filed 12-28-71;8:50 am]

# TARIFF COMMISSION

[AA1921-81]

## BICYCLES FROM WEST GERMANY

### Determination of No Injury

On September 28, 1971, the Tariff Commission received advice from the Treasury Department that bicycles from West Germany are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of that Act (19 U.S.C. 160(a)), the Commission on the same date instituted investigation No. AA1921-81, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a hearing to be held in connection therewith was published in the FEDERAL REGISTER of October 5, 1971 (36 F.R. 19425). The hearing was held on November 16, 1971.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties, all testimony adduced at the hearing, and all information obtained by the Commission's staff.

On the basis of its investigation, the Commission[1] has unanimously determined that no industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of bicycles from West Germany sold, or likely to be sold, at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS

In our opinion, no industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of bicycles from West Germany sold at less than fair value (LTFV).

In reaching its negative determination, the Commission was persuaded principally by the following factors:

(1) Imports of bicycles from West Germany sold at less than fair value are small in relation to the domestic output of such articles.

[1] Commissioner Young did not participate in the decision.

(2) Despite a slight decrease in output of "high rise" or "polo" bicycles, the domestic production both of bicycles in the aggregate and of 20-inch middleweights in particular was larger in 1971 than in 1970.

(3) The marketing of the West German bicycles sold at less than fair value in the United States has not adversely affected the prices of domestically produced bicycles.

*Description of product.* The Treasury Department has found that bicycles from West Germany are being, or are likely to be, sold at less than fair value. The great bulk (95 percent) of the bicycles exported from West Germany to the United States in the period of the Treasury investigation were so-called 20-inch "high rise" or "polo" models—bicycles with 20-inch wheels and high rise handlebars, sold principally for children.

*The U.S. industry.* The Commission deems the domestic industry to consist of the facilities in the United States for the manufacture of bicycles. Bicycles are currently produced domestically by eight firms operating 10 establishments; bicycles and bicycle parts are the principal products produced in such establishments.

*U.S. market conditions.* The consumption of bicycles in the United States has been at a high level in recent years, ranging between 7 and 8 million units annually in the late 1960's, compared with less than 4 million units in the early 1960's. Such high recent consumption resulted primarily from the popularity among children of the 20-inch middleweight bike, especially the high-rise model. Nevertheless, consumption was declining at the turn of the decade—from 7.9 million units in 1968 to 7.2 million in 1970. In 1971, however, U.S. demand again boomed; consumption of bicycles in the first 9 months of that year was more than 20 percent greater than in the corresponding period of the previous year. The current strong market reflects primarily increased demand among adults for multispeed lightweight bicycles using 26-inch or 27-inch wheels.

*Domestic production.* With the easing of U.S. demand for bicycles in the late 1960's, aggregate domestic production of bicycles decreased from 6.4 million units in 1968 to 5.3 million units in 1970; production during January–September 1971, however, amounted to 4.7 million units, an amount more than 20 percent greater than the 3.9 million units produced in January–September 1970. Moreover, U.S. production of 20-inch middleweight bicycles, although smaller in 1970 than in the 2 immediately preceding years, was 6 percent larger in January–September 1971 than in the corresponding period in 1970. More importantly, the domestic industry increased its share of the U.S. market for 20-inch middleweights in 1971, supplying about 86 percent of apparent consumption in January–September 1971, compared with 81 percent in the corresponding period in 1970.

Information obtained during the course of this investigation indicates that the domestic bicycle industry presently is unable to meet the current rapidly increasing demand for bicycles, particularly certain types.

*Imports at less than fair value.* The West German bicycles which the Treasury found to have been sold at less than fair value have not been a significant factor in the U.S. market. Sales of such bicycles during the period of Treasury's investigation (July 1, 1970–April 30, 1971) were equivalent to less than 2 percent of U.S. production of 20-inch middleweight bicycles and to less than 1.5 percent of total bicycle production in 1970.

Sales of LTFV bicycles from West Germany have not depressed the prices charged by the domestic producers. Although the available evidence indicates that West German bicycles were sold in the U.S. market at prices moderately below those for which comparable domestic bicycles were sold, the prices of U.S. bicycles have increased. Indeed, the average value of sales by domestic producers of 20-inch middleweights was 10.7 percent higher in 1971 than in 1969. There is no evidence here of price depressive effects of sales of LTFV bicycles.

*Conclusion.* During the course of the investigation, the complainants notified the Commission that, although they deemed the domestic industry to be experiencing injury at the time the complaint was filed with the Treasury Department (April 1970), recent market conditions made their continued participation in the investigation unwarranted. The Commission's investigation substantiates the fact that the industry is not injured within the meaning of the statute. The Commission has, therefore, made a negative determination.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.71-18954 Filed 12-28-71;8:46 am]

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[AA1921-32]

## TUBELESS-TIRE VALVES FROM CANADA

### Determination of No Injury or Likelihood Thereof

On September 28, 1971, the Tariff Commission received advice from the Treasury Department that tubeless-tire valves from Canada are being, and are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted Investigation No. AA1921-82 to determine whether an industry in the United States is being, or is likely to be, injured, or is prevented from being established by reason of the importation of such merchandise into the United States.

A public hearing was held on November 22, 1971. Notice of the investigation and hearing was published in the FEDERAL REGISTER of October 5, 1971 (36 F.R. 19426).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission[1] determined unanimously that an industry in the United States is not being and is not likely to be, injured or prevented from being established, by reason of the importation of tubeless-tire valves from Canada and sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS

In our opinion an industry in the United States is not being, or is not likely to be, injured, or prevented from being established, by reason of the importation of tubeless-tire values from Canada sold at less than fair value (LTFV). Imports of LFTV valves from Canada have been too small in relation to the size of the domestic market, and the margins of dumping (the amounts by which the valves were sold below the Canadian home market price) have been so insignificant that the LTFV imports have virtually no influence on the U.S. market prices for tubeless-tire valves.

*The industry.* The industry or industries considered in this case consist of those firms or parts of firms in the United States engaged in the production of snap-in tubeless-tire valves suitable for use with passenger automobile wheels (hereafter referred to as tubeless-tire valves). Since 1966 there have been no more than 10 firms engaged in the production of such tubeless-tire valves in the United States during any one year. The three largest firms (the Big Three) account for about two-thirds of U.S. production; three tire-producing firms, for a fifth; and the other firms for the remainder.

*The U.S. market.* Tubeless-tire valves are generally marketed in the United States along with new tires. However, about 35 to 40 percent of the sales are for replacement purposes (i.e., they are sold in the so-called aftermarket). Imported tubeless-tire valves, including those sold at LTFV, enter consumption only through the aftermarket; all the valves produced by the small U.S. manufacturers and about a third of those produced by the Big Three also enter consumption through the aftermarket. The new tire market takes virtually all of the production of tubeless-tire valves by the tire manufacturers and about two-thirds of the Big Three's output of tubeless-tire valves. Seven models of tubeless-tire valves are sold in the United States; only six of these models are imported from Canada. The models are differentiated only by size in order to fit the type of wheel rims to which they are to be attached. About 80 percent of total U.S.

[1] Commissioners Leonard and Young did not participate in the decision.

consumption, however, is accounted for by two models: The TR 413 and the TR 418.

Annual apparent U.S. consumption of tubeless-tire valves is closely related to the number of new passenger automobiles produced and also to the number of such vehicles in use. Although annual total consumption of tubeless-tire valves has fluctuated in recent years, it has been expanding. Consumption was about 38 percent larger in 1970 than in 1966, and consumption in January–September 1971 was 27 percent larger than in the corresponding period of 1970. Both the new tire market for valves and the aftermarket have trended upward since 1966. The aftermarket, unlike the new tire market, has increased without interruption since 1966.

Inventories of tubeless-tire valves held by U.S. producers have declined since 1966.

U.S. market prices for tubeless-tire valves are usually made available in published price lists, subject to various discounts according to class of purchaser, size of purchase, type of packaging, and method of payment. The valves are nearly always priced on a delivered basis, with the producers or importers absorbing the freight. Thus, prices do not vary from one part of the country to another, in either the new tire market or the aftermarket.

*Effect of LTFV imports from Canada.* Imports of tubeless-tire valves from Canada began in 1969, increased in 1970, and declined in 1971. In 1970, imports from Canada accounted for about 2.4 percent of apparent U.S. consumption. Information from the Treasury Department indicates that about half of the imports from Canada were sold at LTFV. Thus, at their highest level (1970), the LTFV imports accounted for about 1.4 percent of apparent consumption. When the LTFV imports of the two models that account for 80 percent of U.S. consumption (TR 413 and TR 418) are considered separately, it is clear that the market penetration of the LTFV imports is extremely small. LTFV imports in 1970 of these two models were equivalent to only 0.8 percent and 0.6 percent, respectively, of the total U.S. market for such models.

Although imports of tubeless-tire valves from other countries as well as from Canada have been increasing since 1968, prices of domestically produced valves have trended upward. Moreover, for valves delivered to distributors in the United States, U.S. producers' prices have generally been higher than those for the Canadian products. Evidence obtained in this investigation shows that during 1969 and 1970 when there were LTFV imports from Canada, only one U.S. producer lowered his prices. That producer increased his sales annually in the U.S. market from 1966 to 1971.

Had the imports of LTFV valves from Canada been subject to dumping duties, the amount of such duties would have been considerably less than the difference in U.S. market price between the large U.S. producers' valves and the LTFV valves. Only for the one small U.S. producer that lowered his prices in 1970 were the dumping margins found to be, for the most part, greater than the difference in the U.S. market between his prices and the prices for the LTFV imports. Moreover, tubeless-tire valves from Italy undersell the LTFV valves from Canada.

*Conclusion.* As the market penetration by LTFV imports from Canada is extremely small and as the dumping margins have virtually no depressing or suppressing effect on prices for tubeless-tire valves in the U.S. market, we conclude that if the domestic industry is injured by reason of imports of such valves from Canada, sold at less than fair value, such injury is de minimis. Moreover, because the dumping margins have had virtually no effect on prices of the subject valves in the U.S. market, we conclude that there is no likelihood of injury to a domestic industry as contemplated by the Antidumping Act.

By order of the Commission:

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.71-18955 Filed 12-28-71;8:46 am]

# INTERSTATE COMMERCE COMMISSION

## ASSIGNMENT OF HEARINGS

DECEMBER 21, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 128879 Subs 16 and 18, C-B Truck Lines, Inc., assigned January 10, 1972, at Santa Fe, N. Mex., are canceled and reassigned for hearing January 10, 1972, at the Villa Inn Motel, 3618 Interstate 40 East, Amarillo, TX.

MC-C-7174 Sub 1, Greenville Bus Co., Revocation of Certificate, assigned January 12, 1972, MC-F 11240, Nestor, Inc.—Purchase (Portion)—Thruway Freight Lines, Inc., assigned January 14, 1972, MC-133240 Sub 21, West End Trucking Co., Inc., assigned January 13, 1972, MC-C 7166, Travel Center of Waterbury, Inc. v. Continental Trailways, Inc. et al., assigned January 10, 1972, at New York, N.Y., will be held in Room B-2231, 26 Federal Plaza, New York, NY.

MC 119632 Sub 49, Reed Lines, Inc., now being assigned January 10, 1972, in Room 1614, U.S. Court of Claims, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC-C-7409, City Dray Line v. Roadway Express, Inc. et al., assigned for hearing January 18, 1972, will be held in Room No. 3, Public Utilities Commission, North Office Building, North and Commonwealth Avenue, Harrisburg, PA.

MC-C-7411, Al Renk & Sons, Inc., and Superior Shippers Association, Inc.—Investigation and Revocation of Certificates, now assigned January 10, 1972, at Anchorage, Alaska, is canceled.

MC 55889 Sub 38, Cooper Transfer Co., Inc., assigned January 10, 1972, at Jacksonville, Fla., is postponed to April 4, 1972, in Room 714 Federal Office Building, 400 West Bay Street, Jacksonville, FL.

MC 135154 Sub 1, Badger Lines, Inc., assigned January 11, 1972, at Chicago, Ill., is canceled and application dismissed.

MC 12426 Sub 1, Groups Unlimited, Inc., assigned January 31, 1972, MC 134356, Gale Delivery, Inc., assigned February 2, 1972, at New York, N.Y., will be held in Room E-2222, 26 Federal Plaza, New York, NY.

MC 135395 Sub 1, assigned January 11, 1972, will be held in Room 1614, U.S. Court of Claims, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC 123639 Sub 132, J. B. Montgomery, Inc., now assigned January 10, 1972, at Chicago, Ill., postponed to January 13, 1972, in Room 1738A, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-19001 Filed 12-28-71;8:51 am]

[Notice 35]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

DECEMBER 23, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-61599 (Deviation No. 7), QUEEN CITY COACH COMPANY, Post Office Box 2387, Charlotte, NC 28201, filed December 15, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Manning,

S.C., over South Carolina Highway 261 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction U.S. Highway 301, (2) from junction Interstate Highway 95 and U.S. Highway 301, over Interstate Highway 95 to junction South Carolina Highway 6, thence over South Carolina Highway 6 to junction U.S. Highway 301, and (3) from junction U.S. Highway 301 and South Carolina Highway S-14-102 (1 mile south of Summerton, S.C.), over South Carolina Highway S-14-102 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction South Carolina Highway 6, thence over South Carolina Highway 6 to junction U.S. Highway 301, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Florence, S.C., over U.S. Highway 301 to junction South Carolina Highway 6, and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-19003 Filed 12-28-71;8:51 am]

## NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

DECEMBER 23, 1971.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. Case T-2403, filed November 30, 1971. Applicant: WADSWORTH AND REILLY EXPRESS, INC., 9319 Mallory Road, Washington Mills, NY 13479. Applicant's representative: Murray J. S. Kirshtein, 118 Bleecker Street, Utica, NY 13501. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities:* Between all points in the commercial zone of the city of Utica on the one hand, and, on the other, all points in the counties of Herkimer, Madison, Oneida, and Otsego, south of New York, Route 5. Both intrastate and interstate authority sought.

*HEARING:* Date, time, and place to be hereafter scheduled. Requests for procedural information including the time for filing protests concerning this application should be addressed to New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12226, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-19002 Filed 12-28-71;8:51 am]

[Notice 417]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 21, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 59457 (Sub-No. 23 TA), filed December 13, 1971. Applicant: SORENSEN TRANSPORTATION COMPANY, INC., Old Amity Road, Bethany, Conn. 06525. Applicant's representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Albany, N.Y., to points in Massachusetts, Rhode Island, Connecticut, New York, and New Jersey, for 150 days. Supporting shipper: Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: District Supervisor David J. Kiernan, Bureau of Operations, Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, CT 06101.

No. MC 76472 (Sub-No. 17 TA), filed December 13, 1971. Applicant: MATERIAL TRUCKING, INC., 924 South Heald Street, Wilmington, DE 19801. Applicant's representative: William Salenni (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Ores,* in bulk, in dump vehicles, from Wilmington, Del., to Womelsdorf, Pa., for 180 days. Supporting shipper: North American Refractories Co., a division of Eltra Corp., National City, East Sixth Building, Cleveland, Ohio 44114. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 100666 (Sub-No. 206 TA), filed December 10, 1971. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, 1129 Grimmett Drive, Shreveport, LA 71107. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic pipe, tubing, conduit, valves, and fittings, compounds, joint sealer, bonding cement, primer coating, thinner and hand tools,* used in the installation of such products (except commodities in bulk, in tank vehicles), from Slidell, La., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Dixie Plastic Manufacturing Co., Inc., 4250 Florida Avenue, New Orleans, LA 70126 (Mr. Frank V. Boyland, President). Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room T-4009, Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 105755 (Sub-No. 14 TA), filed December 15, 1971. Applicant, M.J.K. TRUCKING CORP., 1040 John Alden Lane, Schenectady, NY 12303. Applicant's representatives: Werner & Alfano, 2 West 45th Street, New York, NY 10036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Albany, N.Y., to points in New York and New Jersey, for 180 days. Supporting shippers: The Grand Union Co., Merchanicville Road, Post Office Box 66, Waterford, NY 1288; Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: Robert A. Radler, Officer-in-charge, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 113951 (Sub-No. 7 TA), filed December 10, 1971. Applicant: CRESSY TRANS. CO., INC., 109 Glenellen Road, West Roxbury, MA 02132. Applicant's representative: George C. O'Brien, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Albany, N.Y., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut, for 180 days. NOTE: Applicant states that it intends to tack only at Boston, Mass., and Manchester, N.H. Supporting shipper: Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Federal Building, Room 2211-B, Government Center, Boston, Mass. 02203.

No. MC 118019 (Sub-No. 5 TA), filed December 13, 1971. Applicant: PENN TRANSPORTATION CORP., 250 Maple Street, Chelsea, MA 02150. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Albany, N.Y., to points in Connecticut, Massachusetts, and the New York, N.Y., commercial zone, for 180 days. Supporting shipper: Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: Max Gorenstein, District Supervisor, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Federal Building, Government Center, Boston, Mass. 02203.

No. MC 118402 (Sub-No. 3 TA), filed December 13, 1971. Applicant: HILLSIDE MOTOR LINES, INC., 321 Indian River Road, Orange, CI 06477. Applicant's representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CI 06117. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Bananas*, from Albany, N.Y., to points in Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, and points within the New York, N.Y., commercial zone, for 150 days. Supporting shipper: Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: District Supervisor David J. Kiernan, Bureau of Operations, Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, CI 06101.

No. MC 124377 (Sub-No. 23 TA), filed December 13, 1971. Applicant: REFRIGERATED FOODS, INC., Post Office Box 1018, 3200 Blake Street, 80205, Denver, CO 80201. Applicant's representative: Stockton and Lewis, The 1650 Grant Street Building, Denver, CO 80802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rendered lard*, in bulk, in tank vehicles, from (1) Downs, Kans., to York, Nebr., and (2) from Downs, Kans., and York, Nebr., to Denver, Colo., for 180 days. Supporting shipper: York Packing Co., York, Nebr. 68467. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, 1961 Stout Street, Denver, CO 80802.

No. MC 133982 (Sub-No. 2 TA), filed December 13, 1971. Applicant: ALVIN P. MURPHY, doing business as MURPHY PRODUCE, 302 South Merriam Street (Box 426), Miles City, MT 59301. Applicant's representative: J. F. Meglen, Post Office Box 1581, Billings, MT 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, from Beach, N. Dak., to Wellsville, Utah, for 180 days. Supporting shipper: Valley Dairy Products, Beach, N. Dak. 58621. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 134387 (Sub-No. 8 TA), filed December 10, 1971. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, CA 90280. Applicant's representative: David P. Christianson, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass* for recycling purposes, from points in Pima and Maricopa Counties, Ariz., to points in Los Angeles and Orange Counties, Calif., for 180 days. Supporting shipper: Phoenix Coca-Cola Bottling Co., Post Office Box 20008, 2225 East Buckeye Road, Phoenix, AZ 85036. Send protests to: District Supervisor Walter W. Strakosch, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 135741 (Sub-No. 1 TA), filed December 10, 1971. Applicant: EARL R. MARTIN, Post Office Box 3, East Earl, PA 17519. Applicant's representative: John M. Musselman, Post Office Box 1146, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, in bulk, in dump vehicles, from Hopewell, Va., to Oxford, Pa., for 180 days. Supporting shipper: Lancaster Bone Fertilizer Co., Inc., Quarryville, Pa. 17566. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 136228 (Sub-No. 1 TA), filed December 13, 1971. Applicant: LUISI TRUCK LINES, INC., Post Office Box 606, Milton-Freewater, OR 97862. Applicant's representative: Thomas G. Karter, 4410 Northeast Fremont, Portland, OR 97213. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe, iron or steel, scrap iron, and farm supplies*, from Portland, Oreg., and Seattle, Wash., to Yakima, Wash.; and (2) *lumber, plywood, veneer, shakes, shingles and roofing materials*, from points in Benton, Clackamas, Hood River, Josephina, Lane, Multnomah, Polk, Tillamook, and Umatilla Counties, Oreg., to points in Franklin and Walla Walla Counties, Wash., for 180 days. Supporting shippers: U. K. Swift Lumber Co., Post Office Box 926, Walla Walla, WA 99362; Morton's Supply, 1724 South First Street, Yakima, WA 98901. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.71-19004 Filed 12-28-71;8:51 am]

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