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Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER I—DETERMINATION OF PRICES

PART 874—SUGARCANE; LOUISIANA

Fair and Reasonable Prices for 1971 Crop

Correction

In F.R. Doc. 71-15179 appearing at page 20287 in the issue for Wednesday, October 20, 1971, the following changes should be made in the table entitled "Standard Sugarcane Purity Factor" in § 874.36(b):

1. In the fourth column, the last figure should read "1.062".

2. In the fifth column, the third figure from the bottom should read "1.049".

3. In the sixth column, the fifth figure from the bottom should read "1.036".

4. In the last column, the last six figures should read ".995", ".998", "1.000", "1.004", "1.007", and "1.010", respectively.

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 966—TOMATOES GROWN IN FLORIDA

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in the production area, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Florida Tomato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments hereinafter set forth will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable to give preliminary notice, or engage in public rule making procedure, and 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) because (1) the time intervening between the date when the information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient since the shipping season has already begun, (2) more orderly marketing than would otherwise prevail will be promoted by regulating the handling of tomatoes in the manner set forth in this section, (3) compliance with this regulation will not require any special preparation by handlers which cannot be completed by the effective date, (4) reasonable time is permitted, under the circumstances, for such preparation, (5) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (6) this regulation applies only to shipments of tomatoes grown in the Florida production area. It does not apply to imports.

Statement of consideration. Standardization of size classification, and container weights as well as inspection requirements are necessary for orderly marketing. Such requirements will contribute to the prevention of deceptive packing practices and will thus provide a basis for informed sale and purchase decisions on the part of both handlers and consumers.

Shipments may be made to certain special purpose outlets without regard to the above requirements: *Provided,* That safeguards are used to prevent such tomatoes from reaching unauthorized outlets. Tomatoes for canning are so exempted because the needs of this outlet differ substantially from those of fresh market shipments. Likewise shipments for relief or charity are exempt from all requirements; to do otherwise would serve no useful purpose.

Inasmuch as there is a special demand for small sizes of tomatoes for processing into pickles and since such outlets can utilize shipments in bulk or other container form, shipments of tomatoes for such purpose which are $2\frac{1}{32}$ inches in diameter or smaller are exempt from container requirements. Shipments for export are exempted from size classification and container requirements in order to accommodate the different preferences which may occur in export outlets.

Up to 60 pounds of tomatoes per day may be handled without regard to size classification, container, or inspection requirements in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of tomatoes.

§ 966.309 Limitation of shipments.

From the effective date hereof through June 30, 1972, the following regulations shall be effective with respect to all varieties of tomatoes handled, except elongated types, commonly referred to as pear shaped or paste tomatoes and including, but not limited to, San Marzano, Red Top, and Roma varieties; cerasiform-type tomatoes, commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(a) *Size classifications.* (1) No person shall handle any lot of tomatoes unless they are sized in one or more of the following ranges of diameters (expressed in terms of minimum and maximum). Measurement of minimum and maximum diameter shall be in accordance with the methods prescribed in the U.S. Standards for Grades of Fresh Tomatoes (§§ 51.1855 to 51.1877 of this title).

Size classification:	*Diameter (inches)*
7 x 8 and smaller.	$2\frac{1}{32}$ and smaller.
7 x 7	Over $2\frac{1}{32}$ to $2\frac{9}{32}$, inclusive.
6 x 7	Over $2\frac{9}{32}$ to $2\frac{17}{32}$, inclusive.
6 x 6	Over $2\frac{17}{32}$ to $2\frac{25}{32}$, inclusive.
5 x 6	Over $2\frac{25}{32}$.

(2) Tomatoes of designated sizes may not be commingled unless they are over $2\frac{17}{32}$ inches in diameter and each container shall be marked to indicate the designated size.

(3) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

(b) *Containers.* (1) No person shall handle any lot of tomatoes unless they are packed within one of the following net weight ranges:

Container net weight	Minimum net weight	Maximum net weight
	Pounds	
20	20	$21\frac{1}{2}$
30	30	$31\frac{1}{2}$
40	40	$41\frac{1}{2}$
60	60	$61\frac{1}{2}$

(2) To allow for variations incident to proper packing, not more than a total of 10 percent, by count, of the containers in any lot may vary from the net weight specified.

(c) *Inspection.* No person shall handle any lot of tomatoes unless such tomatoes are inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall be registered with the committee pursuant to § 966.7. Annual certificates of registration will be issued to known handlers and to new handlers upon application to the committee and each will be assigned a registration number. Registered handlers are the first handlers of tomatoes and shall pay assessments as provided in § 966.42.

(d) *Truck shipments.* For purposes of these regulations, the rule, § 966.140, relating to truck shipments of tomatoes grown in the Florida production area, shall continue in effect.

(e) *Minimum quantity.* For purposes of these regulations, each person subject thereto may handle, pursuant to § 966.53,

up to, but not to exceed, 60 pounds of tomatoes per day without regard to the requirements of this part, but this exception shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(f) *Special pack requirements.* The tomato size classifications of paragraph (a) of this section and the container weight requirements of paragraph (b) of this section shall not be applicable to tomatoes packed in cupped trays, or when in containers customarily packed for the retail trade, if such tomatoes are handled in accordance with the reporting requirements of paragraph (g) of this section.

(g) *Reporting requirements.* Each handler making shipments of tomatoes pursuant to this section shall report to the committee on forms furnished by the committee such information on the shipments as may be required by the committee pursuant to § 966.80. Such reports shall be made within 10 days after shipment.

(h) *Special purpose shipments.* (1) The requirements of paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of tomatoes for canning, relief or charity if the handler thereof complies with the safeguard requirements of paragraph (i) of this section. Shipments for canning are exempt from the assessment requirements of this part.

(2) The requirements of paragraphs (a) and (b) of this section shall not be applicable to shipments of tomatoes which are 2⅛₂ inches in diameter or smaller for processing into pickles if the handler thereof complies with the safeguard requirements of paragraph (i) of this section.

(3) The requirements of paragraphs (a) and (b) of this section shall not be applicable to shipments of tomatoes for export if the handler thereof complies with the safeguard requirements of paragraph (i) of this section.

(i) *Safeguards.* Each handler making shipments of tomatoes for processing into pickles, for canning, for relief or charity, or for export in accordance with paragraph (h) of this section shall:

(1) First apply to the committee for and obtain a certificate of privilege to make such shipments;

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (h) of this section;

(3) Bill or consign each shipment directly to the designated applicable receiver; and

(4) Forward one copy of such report to the committee office, and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within 10 days after shipment shall be cause for cancellation of such handler's certificate and/or the receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate the handler may appeal to the committee for reconsideration.

(j) *Definitions.* "Hydroponic Tomatoes" means tomatoes grown in solution without soil. "Greenhouse Tomatoes" means tomatoes grown indoors. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: Dated November 8, 1971, to become effective upon publication (11–10–71).

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16434 Filed 11–9–71;8:52 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[AL–50(400)]

PART 1890p—NONDISCRIMINATION IN CONSTRUCTION FINANCED WITH A FARMERS HOME ADMINISTRATION LOAN OR GRANT

Subchapter G is amended by adding a new Part 1890p, supplementing certain preceding parts of this chapter. New Part 1890p reads as follows:

Sec.
1890p.1 Purpose.
1890p.2 Definitions.
1890p.3 Scope.
1890p.4 Exemptions.
1890p.5 Requirements.
1890p.6 Compliance reviews.
1890p.7 Complaints.

AUTHORITY: The provisions of this Part 1890p issued under 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; Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650, 33 F.R. 9677; Order of Director, OEO, 29 F.R. 14764.

§ 1890p.1 Purpose.

This part supplements parts 1804, 1821, Subparts A, C, D, E, F, G, and J of Part 1822, Subparts A, B, D, E, F, H, I, J, K, and L of Part 1823, and Subpart A of Part 1832 of this chapter, and implements the regulations of the Secretary of Labor under Executive Order 11246, as amended. These regulations assure equal employment opportunity without regard to race, color, religion, sex, or national origin and the elimination of all facilities segregated on the basis of race, color, religion, or national origin on construction work financed by the Farmers Home Administration (FHA).

§ 1890p.2 Definitions.

(a) "Applicant" means an applicant for an FHA direct or insured loan or an FHA grant and includes such an applicant after reciving an FHA loan or grant.

(b) "Construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, roads, or other changes or improvements to real property, including facilities providing utility services.

(c) "Contractor" means the prime party who performs construction work.

(d) "Construction contract" means a legally binding agreement for construction work paid for in whole or in part with an FHA loan or grant. This agreement may be between the applicant and a contractor, a contractor and subcontractor, or the Government and the applicant in the case of construction by the borrower method.

(e) "Subcontract" means an agreement or purchase order between a contractor and another party for supplies, services, or the use of real or personal property which is necessary for the performance of a construction contract.

(f) "Subcontractor" means any party holding a subcontract whether from the prime contractor or another subcontractor.

§ 1890p.3 Scope.

This part applies to any FHA loan or grant which may involve a construction contract of over $10,000. Applicability will be determined on the estimated value of the construction contract not on the amount of the loan. If construction work of over $10,000 is partially financed through the participation of another Federal agency, the County Supervisor will try to reach an agreement on which agency will administer the nondiscrimination regulations. If he is unable to reach agreement, he will refer the case to the State Director who will try to reach such agreement. Any questions on whether a particular contract is subject to this part should be referred to the State Director.

§ 1890p.4 Exemptions.

(a) Any applicant whose loan will not be used even partially to finance construction work.

(b) Any construction contract of $10,000 or less.

(c) Any agency of a State or local government which does not actually participate in work under a construction contract or subcontract.

(d) Construction performed by the borrower method which does not involve a subcontract of $10,000 or more.

§ 1890p.5 Requirements.

(a) *The applicant.* Before loan closing, each applicant whose loan or grant involves a construction contract of more than $10,000 will execute Form FHA 400–1, "Equal Opportunity Agreement," which includes an Equal Employment clause. If the applicant is an incorporated association, a resolution of the governing body will have to authorize the execution of this form. Municipalities or other public bodies will incorporate references to this form in the loan resolution before it is adopted.

(b) *The contractor or subcontractor—(1) Contracts or subcontracts of over $10,000.* (i) Before or as a part of the bid or negotiation, the prospective contractor or subcontractor must submit Form FHA

400–6, "Compliance Statement." No prospective contractor will be eligible for an FHA financed contract until he has filed all the compliance reports required of him under previous contracts.

(ii) An Equal Opportunity Clause will be part of each contract and subcontract. This clause has been incorporated in Form FHA 424–6, "Construction Contract."

(iii) With the notification of the contract award, the contractor will receive:

(a) Form FHA 400–3, "Notice to Contractors and Applicants," with an attached Equal Employment Opportunity Poster. Posters in Spanish will be provided and displayed where a significant portion of the population is Spanish speaking.

(b) Form AD–425, "Contractor's Affirmative Action Plan for Equal Employment Opportunity Under Executive Order 11246 and Executive Order 11375," if the contractor is subject to the requirements of subparagraph (3) of this paragraph.

(2) *Contractor or subcontractor has 100 or more employees and a contract of $10,000 or more.* In addition to meeting the requirements of subparagraph (1) of this paragraph, each contractor or subcontractor must file Standard Form 100, "Employer Information Report EEO–1," with the Joint Reporting Committee within 30 days of the contract award unless this report has already been submitted within the last 12 months. An annual report will be filed on or before March 31 as long as the contractor holds FHA financed contracts equal to $10,000 or more. Failure to file timely, complete, and accurate reports constitutes noncompliance with the Equal Opportunity Clause. Report forms are distributed by the Joint Reporting Committee and any questions on this Form should be addressed by the contractor to the Joint Reporting Committee, 1800 G Street NW., Washington, DC 20506.

(3) *Contracts or subcontracts of $50,000 or more where the contractor or subcontractor has 50 or more employees.* In addition to the requirements of subparagraph (1) of this paragraph, each *such contractor or subcontractor must* develop a written affirmative action compliance program for each of his establishments and put it on file in each personnel office within 120 days of the commencement of the contract. Form AD–425 provides guidelines for the contractor in developing such a program.

§ 1890p.6 Compliance reviews.

(a) During construction inspections the County Supervisor will check to see that the required posters are displayed; the facilities are not segregated; and, there is no evidence of discrimination in employment. Findings will be reported on Form FHA 424–12, "Inspection Report." If there is any evidence of noncompliance, the County Supervisor will try to achieve voluntary compliance. If he fails, he will report all the facts to the State Director who will also attempt to achieve compliance. If these attempts fail, the State Director will report all the facts to the National Office.

(b) The Department Contracts Compliance Officer may request special compliance reviews at any time.

§ 1890p.7 Complaints.

Any employee of or applicant for employment with a contractor or subcontractor subject to this part may file a written complaint of discrimination with the County Supervisor or State Director.

(a) A written complaint of alleged discrimination must be signed by the complainant and should include the following information:

(1) The name and address (including telephone number) of the complainant.

(2) The name and address of the person committing the alleged discrimination.

(3) A description of the acts considered to be discriminatory.

(4) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(b) If a complaint does not include all the required information, the official receiving the complaint will help the complainant provide the additional information.

(c) Such complaint must be filed not later than 180 days from the date of the alleged discrimination unless the time for filing is extended by the State Director for good cause shown.

(d) All complaints will immediately be sent to the National Office. The County Supervisor or State Director will include the amount of the contract, whether or not the contractor has submitted the required Forms, and any other pertinent information in the memorandum transmitting the complaint.

Dated: November 3, 1971.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[FR Doc.71–16393 Filed 11–9–71;8:48 am]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 11—SECURITIES ACT DISCLOSURE RULES

Forms for Annual Report of Bank and Statements of Beneficial Ownership of Equity Securities

These amendments are issued under the authority of section 12(i) (15 U.S.C. 781–(i)) of the Securities Exchange Act of 1934. Since the amendments are for clarification and correction of the regulation describing the form for annual report of bank and forms relative to statements of beneficial ownership of equity securities, notice and public procedure are found to be unnecessary and not in the public interest. Accordingly, the amendments will become effective upon publication (11–10–71). Sections 11.42, 11.61, and 11.62 referred to in these amendments were published as part of the Securities Act Disclosure Rules in FEDERAL REGISTER Volume 36, No. 156, Thursday, August 12, 1971 (36 F.R. 14997).

Section 11.42, *Form for annual report of bank (Form F–2)* is hereby amended as follows:

Paragraph B is deleted in its entirety. Paragraph C is redesignated as paragraph B and is revised to read as follows:

§ 11.42 Form for annual report of bank (Form F–2).

* * * * *

B. *Annual reports to stockholders.* Every bank that files an annual report on this form shall furnish to the Comptroller for his information four copies of any annual report to security holders covering such registrant bank's latest fiscal year, unless copies thereof are furnished to the Comptroller pursuant to § 11.5. Such report shall be mailed to the Comptroller not later than the date on which it is first sent or given to security holders, but shall not be deemed to be "filed" with the Comptroller or otherwise subject to the liabilities of section 18 of the Act, except to the extent that the bank specifically requests that it be treated as a part of its annual report on the form or incorporates it herein by reference. If no annual report is submitted to security holders for the bank's latest fiscal year, the Comptroller shall be so advised. Information contained in an annual report to security holders furnished to the Comptroller pursuant to this paragraph may be incorporated by reference in answer or partial answer to any item of this form. In addition, any financial statements contained in any such annual report may be incorporated by reference if such financial statements substantially meet the requirements of this form.

* * * * *

§ 11.61 [Amended]

Section 11.61, *Form for initial statement of beneficial ownership of equity securities (Form F–7):* Under "Instructions," paragraph 2, *When statements are to be filed,* delete subparagraph designation "(a)" and delete subparagraphs 2 (b) and (c) in their entirety.

Instruction 3, *Where and how statements are to be filed.* The first sentence is amended to read as follows: "One signed copy and three reproduced copies of each statement shall be filed with the Comptroller of the Currency, Washington, D.C. 20220."

§ 11.62 [Amended]

Section 11.62, *Form for statement of changes in beneficial ownership of equity securities (Form F–8):* Instruction 3, *Where statements are to be filed.* The first sentence is amended to read as follows: "One signed copy and three reproduced copies of each statement shall be filed with the Comptroller of the Currency, Washington, D.C. 20220."

Instruction 6, *Transactions and holdings to be reported,* is amended to read as follows:

Persons required to file statements on this form shall include in their statements all changes during the calendar month in their beneficial ownership, and their beneficial ownership at the end of the month, of all classes of equity securities of the bank, even though one or more such classes may not be registered pursuant to section 12 of the Act.

Any director or officer who is required to file a statement on Form F-8 with respect to any change in his beneficial ownership of equity securities which occurs within 6 months after he became a director or officer of the issuer of such securities, or within 6 months after equity securities of such issuer first become registered pursuant to section 12 of the Act, shall include in the first such statement the information called for by Form F-8 with respect to all changes in his beneficial ownership of equity securities of such issuer which occurred within 6 months prior to the date of the changes which requires the filing of such statement.

Any person who has ceased to be a director or officer of an issuer which has equity securities registered pursuant to section 12 of the Act, or who is a director or officer of an issuer at the time it ceased to have any equity securities so registered, shall file a statement on Form F-8 with respect to any change in his beneficial ownership of equity securities of such issuer which shall occur on or after the date on which he ceased to be such director or officer, or the date on which the issuer ceased to have any equity securities so registered, as the case may be, if such change shall occur within 6 months after any change in his beneficial ownership of such securities prior to such date. The statement on Form F-8 shall be filed within 10 days after the end of the month in which the reported change in beneficial ownership occurs.

Every change in beneficial ownership shall be reported even though purchases and sales during the month are equal or the change involves only the nature of beneficial ownership (for example from direct to indirect ownership or from one type of indirect ownership to another). Beneficial ownership at the end of the month of all classes of equity securities of the bank shall be shown even though there has been no reportable change during the month in the ownership of equity securities of a particular class.

Dated: November 4, 1971.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[FR Doc.71-16394 Filed 11-9-71;8:49 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Dichlorvos

The Commissioner of Food and Drugs has evaluated a new animal drug application (43-606V) filed by Shell Chemical Co., Agricultural Chemicals Division, 110 West 51st Street, New York, N.Y. 10020, proposing the safe and effective use of dichlorvos as an anthelmintic in swine. The application is approved.

A safe tolerance for residues of dichlorvos in food has previously been established.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), a new section is added to Part 135c, as follows:

§ 135c.50 Dichlorvos.

(a) *Chemical name.* 2,2-Dichlorvinyl dimethyl phosphate.

(b) *Specifications.* Contains 90–110 percent of labeled amount of dichlorvos.

(c) *Sponsor.* See code No. 033 in § 135.501(c) of this chapter.

(d) *Related tolerances.* See § 135g.75 of this chapter.

(e) *Conditions of use.* (1) It is recommended for the removal and control of sexually mature (adult), sexually immature and/or 4th stage larvae of the whipworm (*Trichuris suis*), nodular worms (*Oesophagostomum* sp.), large round-worm (*Ascaris suum*), and the mature thick stomach worm (*Ascarops strongylina*) occurring in the lumen of the gastrointestinal tract of pigs, boars, and open or bred gilts and sows.

(2) The preparation should be added to the indicated amount of feed as set forth in this subparagraph and administered shortly after mixing, as follows:

Weight of animal in pounds	Pounds of feed to be mixed with each 0.08 ounce of dichlorvos	Pounds of mixed feed to be administered to each pig as a single treatment	Number of pigs to be treated per 0.08 ounce of dichlorvos
20-30	4	0.33	12
31-40	5	0.56	9
41-60	6	1.00	6
61-80	5	1.00	5
81-100	4	1.00	4
Adult Gilts, Sows, and Boars	16	4.00	4

(3) Do not use this product on animals either simultaneously or within a few days before or after treatment with or exposure to cholinesterase inhibiting drugs, pesticides, or chemicals. The preparation should be mixed thoroughly with the feed on a clean, impervious surface. Do not allow swine access to feed other than that containing the preparation until treatment is complete. Do not treat pigs with signs of scours until these signs subside or are alleviated by proper medication. Resume normal feeding schedule afterwards. Swine may be retreated in 4 to 5 weeks.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-10-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 28, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-16315 Filed 11-9-71;8:45 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order 1077-A]

PART 1033—CAR SERVICE

Kansas City Southern Railway Co. Authorized To Operate Over Certain Trackage of Southern Pacific Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of October 1971.

Upon further consideration of Service Order No. 1077 (36 F.R. 13927 and 17344) and good cause appearing therefor:

It is ordered, That: Section 1033.1077 *Service Order No. 1077* (The Kansas City Southern Railway Co. authorized to operate over certain trackage of Southern Pacific Transportation Co.) be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1 (10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That this order shall become effective at 11:59 p.m., November 1, 1971; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16413 Filed 11-9-71;8:50 am]

[Ex Parte No. MC-37 (Sub-No. 1)]

PART 1048—COMMERCIAL ZONES

Syracuse, N.Y., Commercial Zone

At a session of the Interstate Commerce Commission, Review Board No. 3, members Bilodeau, Beddow, and Grossman, held at its office in Washington, D.C., on the 15th day of October 1971.

It appearing, that on June 30, 1961, the Commission, division 1, made and filed its report and order on petition in 92 M.C.C. 100, in this proceeding, specifically defining the limits of the zone

adjacent to and commercially a part of Syracuse, N.Y., contemplated by section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8));

It further appearing, that by petition filed August 17, 1971, the Greater Syracuse Chamber of Commerce, Inc., seeks modification of the limits of the Syracuse, N.Y., commercial zone so as to include points within an additional specified portion of the town of Van Buren, Onodaga County, N.Y. (a New England type township);

It further appearing, that pursuant to section 553 of the Administrative Procedure Act, notice of the said petition was published in the FEDERAL REGISTER, which notice stated that no oral hearings were contemplated; that persons desiring to participate in the proceeding were invited to file representations supporting or opposing the proposal; that 35 representations were filed in support of the proposal; and that no representations were filed in opposition thereto;

It further appearing, that the area sought for inclusion within the limits of Syracuse, N.Y., commercial zone is, in fact, economically and commercially a part of Syracuse, N.Y.;

Wherefore, and good cause appearing therefor:

It is ordered, That the proceeding be, and it is hereby, reopened for reconsideration.

It is further ordered, That the report and order entered herein on June 30, 1961 (49 CFR 1048.20) be, and it is hereby, vacated and set aside and the following revision is hereby substituted in lieu thereof:

§ 1048.20 Syracuse, N.Y.

The zone adjacent to and commercially a part of Syracuse, N.Y., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuing carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points as follows:

(a) The municipality of Syracuse, N.Y. itself;

(b) All other municipalities and unincorporated areas within 5 miles of the corporate limits of Syracuse, N.Y., and all of any other municipality any part of which lies within 5 miles of such corporate limits;

(c) Those points in the town of Geddes, Onondaga County, N.Y., which are not within 5 miles of the corporate limits of Syracuse, N.Y.;

(d) Those points in the town of Van Buren, Onondaga County, N.Y., not within 5 miles of the corporate limits of Syracuse, N.Y., and within an area bounded by a line beginning at the intersection of Van Buren Road with the line described in paragraph (b) of this section, thence northwesterly along Van Buren Road to its intersection with New York Highway 48, thence southeasterly along New York Highway 48 to its intersection with Seneca Beach Drive, thence northeasterly along Seneca Beach Drive and an imaginary extension thereof to the point where such an imaginary line intersects the Van Buren-Lysander town line, thence southeasterly along the Van Buren-Lysander town line to its intersection with the Van Buren-Geddes Town line, thence southeasterly along the Van Buren-Geddes town line to the line described in paragraph (b) of this section.

(49 Stat. 543, as amended, 49 U.S.C. 302, 303, and 304)

It is further ordered, That this order shall become effective on December 31, 1971, and shall continue in effect until further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Review Board No. 3.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16414 Filed 11-9-71;8:50 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1-16—PROCUREMENT FORMS

Revision of Forms

This amendment of the Federal Procurement Regulations authorizes the incorporation by reference of Standard Form 33A, Solicitation Instructions and Conditions, where Standard Form 33, Solicitation, Offer, and Award, is used and provides for the modification of Standard Form 19-B, Representations and Certifications (Construction Contract), to add the size standard for concerns bidding on dredging contracts to the small business representation on the form.

The table of contents for Part 1-16 is changed to prescribe a modified entry as follows:

Sec.
1-16.105 Incorporation of Standard Forms 32 and 33A by reference.

Subpart 1-16.1—Forms for Advertised Supply Contracts

1. Section 1-16.101(a) is revised as follows:

§ 1-16.101 Contract forms.

* * * * *

(a) Solicitation, Offer, and Award (Standard Form 33, November 1969 edition). Pending the publication of a new edition of the form, Block 9 may be modified by deleting the present provision of Item 1 and by substituting therefor the following provision to permit Standard Form 33A to be incorporated by reference:

(1) Solicitation Instructions and Conditions, SF 33A ..... edition, which is attached or incorporated herein by reference.

* * * * *

2. Section 1-16.105 is revised as follows:

§ 1-16.105 Incorporation of Standard Forms 32 and 33A by reference.

Since Standard Forms 32 and 33A may be incorporated by reference in the solicitation portion of Standard Form 33, it is not necessary to attach Standard Forms 32 and 33A each time solicitations are issued to concerns regularly doing business with the Government. However, when new editions of Standard Forms 32 and 33A are issued, it is essential that agencies distribute copies thereof to all prospective bidders on their mailing lists and request that the forms be retained for future reference. When interim modifications to the forms have substantive contractual effects, information necessary for use of the forms as modified shall be included in solicitations until new editions are issued. Copies of the forms (and any information as to interim modifications, if appropriate) shall be made available promptly to prospective bidders on request.

Subpart 1-16.4—Forms for Advertised Construction Contracts

Section 1-16.401(c) is revised as follows:

§ 1-16.401 Forms prescribed.

* * * * *

(c) Representations and Certifications (Construction Contract) (Standard Form 19-B, October 1969 edition). Pending the publication of a new edition of the form, the present provision of Item 1 may be deleted and the following provision substituted therefor to indicate the small business size standard which is applicable to concerns bidding on dredging contracts:

1. Small business.

He [ ] is, [ ] is not, a small business concern. (For this purpose, a small business concern is a business concern, including its affiliates, which (a) is independently owned and operated, (b) is not dominant in the field of operation in which it is bidding on Government contracts, and (c) had average annual receipts for the preceding 3 fiscal years not exceeding $7,500,000 if bidding on a construction contract or $5 million if bidding on a dredging contract. For additional information see governing regulations of the Small Business Administration (13 CFR Part 121).)

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective December 1, 1971, but may be observed earlier.

Dated: November 2, 1971.

ROBERT L. KUNZIG, *Administrator of General Services.*

[FR Doc.71-16420 Filed 11-9-71;8:52 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 2 of the NASA Procurement Regulation were effective 60 days from June 1, 1971, except for interim changes made by Procurement Regulation Directives.

PART 18–1—GENERAL PROVISIONS

1. Section 18–1.114 revised in its entirety as follows:

§ 18–1.114 Reporting of identical bids.

(a) *General.* Executive Order 10936 dated April 24, 1961, as implemented by the Department of Justice, requires a report to be submitted to the Attorney General on each formally advertised procurement (including small business restricted advertising) over $10,000 which involves identical bids. Identical bids are two or more bids for the same line item which:

(1) Are identical on their face (regardless of such evaluation factors as discount, transportation, etc.) either as to unit price or total line item amount; or

(2) Are identical as evaluated as to either unit price or total line item amount.

A line item is an item of supply or service which independently can be made the subject of an award by the Government. However, the reporting requirements herein established for line items shall be applicable to invitations calling for line item bidding even though the invitations or bids contained qualifying or restrictive limitations on award (e.g., all or none bids or award on one item being conditioned on award of other items). This reporting requirement is in addition to the reports required by § 18–1.111.

(b) *Information to be obtained from bidders.* Each invitation for bids for a procurement estimated to exceed $10,000 will include substantially the following:

PARENT COMPANY AND EMPLOYER IDENTIFICATION NUMBER (MARCH 1963)

(a) Bidder represents that he ☐ is, ☐ is not, owned or controlled by a parent company. For this purpose a parent company is defined as one which either owns or controls the activities and basic business policies of the bidder. To own another company means the parent company must own at least a majority (more than 50 percent) of the voting rights in that company. To control another company such ownership is not required; if another company is able to formulate, determine or veto basic business policy decisions of the bidder, such other company is considered the parent of the bidder. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements, or otherwise.

(b) If the bidder is owned or controlled by a parent company, insert in the space below the name and main office of the parent company.

Name	Address

(c) Bidder will provide in the applicable space below, if he has no parent company, his own Employer's Identification Number (E.I. No.) (Federal Social Security Identification Number as used on Federal Tax Return); or, if he has a parent company, the E.I. No. of his parent company.

Bidder's E.I. No._____
Parent Company's E.I. No._____

If a bidder fails to provide the above information on an invitation for bids and if identical bids are involved, one inquiry will be made in an effort to obtain the information. Failure to provide information concerning the parent company or the employer's identification number is not a basis for rejection of bids.

(c) *Reportable bids.* An identical bid report shall be submitted when identical bids are received and the bid value of all line items covered by the invitation for bids exceeds $10,000 (based on the apparent low bid for each line item) except that reports will not be submitted when:

(1) They were the low bids;

(2) Award is made on the line item;

(3) The invitation was canceled; or

(4) Any other disposition was made subsequent to public opening of the bids.

(d) *Submission of reports.* Identical bid reports shall be submitted for all reportable bids on Department of Justice Form DJ–1500 (Federal Stock No. 7540–823–7870), available from General Services Administration stores depots. Instructions for filling out this form are printed as the cover sheet of each pad of these forms. Reports shall be made within 20 days following the disposition of all of one or more contracts or other action. Two completed copies of the report, a copy of the invitation for bids and a copy of the completed abstract of bids shall be sent to the Attorney General, Ref: AT–IBR, Washington, D.C. 20530. The abstract of bids need not be furnished when the number of line items on an invitation exceeds 100; in which event, the identical bid report shall be annotated to indicate (1) the number of line items, and (2) the number of bidders on the invitation. A copy of the identical bid report shall be retained by the purchasing activity.

(e) *Completion of reports.* All bids for each line item on which reportable identical bids have been disclosed shall be reported regardless of whether the identical bids were the low bids. Reports are required on reportable identical bids regardless of whether an award is made on the line item, the invitation is canceled, or any other disposition is made subsequent to the public opening of the invitation.

§ 18–1.115 [Amended]

2. In § 18–1.115 add the following sentence to paragraph (a): "When the solicitation authorizes the submission of oral offers and requires that such offers be confirmed in writing, it shall require that the certification be included with or be expressly incorporated by reference in and thereby made a part of the confirmation."

§ 18–1.211 [Amended]

3. In § 18–1.211 delete reference to Electronics Research Center.

§§ 18–1.214, 18–1.217 [Amended]

4. In § 18–1.214 and § 18–1.217, change title of Germantown Installation from: AEC–NASA Space Nuclear Propulsion Office to: AEC–NASA Nuclear Systems Office.

5. Sections 18–1.302 and 18–302–1 are revised to change titles as follows:

§ 18–1.302 Sources of supply and services.

§ 18–1.302–1 Existing Government assets.

§ 18–1.302–2 [Amended]

6. In § 18–1.302–2, change line seven to read: "proposals or quotations" in the case of procurement; change the last line to read: requirements and thereby obtain for the Government the most advantageous contract—prices, quality and other factors considered.

§ 18–1.302–3 [Amended]

7. In § 18–1.302–3(a), after "(see Subpart 18–2.6)." Add: "Information on types of small business production pools, their purpose, and procedures for establishing such pools and for securing their approval by the Small Business Administration (SBA) is contained in the SBA publication 'Small Business Production Pools for Defense.'"

Section 18–1.302–3(f) is added as follows:

(f) *Small Business Status.* Approval of an organization as a defense production or research and development pool under the Defense Production Act of 1950, as amended, does not confer upon such pool the preferences and privileges accorded to "small business concerns". Such preferences and privileges shall be accorded only to those pools which have been approved under the Small Business Act, Public Law 85–536, as amended.

8. Section 18–1.302–4 is added:

§ 18–1.302–4 Contracts between the Government and its employees or business organizations substantially owned or controlled by Government employees.

(a) Contracts shall not knowingly be entered into between the Government and employees of the Government or business organizations which are substantially owned or controlled by Government employees, except for the most compelling reasons, such as cases where the needs of the Government cannot reasonably be otherwise supplied.

(b) When a contracting officer has reason to believe that an exception as described in paragraph (a) of this section should be made, approval of the Director of Procurement shall be obtained prior to entering into any such contract.

9. Section 18–1.302–50 is revised to read as follows:

§ 18–1.302–50 Proposed subcontracts between NASA contractors and Government employees.

In the approval of subcontracts under NASA prime contracts, NASA contracting officers shall consider the policy restrictions of § 18–1.302–6 to apply to subcontracts.

10. Section 18–1.302–51 is revised to read as follows:

§ 18–1.302–51 New sources of scientific and technical competence.

As a Government agency whose mission calls for substantial Federal expenditures and use of substantial national resources, NASA has a strong interest in assisting in the accomplishment of collateral national economic goals within the framework of applicable statutory and administrative authority in such manner as will not impair program effectiveness. Utilization and the accompanying development of the potential of all geographical regions in the space program will effectively contribute to achieving national goals. To advance the further development of competence and capacity of sources, it is NASA's policy to encourage the placing of subcontracts over wider geographic areas. To carry out these objectives, the following clause shall be inserted in all research and development contracts of $500,000 and over to be performed within the United States.

GEOGRAPHIC PARTICIPATION IN THE AEROSPACE PROGRAM (JUNE 1966)

(a) It is the policy of the National Aeronautics and Space Administration to advance a broad participation by all geographic regions in filling the scientific, technical, research and development, and other needs of the aerospace program.

(b) The Contractor agrees to use his best efforts to solicit subcontract sources on the broadest feasible geographic basis, consistent with efficient contract performance, and without impairment of program effectiveness or increase in program cost.

(c) The Contractor further agrees to insert this clause in all subcontracts of $100,000 and over.

§ 18–1.302–52 [Deleted]

11. Section 18–1.302–52 is deleted.

12. Section 18–1.303 is added:

§ 18–1.303 Exchange of purchase information.

(a) Where the same item or class of items is being purchased by more than one Government agency, or by more than one NASA procurement office, the exchange and coordination of pertinent information, particularly cost and pricing data, promotes uniformity of treatment of major issues and the resolution of particulary difficult or controversial issues. Such exchange and cordination of information is particularly beneficial during the period of procurement planning, presolicitation, evaluation, and preaward survey.

(b) Where purchases of major items are involved or where a procurement office deems it desirable, it should request appropriate information (on both the end item and on major subcontracted components) from other procurement offices responsible for buying similar items. Each office receiving such requests shall furnish the information requested. The contracting officer, early in a negotiation of a contract, or in connection with the review of a subcontract, shall request the contractor to furnish information as to the contractor's or subcontractor's previous Government contracts and subcontracts for the same or similar end items and major subcontractor components.

13. Section 18–1.310(b) and (d) is revised to read as follows:

§ 18–1.310 Liquidated damages.

* * * * *

(b) When a liquidated damages clause is used, the contract shall set forth the amount which is to be assessed against the contractor for each calendar day of delay. The rate of assessment of liquidated damages must be reasonably considered in the light of procurement requirements on a case-by-case basis, since liquidated damages fixed without reference to probable actual damages may be held to be a penalty and therefore unenforceable. If appropriate to reflect the probable damages, considering that the Government can terminate for default or take other appropriate action, the rate of assessment of liquidated damages may be in two or more increments which provide a declining rate of assessment as the delinquency continues. The contract may also include an overall maximum dollar amount or period of time, or both, during which liquidated damages may be assessed, to assure that the result is not an unreasonable assessment of liquidated damages.

* * * * *

(d) Whenever any contract includes a provision for liquidated damages for delay, the Comptroller General, on the recommendation of the Administrator, is authorized and empowered to remit the whole or any part of such damages as he may consider to be just and equitable. Recommendations concerning remissions of liquidated damages will be forwarded by the contracting officer, with appropriate documentation, via the head of the field installation to the Director of Procurement for submission to the Administrator.

§ 18–1.319–3 [Amended]

14. In § 18–1.319–3, delete subparagraph (ix) (N).

§ 18–1.327–2 [Amended]

15. In § 18–1.327–2, change title of contract clause to read as follows:

REQUIRED SOURCE FOR ALUMINUM INGOT (JUNE 1971)

16. In § 18–1.327–2, paragraph (i) is revised to read as follows:

(i) 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, NPA Order M–5A and BDSA Regulation 2, 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.

17. Section 18–1.355(d) is revised to read as follows:

§ 18–1.355 Civil Rights Act of 1964—Nondiscrimination in federally assisted programs.

* * * * *

(d) Requests for proposals subject to Title VI shall include a copy of the "Assurance of Compliance" (NASA Form 1206) and shall require the proposer either to execute such an assurance as part of his proposal or to identify and refer to a prescribed assurance previously submitted. All assurances will be forwarded promptly to the Headquarters Contracts Division, NASA Headquarters (Code DHC). Copies of the assurance should be retained for the contract file.

* * * * *

18. Section 18–1.357(a) is revised to read as follows:

§ 18–1.357 Procurement of liquid hydrogen.

(a) To ensure that adequate supplies of liquid hydrogen are readily available to meet current and future program requirements, NASA has established contractual arrangements with primary supply sources located at Michoud, La., and Ontario, Calif. These contracts will be used to the maximum extent practicable in supplying both in-house and contractor requirements for liquid hydrogen.

* * * * *

§ 18–1.601–50 [Amended]

19. In § 18–1.601–50(a) change reference "NASA Management Instruction 5101.11," to read: "NASA Management Delegation 5101.11A."

20. Sections 18–1.700, 18–1.701, and 18–1.701–1 are revised to read as follows:

§ 18–1.700 Scope of subpart.

This Subpart 18–1.7, which applies only in the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands implements the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451–2459), and the Small Business Act, as amended (15 U.S.C. 631 et seq.), and sets forth policy and procedures governing (a) contract awards to small business concerns, (b) relationships with the Small Business Administration (SBA), (c) small business set-asides, and (d) small business subcontracting.

§ 18–1.701 Definitions.

The definitions of small business concerns are promulgated by the Small Business Administration. As used throughout this subpart, the following terms shall have the meanings set forth in this section. When a procurement office is in doubt as to the specific small business definition that should apply to a particular procurement, a written determination from the Small Business Administration regional office having jurisdiction over

the geographical area in which the contracting officer is located will be requested for inclusion in the procurement file.

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 this section. "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 classified into two or more industries with different size standards, the smallest of such size standards shall be used in determining a bidder's size status.

(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.

* * * * *

(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 subparagraph 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 subparagraph: *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; 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 this subparagraph (b) (1).

* * * * *

(iii) *Nonmanufacturing industries.* For a product not manufactured by the concern submitting a bid or proposal, other than 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 preceeding 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.

§ 18–1.701–4 [Amended]

21. In § 18–1.701–4, footnote 7, appearing at end of table, is revised to read as follows:

* * * * *

† Base maintenance means furnishing at an installation within the several States, Commonwealth of Puerto Rico, Virgin Islands, the Trust Territory of the Pacific Islands or the District of Columbia three or more services which may include but are not limited to such maintenance activities as janitorial and custodial services, protective guard services, commissary services, base housing maintenance, fire prevention services, refuse collection services, safety engineering services, messenger services, grounds maintenance and landscaping services, and air conditioning and refrigeration maintenance: *Provided, however,* That whenever the contracting officer determines prior to the issuance of bids that the estimated value of one of the foregoing services constitutes more than 50 percent of the estimated value of the entire contract, the contract shall not be classified as base maintenance but in the industry in which such service is classified.

22. Section 18–1.703 is revised to read as follows:

§ 18–1.703 Determination of status as small business concern.

(a) *General*—(1) *Prior to solicitation.* If a contracting officer or a small business specialist requires information from SBA concerning the size status of a concern in order to make a determination concerning (i) the initiation of a small business set-aside, or (ii) the forwarding of a small business restricted solicitation to such concern but time considerations preclude obtaining a formal SBA small business size determination, he may request informal advice on the matter from the SBA regional office having jurisdiction of the geographical area in which the contracting officer is located. While a contracting officer or a small business specialist may take action on the basis of such informal advice, such advice shall not be binding with respect to the final establishment of the eligibility of a concern as a small business for the purpose of a particular procurement; nor shall it be considered a formal SBA small business size determination (see paragraph (b) (3) and (4) of this section).

(2) *Subsequent to solicitation.* Except as provided in paragraph (b) of this section, the contracting officer shall accept at face value for the particular procurement involved, a representation by the bidder or offeror that it is a small business concern.

(b) *Representation by a bidder or offeror.* Representation by a bidder or offeror that it is a small business concern shall be effective, even though questioned in accordance with the terms of this paragraph (b), unless the SBA, in response to such question and pursuant to the procedures in paragraph (b)(3) of this section, determines that the bidder or offerer in question is not a small business concern. If a procurement calls for more than one item and the solicitation permits bids on any or all items, the offeror must meet the small business size standard for each item it is awarded. If the procurement calls for more than one item and the solicitation requires bid on an all or none basis, the offeror can qualify as small business for such procurement if it meets the size standard for the item accounting for the greatest percentage of the total contract value. The controlling point in time for a determination concerning the size status of a questioned bidder or offeror shall be the date of award, except that no bidder or offeror shall be eligible for award as a small business concern unless he has, or unless he could have (in those cases where a representation as to size of business has not been made), in good faith represented himself as small business prior to the opening of bids or closing date for submission of offers (see § 18–2.405(b) with respect to minor informalities and irregularities in bids). A representation by a bidder or offeror that it is a small business concern will not be accepted by the contracting officer if it is known that (1) such concern has previously been finally determined by SBA to be ineligible as a small business for the item or service being procured, and (2) such concern has not subsequently been certified by SBA as being a small business. If SBA has determined that a concern is ineligible as a small business for the purpose of a particular procurement, it cannot thereafter become eligible for the purpose of such procurement by taking affirmative action to constitute itself as small business.

(1) *Protest of small business status.* Any bidder, offeror, or any other interested party may, in connection with a contract involving small business set-aside or otherwise involving small business preferential consideration, question the small business status of any apparently successful bidder or offeror by sending a written protest to the contracting officer responsible for the particular procurement. The protest shall contain the basis for the protest together with specific detailed evidence supporting the protestant's claim that such bidder or offeror is not a small business. Such protest must be received by the contracting officer prior to the close of business on the fifth working day exclusive of Saturday, Sunday, and Federal legal holidays (hereinafter referred to as a working day) after bid opening date or closing date for the receipt of proposals. A protest received after such time shall be considered timely, if in the case of (i) a mailed protest, it is sent by registered or certified mail and the postmark thereon indicates that it would have been delivered within the time limit except for delays beyond the control of the protestant, or (ii) a telegraphic protest, the telegram date and time line indicates that it would have been delivered within the time limit except for delays beyond the control of the protestant. The following procedures shall apply:

(*a*) *Timely protest received prior to award.* When the contracting officer receives a timely protest prior to award, he shall forward the protest record to the Small Business Administration regional office serving the area in which the protested concern is located. The Small Business Administration will promptly notify the contracting officer of the date of its receipt of any such protest and will advise the bidder or offeror in question that his small business status is under review;

(*b*) *Untimely protests received prior to award.* A protest which is not timely, even though received before award, shall be forwarded to the Small Business Administration regional office serving the area in which the protested concern is located, with a notation thereon that the protest is not timely. The protestant shall be notified that his protest cannot be considered on the instant procurement but has been referred to SBA for its consideration in any future actions; however, see paragraph (b)(2) below for authority of contracting officer to question small business status of an apparently successful offeror at any time prior to award;

(*c*) *Action on protests received after award.* A protest received after award of a contract shall be forwarded to the Small Business Administration regional office serving the area in which the protested concern is located with a notation thereon that award has been made. The protestant shall be notified that award has been made and that his protest has been forwarded to SBA for its consideration in future actions.

(2) *Questioning of status by contracting officer or procurement officer.* A contracting officer may, any time prior to award, question the small business status of the apparently successful bidder or offeror by sending a written notice to the SBA regional office of the region in which the bidder or offeror has his principal place of business. Such notice shall contain a statement of the basis for the question, together with available supporting facts. SBA will advise the bidder or offeror in question that his small business status is under review. The Procurement Officer may, at any time subsequent to award, challenge the eligibility of the contractor on the instant procurement by sending a written notice to the SBA regional office of the region in which the contractor has his principal place of business.

* * * * *

(5) *Award of set-aside procurements.* When the contracting officer determines in writing that award must be made without delay to protect the public interest, award will not be made prior to (i) 5 working days after the bid opening date for procurements placed through small business restricted advertising, or (ii) the deadline date for submitting a protest set forth in the notification to the

apparently unsuccessful offeror(s) for small business set-aside procurements placed through conventional negotiation.

(c) *Product classification*—(1) *Determination by contracting officer.* The contracting officer shall determine the appropriate classification of a product establishing the small business definition to be used in a specific procurement. If different products are being procured on the same solicitation, an appropriate small business size standard shall be established for each product. Both the classification and the applicable size standard (number of employees, average annual receipts, etc.), pursuant to § 18–1.701, shall be set forth in the schedule of each solicitation which anticipates an expenditure in excess of $2,500. The contracting officer's determination shall be final unless appealed in accordance with subparagraph (2) of this paragraph (c).

* * * * *

23. Section 18–1.704–3 is revised to read as follows:

§ 18–1.704–3 Small business specialists.

The small business specialist appointed pursuant to § 18–1.704–2, shall perform the following duties, as determined appropriate to the installation by the Procurement Officer:

(a) He shall maintain a program designed to locate capable small business sources for current and future procurements, through SBA or other methods.

(b) He shall coordinate inquiries and requests for advice from small business concerns on procurement matters.

(c) Prior to issuance of solicitations or contract modification for additional supplies or services in excess of $2,500, he shall determine that small business concerns will receive adequate consideration including initiation of set-asides (§ 18–1.706). This determination may be made jointly with the contracting officer or may be in the form of a recommendation to him. Disagreements between the small business specialist and the contracting officer on proposed set-aside action shall be resolved by the Procurement Officer whose decision shall be final except in those cases where an SBA representative intervenes as an interested party. (See § 18–1.706–3 as to resolution of disagreements with SBA recommendations on set-asides.) See § 18–1.308 as to the required record of contract actions.)

(d) If small business concerns cannot be given an opportunity to compete because adequate specifications or drawings are not available, unless there are sufficient and valid reasons to the contrary, initiate action, in writing, with appropriate technical and contracting personnel to ensure that necessary specifications or drawings for the current or future procurements, as appropriate, are available.

(e) He shall review procurement programs for possible breakout of items suitable for procurement from small business concerns.

(f) He shall advise small business concerns with respect to the financial assistance available under existing law and regulations and assist such concerns in applying for financial assistance. He shall also assure that requests by small business concerns for proper assistance are not treated as a handicap in securing the award of contracts.

(g) He shall participate in determinations concerning responsibility of a prospective contractor (see § 18–1.904), including determinations involving tenacity, perseverance, and integrity factors, whenever small business concerns are involved.

(h) He shall participate in the evaluation of a prime contractor's small business subcontracting program (see § 18–1.707–4).

(i) He shall review and make appropriate recommendations to the contracting officer on any proposal to furnish Government-owned facilities to a contractor if such action may hurt the small business program.

(j) He shall assure that participation of small business concerns is accurately reported.

(k) He shall bring to the attention of the Procurement Officer possible contracting opportunities in or near sections of concentrated unemployment or underemployment and of areas of persistent or substantial labor surplus.

(l) He shall make available to SBA copies of solicitations when so requested.

(m) He shall act as liaison between the contracting officer and SBA field offices and representatives in connection with set-asides, certificates of competency and any other matters in which the Small Business Program may be involved. Procurements in which certificates of competency are requested, shall be reported to the Director of Procurement, NASA Headquarters. The report should contain a description of the requirement, a list of the bidders or proposers, and the contract prices specified in the bids or proposals as submitted and the reason for the proposed rejection of an otherwise acceptable small business bid or proposal. Pertinent dates such as the required date for the completion of the procurement, the date of the request for the certificate of competency, etc., should also be furnished.

(n) He shall, in cooperation with the contracting officer and technical personnel, seek and develop information on the technical competence of small business concerns for research and development contracts. He shall regularly bring to the attention of the contracting officers and technical personnel descriptive data, brochures, and other information as to small business concerns that are apparently competent to perform research and development work in fields in which NASA is interested.

(o) When a small business firm's bid has been rejected for nonresponsiveness or nonresponsibility, the small business specialist, upon request, shall aid, counsel and assist that small business firm in understanding requirements for responsiveness and responsibility so that the firm may be able to qualify for future awards.

24. Section 18–1.705–4(c) is revised to read as follows:

§ 18–1.705–4 Certificates of competency.

* * * * *

(c) If a bid or proposal of a small business concern is to be rejected solely because the contracting officer has determined the concern to be nonresponsible as to capacity or credit, the matter shall be referred to the appropriate SBA field office having the authority to process the referral in the geographical area involved. If required, guidance as to the location of the appropriate SBA field office may be obtained from an SBA representative assigned to the procurement office or the nearest SBA field office. This procedure applies only to the proposed awards exceeding $2,500. For proposed awards exceeding $2,500, but not exceeding $10,000, its use is within the discretion of the contracting officer. A preaward survey (see § 18–1.905) shall be made prior to a determination by a contracting officer that a small business concern is not responsible because of a lack of capacity or credit on a proposed award of more than $10,000. Concurrent referrals of two or more bids or proposals, rejected because of lack of capacity or credit for a proposed award, shall not be made to SBA by the contracting officer. Final processing of a case, including possible issuance of certificate of competency, must be completed by SBA on each referral before the contracting officer may proceed with an additional referral on the proposed award to SBA. If a partial set-aside is involved and the bid of a small business concern on the unreserved portion is to be rejected for lack of capacity or credit and the same small business concern is entitled to consideration on the reserved portion of the set-aside if a certificate of competency is issued by the SBA, the entire quantity of the procurement (reserved and unreserved) for which that small business concern may be entitled, if competent, shall be referred to SBA and the referral papers so noted. The SBA may then certify the small business concern for the maximum quantity of the procurement for which it is eligible. The award shall be withheld until SBA action concerning issuance of a certificate of competency, or until 15 working days after the SBA is so notified, whichever is earlier, subject to the following:

(1) Under no circumstances will a referral be made to the SBA prior to a determination by the contracting officer that the bid or proposal of the small business concern is responsive. Except for procurements resulting in construction or service contracts, a bid or proposal of an otherwise eligible nonmanufacturer shall not be referred to the SBA for Certificate of Competency action unless such nonmanufacturing meets the definition of small business for preferential treatment purposes as prescribed in § 18–1.701–1(a)(2)c.

(2) The activity performing the preaward survey shall furnish such survey to the contracting officer. If the contracting officer determines, in accordance with § 18–1.904, that the small business concern is not responsible solely by reason of a lack of capacity or credit, he will refer the matter direct to the SBA, or he may notify the preaward survey activity to refer the matter to the SBA, whichever is the more expeditious (e.g., where the surveying activity is substantially closer to the cognizant SBA office than the procurement office, it may be more expeditious to have the surveying activity refer the matter to the Small Business Administration). A copy of the communication referring the matter to SBA shall be forwarded to the Director of Procurement, NASA Headquarters.

(3) Upon making a determination to refer the matter to the SBA, the contracting officer shall furnish to the SBA, or to the surveying activity, whichever is consistent with the action taken under subparagraph (2) of this paragraph (c) the data prescribed in paragraph (d) of this section. The procurement office that refers the matter to the SBA shall maintain close liaison with the SBA to assure compliance with paragraph (e) of this section. If the procurement office does not hear from the cognizant SBA field office within 5 working days after the matter has been referred, the procurement office will contact the SBA Office to which the matter was referred to determine whether a certificate of competency is being processed. When, in accordance with subparagraph (2) of this paragraph (c), the contracting officer has requested the preaward survey activity to refer the matter to SBA, that activity shall keep the contracting officer advised of significant developments, including the results of any inquiry to the SBA at the end of the 5 working day period, and any new or additional facts, learned from the SBA, that warrant reversal of the preaward survey activity's negative finding. The Director of Procurement shall be promptly informed in writing of all cases where (i) the small business concern elects not to file an application for a certificate of competency, or (ii) SBA declines to issue a certificate of competency, or (iii) the procurement office reverses the preaward survey negative finding concerning capacity or credit.

(4) A referral need not be made to the SBA if the contracting officer, with the approval of the Procurement Officer, certifies in writing that the award must be made without delay, includes such certificate and supporting documentation in the contract file, and promptly furnishes a copy to the SBA. Contracting officers shall, immediately upon receipt of sufficient information, make a determination concerning the responsibility of the low responsive prospective small business contractor. If a contracting officer makes a determination of nonresponsibility, and if only capacity or credit considerations are involved, he shall promptly refer to SBA for Certificate of Competency consideration unless he executes a documented certificate of urgency indicating the specific reasons why an award must be made without the delay incident to referral to SBA. Referral of a case to SBA or execution of a certificate of urgency shall not be deferred pending investigation and determination of the responsibility of other offerors.

(5) A referral need not be made to the SBA if a contracting officer determines a small business concern nonresponsible pursuant to § 18–1.903–1(e) and such determination is approved by the head of the installation or his designee.

(6) A determination by a contracting officer that a small business concern is not responsible pursuant to § 18–1.903–1 (c) and (d), must be supported by substantial evidence documented in the contract files. These factors of responsibility are not covered by the certificate of competency procedure, but are for determination by the contracting officer, and approval by the Procurement Officer or his designee. Concurrent with the contracting officer's submission of such determination of nonresponsibility to the Procurement Officer or his designee for approval, the contracting officer shall transmit a copy of the documentation supporting the determination that a small business concern is not responsible for reasons other than deficiencies in capacity or credit to the appropriate SBA Regional Office and to the Director of Procurement, Attention: Small Business Advisor identified in § 18–1.704–2. The documentation transmitted to the SBA shall include: two copies of the solicitation, and one copy of the preaward survey findings, pertinent technical and financial information, the abstract of bids, if available, and other pertinent information which supported the contracting officer's determination of nonresponsibility for reasons other than capacity and credit. The appropriate SBA regional office receiving the documentation shall, within 5 working days, notify the contracting officer in writing of the SBA's intent to appeal to the head of the procuring activity or his designee with information and recommendations which would materially bear on any approval action being considered by the Procurement Officer or his designee. Within 10 working days of the SBA's written notification to the contracting officer, the SBA shall present to the Procurement Officer or his designee the appeal in writing. Such appeal shall contain the basis for the SBA position, and include statements from the small business concern as to tenacity, integrity and perseverance and how deficiencies noted in the contracting officer's determination have been or will be eliminated. After consideration of the appeal, the decision by the Procurement Officer or his designee shall be final. If the contracting officer does not receive notification within 5 working days specified above that the SBA intends to appeal, it shall be deemed that the SBA does not intend to file such an appeal. The procedures of subparagraph (4) of this paragraph apply if the award must be made without delay.

25. Section 18–1.705–5 is revised to read as follows:

§ 18–1.705–5 Performance of contract by Small Business Administration.

In accordance with section 8a of the Small Business Act (15 U.S.C. 637(a)), in any case in which the Administrator, SBA, certifies to the Administrator, NASA, that the SBA is competent to perform any specific contract, the contracting officer is authorized, in his discretion, to award the contract to the SBA upon such terms and conditions of this section and such others as may be agreed upon between the SBA and the contracting officer.

§ 18–1.706–5 [Amended]

26. In § 18–1.706–5, the "Notice of Total Small Business Set-aside," is revised to read as follows:

NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (SEPTEMBER 1970)

(a) *Restriction.* Bids or proposals under this procurement are solicited from small business concerns only and this procurement is to be awarded only to one or more small business concerns. This action is based on a determination by the contracting officer, alone or in conjunction with a representative of the Small Business Administration, that it is in the interest of maintaining or mobilizing the Nation's full productive capacity, or in the interest of assuring that a fair proportion of Government procurement is placed with small business concerns. Bids or proposals received from firms which are not small with small business concerns shall be considered non-responsive and shall be rejected.

(b) *Definition.* A *"small business concern"* is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (Code of Federal Regulations, Title 13, section 121.3–8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced by small business concerns: *Provided*, That this additional requirement does not apply in connection with construction or service contracts.

27. Section 18–1.706–6 is revised to read as follows:

§ 18–1.706–6 Partial set-asides.

(a) Subject to any applicable preference for labor surplus area set-asides as provided in § 18–1.803(a)(2), a portion of a procurement, not including construction, shall be set aside for exclusive small business participation (see § 18–1.706–1) where:

(1) The procurement is not appropriate for total set-aside pursuant to § 18–1.706–5;

(2) The procurement is severable into two or more economic production runs or reasonable lots (see § 18–1.804–1(a)); and

(3) One or more small business concerns are expected to have the technical competency and productive capacity to

furnish a severable portion of the procurement at a reasonable price, except that a partial set-aside shall not be made if there is a reasonable expectation that only two concerns (one large and one small) with technical competency and productive capacity will respond with bids or proposals. Before reaching this conclusion the contracting officer shall consult with the small business specialist and may make advanced inquiries to determine the number of interested concerns. Any deviation from this partial set-aside procedure must be approved by the Procurement Officer on a case-by-case basis.

Similarly, a class of procurements, not including construction, may be partially set-aside in accordance with § 18–1.706–1(c).

(b) Where a portion of a procurement is to be set aside for small business pursuant to paragraph (a) of this section, the procurement shall be divided into a set-aside portion and a non-set-aside portion, each of which shall be not less than an economic production run or reasonable lot. Insofar as practical, the set-aside portion will be such as to make the maximum use of small business capacity. Delivery and other terms applicable to the set-aside portion of an item and those applicable to the non-set-aside portion of that item shall be comparable.

(c) (1) In advertised procurements involving partial set-asides for small business, each invitation for bids shall contain substantially the following notice. The applicable size standards shall be set forth in the schedule. In negotiated procurements the notice shall be appropriately modified for use with request for proposals.

NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE (SEPTEMBER 1970)

(a) *General.* A portion of this procurement, as identified elsewhere in the schedule has been set aside for award only to one or more small business concerns. Negotiations for award of this set-aside portion will be conducted only with small business concerns who have submitted responsive bids on the non-set-aside portion at a unit price within 130 percent of the highest unit price at which an award is made on, the non-set-aside portion. Negotiations shall be conducted with such small business concerns in the following order of priority:

Group 1. Small business concerns which are also certified-eligible concerns with a first preference.

Group 2. Small business concerns which are also certified-eligible concerns with a second preference.

Group 3. Small business concerns which are also persistent or substantial labor surplus area concerns.

Group 4. Small business concerns which are not labor surplus area concerns. Within each of the above groups, negotiations with such concerns will be in the order of their bids on the non-set-aside portion, beginning with the lowest responsive bid. The set-aside shall be awarded at the highest unit price awarded on the non-set-aside portion, adjusted to reflect transportation and other cost factors which are considered in evaluating bids on the non-set-aside portion, except where a responsive bid has been submitted on the non-set-aside portion at a unit price which when so adjusted is lower than the adjusted highest unit price awarded on the non-set-aside portion but could not be accepted because of quantity limitations or other consideration (such as the bidder's responsibility). In the latter case if the quantity limitation or other considerations do not preclude consideration of the unit price of such unaccepted bid at the time of negotiation for the set-aside portion, a quantity of the set-aside portion equal to the quantity of such unaccepted bid shall be offered to eligible concerns in their order of priority at the adjusted unit price of such unaccepted bid. If no eligible bidder will take the entire quantity so offered at the adjusted unit price of the unaccepted bid, then all eligible concerns in their order of priority shall be offered any lesser portion at the same price. (In the event more than one such unaccepted bid is involved, the same procedure shall be applied successively to each such bid on negotiation for the set-aside portion.) Subject to the conditions set forth below any remaining quantity of the set-aside portion shall be offered to eligible concerns in their order of priority at the adjusted highest unit price awarded on the non-set-aside portion. If such an unaccepted bid is submitted by a concern eligible to participate in the set-aside, such concern must accept a quantity of the set-aside portion equal to the quantity of the unaccepted bid at the adjusted unit price of the unaccepted bid before any portion of the set-aside may be awarded to that concern at a higher price. If such an unaccepted bid is submitted by a concern not eligible to participate in the set-aside a quantity of the set-aside portion equal to the quantity of the unaccepted bid must be awarded at the adjusted unit price of such unaccepted bid before any portion of the set-aside is awarded to any eligible concern at a higher price. The Government reserves the right not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion. The partial set-aside of this procurement for small business concerns is based on a determination by the Contracting Officer, alone or in conjunction with a representative of the Small Business Administration, that it is in the interest of maintaining or mobilizing the Nation's full productive capacity, or in the interest of assuring that a fair portion of Government procurement is placed with small business concerns.

(b) *Definitions.* (1) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (Code of Federal Regulations, Title 13, Section 121.3–8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced by small business concerns:

Provided, That this additional requirement does not apply in connection with construction or service contracts.

(2) A "labor surplus area" is a geographical area which is:

(i) an appropriate section of a City, State or an Indian Reservation classified by the Secretary of Labor as a "section of concentrated unemployment or underemployment" (cities and States with classified sections of unemplyoment or underemployment, as well as eligible Indian Reservations are listed by the Department of Labor in its publication "Area Trends in Employment and Unemployment."); or

(ii) classified by the Department of Labor as an "Area of Substantial Unemployment" (herein referred to as an area of substantial labor surplus) and listed as such by that Department in its publication "Area Trends in Employment and Unemployment"; or

(iii) classified by the Department of Labor as "Area of Persistent Unemployment" (herein referred to as an area of persistent labor surplus) and listed as such by that Department in its publication "Area Trends in Employment and Unemployment"; or

(iv) not classified as in (ii) or (iii) above, but which is individually certified as an area of persistent or substantial unemployment by the appropriate State Employment Security Agency or the Department of Labor at the request of a prospective contractor.

(3) The term "labor surplus area concern" includes certified-eligible concerns with a first or second preference, and persistent or substantial labor surplus area concerns as defined below:

(i) "Certified-eligible concern with a first preference" means a concern (located in or near a section of concentrated unemployment or underemployment or in an area of persistent or substantial labor surplus) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(b) and 8.9(c) with respect to the employment of disadvantaged individuals residing within such sections or areas and which will agree to perform, or cause to be performed by certified concerns with a first preference, a substantial proportion of a contract in or near such sections or in such area; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns with a first preference in or near such sections or in such areas. A concern shall be deemed to perform a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production in or near such sections or in such areas (by itself if a certified concern, or by certified concerns with a first preference acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(ii) "Certified-eligible concern with a second preference" means a concern (located in any area) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(c) and 8.9(d) with respect to the employment of disadvantaged individuals, and which will agree to perform or cause to be performed by certified concerns with a first or second preference a substantial proportion of the contract; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by such certified concerns. A concern shall be deemed to perform a substantial proportion of the contract if the costs that the concern will incur on account of manufacturing or production (by itself if a certified concern, or by certified concerns with a first or second preference acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(iii) "Persistent or substantial labor surplus area concern" means a concern that agrees to perform or cause to be performed, a substantial proportion of a contract in persistent or substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent or substantial labor surplus areas if the aggregate costs that will be incurred by the concern or its first tier subcontractors on account of manufacturing or production performed in persistent or substantial labor surplus areas and in any area, by itself if a certified concern or by its first tier certified subcontractors, amount to more than 50 percent of the contract price.

(4) "Unit price" shall include evaluation factors added for the rent-free use of Government property.

(c) *Identification of Areas of Performance.* Each bidder desiring to the considered for award as a small business labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform: *Provided*, That he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Agreement.* The bidder agrees that (1) if awarded a contract as a certified-eligible small business concern with a first preference under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas; and, in the performance of such contract, will employ or require certified first tier subcontractors with a first preference to employ a proportionate number of disadvantaged individuals, as defined by the Department of Labor in 29 CFR 8.2(d), residing within such sections or areas in accordance with plans approved by the Secretary of Labor; (ii) if awarded a contract as a certified-eligible small business concern with a second preference under the set-aside portion of the procurement, he will perform or cause to be performed a substantial proportion of the contract, in certified facilities and in the performance of such contract will employ, or require certified first tier subcontractors with a first or second preference to employ, disadvantaged individuals in accordance with plans approved by the Secretary of Labor; and (iii) if awarded a contract as a small business persistent or substantial labor surplus area concern under the set-aside portion of this procurement, he will perform or cause to be performed a substantial proportion of the contract (A) in areas classified at the time of award or at the time of performance of the contract as persistent or substantial labor surplus areas, or (B) in any area by himself if a certified concern or by first tier certified subcontractors.

(e) *Eligibility Based on Certification.* Where eligibility for preference is based upon the status of the bidder as a "certified-eligible concern," the bidder shall furnish with his bid evidence of its certification or its first tier subcontractors' certification by the Secretary of Labor.

(2) In requirements contracts involving a partial small business set-aside add the following to the above clause.

(f) *Requirements Contract.* Only one award will be made for each item or subitem of the non-set-aside portion and only one award will be made for each item or subitem of the set-aside portion. For the purpose of equitably distributing orders in accordance with this "Notice of partial Small Business Set-Aside," the Government will apportion the quantities to be ordered as equally as possible between the non-set-aside Contractor and the set-aside contractor to whom the awards are made.

(d) (1) After the award price for the non-set-aside portion has been determined, negotiations may be conducted for the set-aside portion. Procurement of the set-aside portion shall in all instances be effected by negotiation. Negotiations shall be conducted only with those bidders or offerors who have submitted responsive bids or proposals on the non-set-aside portion of a unit price no greater than 130 percent of the highest award made or to be made on the non-set-aside portion, taking into account the evaluation factors for rent-free use of Government property pursuant to Subpart 18-13.5 provided, however, where the successful bidder which establishes the highest award price on the non-set-aside portion is a foreign bidder, the 130-percent rule shall be applied to the evaluated price on the non-set-aside portion. Negotiations shall be conducted with small business concerns in the order of priority as indicated in the foregoing notices: *Provided*, That, where equal low bids are received on the non-set-aside portion from concerns which are equally eligible for the set-aside portion, the concern which is awarded the non-set-aside portion (under the equal low bid procedure of § 18-2.407-6) shall have first priority with respect to negotiations for the set-aside portion. The set-aside portion will be awarded at the highest unit price awarded or to be awarded for the non-set-aside portion. A bidder or offeror entitled to receive an award for quantities of an item under the non-set-aside portion and who accepts the award of additional quantities under the set-aside portion shall not be requested to accept a lower price because of the increased quantities of the award, nor shall negotiation be conducted with a view to obtaining such a lower price based solely upon receipt of award of both portions of the set-aside. This does not prevent acceptance by the contracting officer of voluntary reductions in price from the low eligible offeror prior to award, acceptance of voluntary refunds (see § 18-1.312), or the change of prices after award by negotiation of a contract modification.

(2) When the award price for the non-set-aside portion has been determined and where an award will be made to a small business concern and the same small business concern is entitled to receive the set-aside portion of a solicitation, the set-aside portion may be added to the basic contract by supplemental agreement. The supplemental agreement shall include the Examination of Records clause, applicable to the set-aside portion only.

28. Section 18-1.706-7 is revised to read as follows:

§ 18-1.706-7 Automatic dissolution of set-asides.

If the entire set-aside portion is not procured by the method set forth in § 18-1.706-5, as to total set-asides, or in § 18-1.706-6, as to partial set-asides, the determination referred to in § 18-1.706-1 is automatically dissolved as to the unawarded portion of the set-aside and such unawarded portion may be procured by advertising or negotiation, as appropriate, in accordance with existing regulations. Since a considerable time may have elapsed since the initiation of the requirement, contracting officers, prior to issuing a new solicitation, shall review the required delivery schedule (see 1305-2) to insure that it is realistic in the light of all relevant factors including the capabilities of small business concerns.

29. Section 18-1.707-3(a) is revised to read as follows:

§ 18-1.707-3 Required clauses.

(a) The "Utilization of Small Business Concerns" clause set forth below shall be included in all contracts in amounts which may exceed $5,000 except contracts which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands:

UTILIZATION OF SMALL BUSINESS CONCERNS (JULY 1962)

(a) It is the policy of the Government as declared by the Congress that a fair proportion of the purchases and contracts for supplies and services for the Government be placed with small business concerns.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

* * * * *

30. Section 18-1.707-4(b) is revised to read as follows:

§ 18-1.707-4 Responsibility for reviewing the subcontracting program.

* * * * *

(b) In those instances in which subcontractors are required to establish such a program in accordance with the clause in § 18-1.707-3 (b) and (c), reviews of the subcontractor's program shall be made in the same manner as the review of the prime contractor's program.

* * * * *

31. Sections 18-1.800, 18-1.801, and 18-1.802 are revised to read as follows:

§ 18-1.800 Scope of subpart.

This subpart sets forth NASA policy and procedures with respect to encouraging increased hiring of disadvantaged individuals and aiding areas of persistent or substantial labor surplus and sections of concentrated unemployment or underemployment, hereinafter referred to as "labor surplus areas," in the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands. This part implements Defense Manpower Policy No. 4 (Revised), October 16, 1967 (32A CFR Chapter 1), and U.S. Department of Labor Regulations, 29 CFR Part 8, as amended. Defense Manpower Policy No. 4 states the policy of the Government to encourage the placing of contracts and facilities in labor surplus areas and to assist such areas in making the best use of their available resources.

§ 18-1.801 Definitions.

§ 18-1.801-1 Labor surplus area concern.

The term "labor surplus area concern" includes certified-eligible concerns with a

first or second preference, and persistent or substantial labor surplus concerns as defined in this section:

(a) The term "certified-eligible" is derived from 29 CFR Part 8, which makes a firm eligible for a first or second preference in the award of certain contracts on the basis that such firm agrees to employ disadvantaged individuals in the performance of a substantial proportion of the contract; and that such employment and performance must be provided by a certified firm, whether such firm be the prime or a first tier subcontractor. A certified-eligible concern is eligible for first preference in the award of certain contracts if it is:

(1) Located in or near a section of concentrated unemployment or underemployment or in an area of persistent or substantial labor surplus;

(2) Agrees to employ disadvantaged individuals in such sections or areas in accordance with plans approved by the Secretary of Labor (see 29 CFR 8.7(b) and 8.9(c)), representing at least 25 percent of the total number of new hires each month beginning with the date of certification and continuing until the expiration of the validity period or completion of an awarded contract or subcontract, whichever is later; and

(3) Will perform or cause to be performed by first tier certified subcontractors with a first preference a substantial proportion of the contract, amounting to more than 25 percent of the contract price, in or near a section of concentrated unemployment or underemployment, or in an area of persistent or substantial labor surplus. A certified-eligible concern is eligible for a second preference if it is located in any area of the United States; agrees to employ disadvantaged individuals in accordance with plans approved by the Secretary of Labor (see 29 CFR 8.7(c) and 8.9(d)), representing at least 15 percent of the total number of new hires each month beginning with the date of certification and continuing until the expiration of the validity period or completion of an awarded contract or subcontract; and will perform or cause to be performed by any first tier certified subcontractors a substantial portion of the contract, amounting to more than 25 percent of the contract price, in any area of the United States.

(i) The term "certified-eligible concern with a first preference" means a concern (located in or near a section of concentrated unemployment or underemployment or in an area of persistent or substantial labor surplus) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(b) and 8.9(c) with respect to the employment of disadvantaged individuals residing within such sections or areas and which will agree to perform or cause to be performed by certified concerns with a first preference a substantial proportion of a contract in or near such sections or in such areas; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns with a first preference in or near such sections or in such areas. A concern shall be deemed to perform a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production in or near such sections or in such areas (by itself if a certified concern, or by certified concerns with a first preference acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(ii) The term "certified-eligible concern with a second preference" means a concern (located in any area) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(c) and 8.9(d), with respect to the employment of disadvantaged individuals, and which will agree to perform or cause to be performed by certified concerns with a first or second preference a substantial proportion of the contract; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by such certified concerns. A concern shall be deemed to perform a substantial proportion of a contract if the costs that the concern will incur on account of manufacturing or production (by itself if a certified concern, or by certified concerns with a first or second preference acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(b) The term "persistent or substantial labor surplus area concern" means a concern that agrees to perform or cause to be performed a substantial proportion of a contract in persistent or substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent or substantial labor surplus areas if the aggregate costs that will be incurred by the concern or its first tier subcontractors, on account of manufacturing or production performed in persistent or substantial labor surplus areas and in any area, by itself if a certified concern or by its first tier certified subcontractors, amount to more than 50 percent of the contract price.

Example A. JOHN DOE Co., manufacturing in or near a section of concentrated unemployment or underemployment and holding a current Certificate of Eligibility issued by the Secretary of Labor in accordance with 29 CFR 8.7(b) and 8.9(c) with respect to an agreement to employ disadvantaged individuals residing in such section, bids on a contract at $1,000. John Doe Co. will incur the following costs:

Direct Labor	$100
Overhead	100
Purchase of materials from NOP Co. which manufactures the materials in a section of concentrated unemployment and underemployment and holds a current Certificate of Eligibility issued by the Secretary of Labor in accordance with 29 CFR 8.7(b) and 8.9(c)	200
Purchase of materials from RST Co., which manufactures the materials in a full employment area	500

John Doe Co. qualifies as a labor surplus area concern (certified-eligible concern with a first preference) since costs to be incurred by John Doe, the certified-eligible prime with a first preference and NOP Co., its first tier certified subcontractor with a first preference, amount to more than 25 percent of the contract price.

Example B. ABC Co., manufacturing in a full employment area and holding no current Certificate of Eligibility issued by the Secretary of Labor, bids on a contract at $1,000. ABC Co. will incur the following costs:

Direct labor	$200
Overhead	200
Purchase of materials from XYZ, which manufactures the materials in a full employment area but holds a current Certificate of Eligibility in accordance with 29 CFR 8.7(c) and 8.9(d) issued by the Secretary of Labor	400
Purchase of materials from NOP Co. which manufactures the materials in a labor surplus area not classified as a section of concentrated unemployment or underemployment but holds no current Certificate of Eligibility issued by the Secretary of Labor with respect to an agreement to employ disadvantaged individuals in such area	110

ABC Co. qualifies as a labor surplus area concern (certified-eligible concern with a second preference) since costs to be incurred by XYZ, its first tier certified subcontractor with a second preference, amount to more than 25 percent of the contract price.

Example C. DEF Co., manufacturing in a persistent labor surplus area but holds no current Certificate of Eligibility issued by the Secretary of Labor, bids on a contract at $1,000. DEF Co. will incur the following costs:

Direct labor	$200
Overhead	200
Purchase of materials from UVW, which is located in a labor surplus area but which merely distributes the materials from stocks on hand (the materials having been manufactured by UVW's supplier)	550

DEF Co. does not qualify as a persistent or substantial labor surplus area concern since its manufacturing and production costs do not exceed 50 percent of the contract price regardless of whether UVW's supplier manufactures in a labor surplus area.

Example D. GHI Co., manufacturing in a substantial labor surplus area, but holds no current Certificate of Eligibility issued by the Secretary of Labor bids on a contract at $1,000. GHI Co. will incur the following costs:

Direct labor	$230
Overhead	275
Purchase of materials from RST, which manufactures the materials in a full employment area	425

GHI Co. qualifies as a substantial labor surplus area concern since it will incur costs in a labor surplus area amounting to more than 50 percent of the contract price.

§ 18–1.801–2 Labor surplus area.

The term "labor surplus area" means a geographic area which at the time of award is:

(a) An appropriate section of a city, State, or an Indian Reservation classified by the Secretary of Labor as a "section of concentrated unemployment or underemployment" (cities and States with classified sections of unemployment or underemployment, as well as eligible Indian Reservations are listed by the

Department of Labor in its publication "Area Trends in Employment and Unemployment."); or

(b) Classified by the Department of Labor as an "Area of Persistent Unemployment" (herein referred to as an area of persistent labor surplus) and listed as such by that Department in its publication "Area Trends in Employment and Unemployment," or

(c) Classified by the Department of Labor as an "Area of Substantial Unemployment" (herein referred to as an area of substantial labor surplus) and listed as such by that Department in its publication "Area Trends in Employment and Unemployment," or

(d) Not classified as in paragraph (b) or (c) of this section, but which is individually certified as an area of persistent or substantial unemployment by the appropriate State Employment Security Agency or the Department of Labor at the request of a prospective contractor.

§ 18–1.801–3 Small business concern.

See § 18–1.701.

§ 18–1.802 General policy.

Except as provided in §18–1.806 with respect to depressed industries, it is the policy of NASA to aid labor surplus areas and encourage increased hiring of disadvantaged individuals by placing contracts with labor surplus area concerns, to the extent consistent with procurement objectives and when such contracts can be awarded at prices no higher than those obtainable from other concerns and by encouraging prime contractors to place subcontracts with labor surplus area concerns. In carrying out this policy, to accommodate the small business policies of Subpart 18–1.7, preference shall be given in the following order of priority to (a) certified-eligible concerns with a first preference which are also small business concerns, (b) other certified-eligible concerns with a first preference, (c) certified-eligible concerns with a second preference which are also small business concerns, (d) other certified-eligible concerns with a second preference, (e) persistent or substantial labor surplus area concerns which are also small business concerns, (f) other persistent or substantial labor surplus area concerns; and (g) small business concerns which are not labor surplus area concerns. But in no case will price differentials be paid for the purpose of carrying out this policy. Heads of installations and procurement officers are responsible for the effective implementation of the Labor Surplus Area Program within their respective installations. The contracting officer is responsible for compliance with the policy and procedures relating to labor surplus areas and for determining the final action to be taken with respect to individual procurement actions. The labor surplus area functions should generally be performed by the small business specialist or the individual designated to perform the small business functions where a full-time small business specialist is not warranted (see § 18.1.704–2).

32. Section 18–1.804–2 is revised to read as follows:

§ 18–1.804–2 Set-aside procedures.

(a) Where a portion of a procurement is to be set aside pursuant to § 18–1.804–1, the procurement shall be divided into a nonset-aside portion and a set-aside portion, each of which shall be not less than an economic production run or reasonable lot. Insofar as practical, the set-aside portion will be such as to make the maximum use of the capacity of labor surplus area concerns. Delivery terms and other terms applicable to the set-aside portion of an item and those applicable to the nonset-aside portion of that item shall be comparable.

(b) (1) In advertised procurements involving set-asides pursuant to this subpart, each invitation for bids shall contain substantially the following notice. In negotiated procurements, the notice shall be appropriately modified for use with requests for proposals. The notice shall be made a part of each contract under the set-aside portion of the procurement.

NOTICE OF LABOR SURPLUS AREA SET-ASIDE (SEPTEMBER 1970)

(a) *General.* A portion of this procurement, as identified elsewhere in the Schedule has been set aside for award only to one or more labor surplus area concerns, and, to a limited extent, to small business concerns which do not qualify as labor surplus area concerns. Negotiations for award of the set-aside portion will be conducted only with labor surplus area concerns (and small business concerns to the extent indicated below) who have submitted responsive bids or proposals on the nonset-aside portion at a unit price no greater than 130 percent of the highest unit price at which an award is made on the nonset-aside portion. Negotiations for the set-aside portion will be conducted with such bidders in the following order of priority:

Group 1. Certified-eligible concerns with a first preference which are also small business concerns.

Group 2. Other certified-eligible concerns with a first preference.

Group 3. Certified-eligible concerns with a second preference which are also small business concerns.

Group 4. Other certified-eligible concerns with a second preference.

Group 5. Persistent or substantial labor surplus area concerns which are also small business concerns.

Group 6. Other persistent or substantial labor surplus area concerns.

Group 7. Small business concerns which are not labor surplus area concerns.

Within each of the above groups negotiations with such concerns will be in the order of their bids on the non-set-aside portion, beginning with the lowest responsive bid. The set-aside portion shall be awarded at the highest unit price awarded on the non-set-aside portion, adjusted to reflect transportation and other cost factors which are considered in evaluating bids on the non-set-aside portion except where a responsive bid has been submitted on the non-set-aside portion at a unit price which when so adjusted is lower than the adjusted highest unit price awarded on the non-set-aside portion but could not be accepted because of quantity limitations or other consideration (such as the bidder's responsibility). In the latter case if the quantity limitation or other considerations do not preclude consideration of the unit price of such unaccepted bid at the time of negotiation for the set-aside portion, a quantity of the set-aside portion equal to the quantity of such unaccepted bid shall be offered to eligible concerns in their order of priority at the adjusted unit price of such unaccepted bid. If no eligible bidder will take the entire quantity so offered at the adjusted unit price of the unaccepted bid, then all eligible concerns in their order of priority shall be offered any lesser portion at the same price. (In the event more than one such unaccepted bid is involved, the same procedure shall be applied successively to each such bid on negotiation for the set-aside portion.) Subject to the conditions set forth below any remaining quantity of the set-aside portion shall be offered to eligible concerns in their order of priority at the adjusted highest unit price awarded on the non-set-aside portion. If such an unaccepted bid is submitted by a concern eligible to participate in the set-aside, such concern must accept a quantity of the set-aside portion equal to the quantity of the unaccepted bid at the adjusted unit price of the unaccepted bid before any portion of the set-aside may be awarded to that concern at a higher price. If such an unaccepted bid is submitted by a concern not eligible to participate in the set-aside, a quantity of the set-aside portion equal to the quantity of the unaccepted bid must be awarded at the adjusted unit price of such unaccepted bid before any portion of the set-aside is awarded to any eligible concern at a higher price. The Government reserves the right not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion.

(b) *Definitions.* (1) The term "labor surplus area" means a geographical area which is a section of concentrated unemployment or underemployment, a persistent labor surplus area, or a substantial labor surplus area, as defined below:

(i) "Section of concentrated unemployment or underemployment" means appropriate sections of a city, State, or an Indian Reservation so classified by the Secretary of Labor. (Cities and States with classified sections of unemployment and underemployment, as well as eligible Indian Reservations are listed by the Department of Labor in its publication "Area Trends in Employment and Unemployment.")

(ii) "Persistent labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Persistent Labor Surplus" (also called "Area of Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment," or (B) is certified as an area of persistent labor surplus by the appropriate State Employment Security Agency or Department of Labor pursuant to a request by a prospective Contractor.

(iii) "Substantial labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and which is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment," or (B) is certified as an area of substantial labor surplus by the appropriate State Employment Agency or Department of Labor pursuant to a request by a prospective Contractor.

(2) The term "labor surplus area concern" includes certified-eligible concerns with a first or second preference and persistent or substantial labor surplus area concerns as defined below:

(i) "Certified-eligible concern with a first preference" means a concern (located in or near a section of concentrated unemployment or underemployment or in an area of persistent or substantial labor surplus) which has been certified by the Secretary of Labor in accordance with CFR 8.7(b) and 8.9(c), with respect to the employment of disadvantaged individuals residing within such sections or areas, and which will agree to perform or cause to be performed by certified concerns with a first preference a substantial proportion of a contract in or near such sections or in such areas; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns with a first preference in or near such sections or in such areas. A concern shall be deemed to perform a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus area if the costs that the concern will incur on account of manufacturing or production in or near such section or in such areas (by itself if a certified concern, or by certified concerns with a first preference acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(ii) "Certified-eligible concern with a second preference" means a concern (located in any area) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(c) and 8.9(d), with respect to the employment of disadvantaged individuals, and which will agree to perform or cause to be performed by certified concerns with a first or second preference a substantial proportion of the contract; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by such certified concerns. A concern shall be deemed to perform a substantial proportion of the contract if the costs that the concern will incur on account of manufacturing or production (by itself if a certified concern, or by certified concerns with a first or second preference acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(iii) "Persistent or substantial labor surplus area concern" means a concern that agrees to perform or cause to be performed a substantial proportion of a contract in persistent or substantial labor surplus areas. A concern shall be deemed to perform substantial proportion of a contract in persistent or substantial labor surplus areas if the aggregate costs that will be incurred by the concern or its first tier subcontractors on account of manufacturing or production performed in persistent or substantial labor surplus areas and in any area, by itself if a certified concern or by its first tier certified subcontractors, amount to more than 50 percent of the contract price.

(3) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (Code of Federal Regulations, Title 13, Section 121.3–8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced by small business concerns: *Provided*, That this additional requirement does not apply in connection with construction or service contracts.

(4) "Unit price" shall include evaluation factors added for the rent-free use of Government property.

(c) *Identification of Areas of Performance.* Each bidder desiring to be considered for award as a labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform, *provided*, that he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotiation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Eligibility Based on Certification.* Where eligibility for preference is based upon the status of the bidder as a "certified-eligible concern," the bidder shall furnish with his bid evidence of its certification or its first tier subcontractors' certification by the Secretary of Labor.

(e) *Agreement.* The bidder agrees that (i) if awarded a contract as a certified-eligible concern with a first preference under the set-aside portion of this procurement, he will perform or cause to be performed a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas and, in the performance of such contract, will employ or require certified first tier subcontractors with a first preference to employ a proportionate number of disadvantaged individuals, as defined by the Department of Labor in 29 CFR 8.2(d), residing within such sections or areas in accordance with plans approved by the Secretary of Labor; (ii) if awarded a contract as a certified-eligible concern with a second preference under the set-aside portion of the procurement, he will perform or cause to be performed a substantial proportion of the contract, in certified facilities and in the performance of such contract will employ or require certified first tier subcontractors with a first or second preference to employ disadvantaged individuals in accordance with plans approved by the Secretary of Labor; and (iii) if awarded a contract as a persistent or substantial labor surplus area concern under the set-aside portion of this procurement, he will perform or cause to be performed a substantial proportion of the contract in (A) areas classified at the time of award or at the time of performance of the contract as persistent or substantial labor surplus areas, or (B) in any area, by himself if a certified concern or by its first tier certified subcontractors.

(2) In requirements contracts involving a labor surplus area set-aside add the following to the above clause:

(f) *Requirements Contract.* Only one award will be made for each item or subitem of the nonset-aside portion and only one award will be made for each item or subitem of the set-aside portion. For the purpose of equitably distributing orders in accordance with this "Notice of Labor Surplus Area Set-Aside," the Government will apportion the quantities to be ordered as equally as possible between the nonset-aside Contractor and the set-aside Contractor to whom the awards are made.

(c)(1) After the award price for the nonset-aside portion has been determined, negotiations may be conducted for the set-aside portion. Procurement of the set-aside portion shall in all instances be effected by negotiation. Negotiations shall be conducted only with those bidders or offerors who have submitted responsive bids or proposals on the nonset-aside portion at a unit price no greater than 130 percent of the highest award made or to be made on the nonset-aside portion, taking into account the evaluation factors for rent-free use of Government property pursuant to Subpart 18–13.5 (provided, however, where the successful bidder which establishes the highest award price on the nonset-aside portion is a foreign bidder, the 130 percent rule shall be applied to the evaluated price on the nonset-aside portion (see § 18–6.104.4)). Negotiations shall be conducted in the order of priority indicated in the foregoing notice: *Provided*, That, where equal low bids are received on the nonset-aside portion from concerns which are equally eligible for the set-aside portion, the concern which is awarded the nonset-aside portion (under the equal low bid procedures of § 18–2.407–6) shall have first priority with respect to negotiations for the set-aside portion. The set-aside portion shall be awarded at the highest unit price awarded or to be awarded for the nonset-aside portion except that where the successful bidder which establishes the highest award price on the nonset-aside portion is a foreign bidder, the award price for the set-aside portion shall be the highest evaluated price (used for the purpose of determining eligibility of the foreign bidder for award) on the nonset-aside portion. A bidder or offer entitled to receive the award for quantities of an item under the nonset-aside portion and who accepts the award of additional quantities under the set-aside portion shall not be requested to accept a lower price because of the increased quantities of the award, nor shall negotiation be conducted with a view to obtaining such a lower price based solely upon receipt of award of both portions of the procurement. This does not prevent acceptance by the contracting officer of voluntary reductions in price prior to award, acceptance of refunds, or the change of prices after award by negotiation of a contract modification. If the entire set-aside portion cannot be awarded by the method described herein, any unawarded portion may be procured by advertising or negotiations, as appropriate, in accordance with existing regulations (see §§ 18–3.201–2(a) and 18–3.210–3 as to negotiation). Since a considerable time may have elapsed since the initiation of the requirement, contracting officers, prior to issuing a new solicitation, shall review the required delivery schedule (see § 18–1.305–2) to insure that it is realistic in the light of all relevant factors including the capabilities of labor surplus concerns.

(2) When the award price for a nonset-aside portion has been determined and where an award will be made to a labor surplus area concern and the same labor surplus area concern is entitled to receive a set-aside portion of the solicitation, the set-aside portion may be added

to the basic contract by supplemental agreement. The supplemental agreement shall include the "Examination of Records" clause, applicable to the set-aside portion only.

33. Section 18–1.805–3 is revised to read as follows:

§ 18–1.805–3 Required clauses.

(a) The Utilization of Labor Surplus Area Concerns clause set forth below shall be inserted in all contracts which may exceed $5,000, except—

(1) Contracts with foreign contractors which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands;

(2) Contracts for construction; and

(3) Contracts with the petroleum and petroleum products industry.

UTILIZATION OF LABOR SURPLUS AREA CONCERNS (SEPTEMBER 1970)

(a) It is the policy of the Government to award contracts to labor surplus area concerns, that (1) have been certified by the Secretary of Labor (hereafter referred to respectively as certified concerns with a first or second preference) regarding the employment of a proportionate number of disadvantaged individuals and have agreed to perform substantially (i) in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas or (ii) in other areas of the United States; or (2) are noncertified concerns which have agreed to perform substantially in persistent or substantial labor surplus areas, where this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The Contractor agrees to use his best efforts to place his subcontracts in accordance with this policy.

(b) In complying with paragraph (a) of this clause and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns," the Contractor in placing his subcontracts shall observe the following order of preference: (1) certified concerns with a first preference which are also small business concerns, (2) other certified concerns with a first preference, (3) certified concerns with a second preference which are also small business concerns, (4) other certified concerns with a second preference, (5) persistent or substantial labor surplus area concerns which are also small business concerns, (6) other persistent or substantial labor surplus area concerns, and (7) small business concerns which are not labor surplus area concerns.

(b) The "Labor Surplus Area Subcontracting Program" clause below shall be included in all contracts which may exceed $500,000, but which contain the clause required by paragraph (a) of this section and which, in the opinion of the contracting officer, offer substantial subcontracting possibilities. Prime contractors who are to be awarded contracts that do not exceed $500,000, which in the opinion of the contracting officer offer substantial subcontracting possibilities, shall be urged to accept the following clause:

LABOR SURPLUS AREA SUBCONTRACTING PROGRAM (SEPTEMBER 1970)

(a) The Contractor agrees to establish and conduct a program which will encourage labor surplus area concerns to compete for subcontracts within their capabilities. In this connection, the Contractor shall—

(1) Designate a liaison officer who will (i) maintain liaison with duly authorized representatives of the Government on labor surplus area matters, (ii) supervise compliance with the "Utilization of Concerns in Labor Surplus Areas" clause, and (iii) administer the Contractor's Labor Surplus Area Subcontracting Program;

(2) Provide adequate and timely consideration of the potentialities of labor surplus area concerns in all "make-or-buy" decisions;

(3) Assure that labor surplus area concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of labor surplus area concerns;

(4) Maintain records showing procedures which have been adopted to comply with the policies set forth in this clause; and

(5) Include the "Utilization of Concerns in Labor Surplus Areas" clause in subcontracts which offer substantial labor surplus area subcontracting opportunities.

(b) For subcontracting purposes, a "labor surplus area concern" is a concern that (1) has been certified by the Secretary of Labor (hereafter referred to as a certified concern) regarding the employment of a proportionate number of disadvantaged individuals and has agreed to perform substantially in or near sections of concentrated unemployment or underemployment, in persistent or substantial labor surplus areas, or in other areas of the United States; or (2) is not a certified concern but has agreed to perform substantially in persistent or substantially labor surplus areas. A certified concern shall be deemed to perform a substantial proportion of a contract in or near sections of concentrated unemployment or underemployment, in persistent or substantial labor surplus areas, or in other areas of the United States if the costs that the concern will incur on account of manufacturing or production in or near such sections or in such areas amount to more than 25 percent of the price of such contracts; a concern shall be deemed to perform a substantial proportion of a contract in a persistent or substantial labor surplus area if the costs that the concern will incur on account of manufacturing or production in such areas amount to more than 50 percent of the price of such contract.

(c) The Contractor further agrees, with respect to any subcontract hereunder which is in excess of $500,000 and which contains the clause entitled "Utilization of Labor Surplus Area Concerns" that he will insert provisions in the subcontract which will conform substantially to the language of this clause, including this paragraph (c), and that he will furnish the names of such subcontractors to the Contracting Officer.

34. Section 18–1.901 is revised to read as follows:

§ 18–1.901 Applicability.

This subpart applies to procurements from contractors located in the United States, its possessions, and Puerto Rico; and will be applied in other places except where it is inconsistent with the laws and customs of the place where the prospective contractor is located. It is not applicable to procurements from:

(a) Other governments, including State and local governments;

(b) Other U.S. Government agencies or their instrumentalities (such as Federal Prison Industries, Inc.); or

(c) National Industries for the Blind.

35. Sections 18–1.903–1 and 18–1.903–2 are revised to read as follows:

§ 18–1.903 Minimum standards for responsible prospective contractors.

§ 18–1.903–1 General standards.

Except as otherwise provided in this § 18–1.903, a prospective contractor must:

(a) Have adequate financial resources or the ability to obtain such resources as required during performance of the contract (see §§ 18–1.904(d) and 18–1.905–2, and for Small Business Administration (SBA) certificates of competency, see § 18–1.705–4);

(b) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments, commercial as well as governmental (for SBA certificates of competency, see § 18–1.705–4);

(c) Have a satisfactory record of performance (contractors who are seriously delinquent in current contract performance, when the number of contracts and the extent of delinquencies of each are considered, shall, in the absence of evidence to the contrary or circumstances properly beyond the control of the contractor, be presumed to be unable to fulfill this requirement). Past unsatisfactory performance, due to failure to apply necessary tenacity or perseverance to do an acceptable job, shall be sufficient to justify a finding of nonresponsibility. (In the case of small business concerns, see §§ 18–1.705–4(c)(6) and 18–1.905–2);

(d) Have a satisfactory record of integrity (in the case of a small business concern, see § 18–1.705–4(c)(6)); and

(e) Be otherwise qualified and eligible to receive an award under applicable laws and regulations, e.g., §§ 18–12.6 and 18–12.8 (in the case of a small business concern, see § 18–1.706–4(c)(5)).

§ 18–1.903–2 Additional standards—Standards for production, maintenance, construction, and research and development contracts.

In addition to the standards in § 18–1.903–1, in procurement involving production, maintenance, construction, or research and development work (and in other procurement as appropriate), a prospective contractor must:

(a) Have the necessary organization, experience, operational controls and technical skills, or the ability to obtain them (including where appropriate, such elements as production control procedures, property control system and quality assurance measures applicable to materials produced or services performed by the prospective contractor and subcontractors (see § 18–1.903–4)); and

(b) Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them. Where a prospective contractor proposes to use the facilities or equipment of another concern, not a subcontractor, or of his affiliate, all existing business arrangements, firm or contingent, for the use of such facilities or

equipment shall be considered in determining the ability of the prospective contractor to perform the contract; see also § 18–1.904–2.

36. Section 18–1.904 is revised to read as follows:

§ 18–1.904 Determinations of responsibility and nonresponsibility.

§ 18–1.904–1 Requirement.

No purchase shall be made from, and no contract shall be awarded to, any person or firm unless the contracting officer first makes an affirmative determination that the prospective contractor is responsible within the meaning of § 18–1.902. The signing of the contract by the contracting officer constitutes such a determination; therefore, he must assure himself that the applicable requirements of § 18–1.903 are met before signing the contract or order. When a certificate of competency has been issued, the factors covered by the certificate of competency may be accepted by the contracting officer without further inquiry. When a bid or offer on which an award would otherwise be made is rejected because the prospective contractor is found to be nonresponsible, a determination of nonresponsibility shall be made, signed, and placed in the file. The determination of nonresponsibility shall set forth the basis of the determination. In making a determination of responsibility or nonresponsibility for purchase or contract awards of $100,000 and over, contractor performance information and other performance data should be acquired and considered when the contracting officer deems it necessary. Supporting documents or reports, including any preaward survey reports (see § 18–1.905–4) and SBA certificate of competency (see § 18–1.705–4), shall be included in the contract file.

§ 18–1.904–2 Affiliated concerns.

(a) Affiliated concerns (see § 18–1.701–1(c)) shall be considered as separate entities in determining whether the one of them which is to perform the contract meets the applicable standards for a responsible prospective contractor (but see § 18–1.701–1 with respect to status as a small business concern).

(b) Notwithstanding the above, the record of performance and integrity of affiliated concern which may adversely affect the responsibility of the prospective contractor shall be considered by the contracting officer when making a determination of responsibility.

37. Sections 18–1.905–1, 18–1.905–2, 18–1.905–3, 18–1.905–4, and 18–1.905–50 are revised to read as follows:

§ 18–1.905 Procedures for determining responsibility of prospective contractors.

§ 18–1.905–1 General.

(a) Before making a determination of responsibility (see § 18–1.904), the contracting officer shall have in his possession or obtain information sufficient to satisfy himself that a prospective contractor currently meets the minimum standards set forth in § 18–1.903, to the extent that such standards are applicable to a specific procurement.

(b) Maximum practicable use shall be made of currently valid information on file or within the knowledge of personnel in NASA. Each installation shall at such level and manner as it deems appropriate, maintain useful records and experience data for the guidance of contracting officers in the placement of new procurement, and shall inform its contracting officers of the means of access thereto.

(c) Generally, information necessary to make determinations of responsibility shall be obtained only concerning prospective contractors within range for an award.

§ 18–1.905–2 When information will be obtained.

Generally, information regarding the responsibility of a prospective contractor (including preaward surveys (see § 18–1.905–4) when deemed necessary) shall be obtained promptly after bid opening, or receipt of proposals. However, in negotiated procurements, especially those involving research and development, such information may be obtained before the issuance of requests for proposals. Notwithstanding the foregoing, information regarding financial resources (see § 18–1.903–1) and performance capability (see § 18–1.903–1(b)) shall be obtained on as current a basis as feasible with relation to the date of contract award.

§ 18–1.905–3 Source of information.

Information regarding the responsibility of prospective contractors shall be sought among the following sources:

(a) The Joint Consolidated List of Debarred, Ineligible, and Suspended Contractors (see § 18–1.601).

(b) From the prospective contractor—including representations and other information contained in or attached to bids and proposals; replies to questionnaires on financial data, such as balance sheets, profit and loss statements, cash forecasts, financial history of the contractor and affiliated concerns; current and past production records; personnel records; lists of tools, equipment, and facilities; written statements or commitments concerning financial assistance and subcontracting arrangements; and analyses of operational control procedures. Where it is considered necessary by the contracting officer to prevent practices prejudicial to fair and open competition or for other reasons, prospective contractors may be required to submit affidavits concerning their ability to meet any of the minimum standards set forth in § 18–1.903 and company ownership and control (see § 18–2.201–1(a)(23)).

(c) Existing information within NASA and other Government agencies—including records on file and knowledge of personnel within procurement office making the procurement, other procurement offices, related activities, contract administration offices, audit activities, reliability and quality assurance offices, and offices concerned with contract financing;

(d) Publications—including credit ratings, trade and financial journals, business directions and registers;

(e) Other sources—including suppliers, subcontractors and customers of the prospective contractor; banks and financial companies; commercial credit agencies; Government departments and agencies; purchasing and trade associations; better business bureaus and chambers of commerce.

§ 18–1.905–4 Preaward surveys.

(a) *General.* A preaward survey is an evaluation by a NASA installation or a contract administration office (DCASR, AFPRO, etc.) of a prospective contractor's capability to perform under the terms of a proposed contract. Such evaluation shall be used by the contracting officer in determining the prospective contractor's responsibility. The evaluation may be accomplished by use of (1) data on hand, (2) data from other Government agency or commercial source, (3) an on-site inspection of plant and facilities to be used for performance on the proposed contract or (4) any combination of the above. Preaward surveys shall be requested and conducted in accordance with appendix K, Preaward Survey Procedures.

(b) *Circumstances under which performed.* A preaward survey shall be required when the information available to the procurement office is not sufficient to enable the contracting officer to make a determination regarding the responsibility of a prospective contractor (but see paragraph (c) of this section). A preaward survey is mandatory prior to determination that a small business concern is not responsible because of lack of capacity or credit on a proposed award of more than $10,000 (see § 18–1.705–4(c)).

(c) *Workload and financial capacity.* Regardless of the apparent sufficiency of information available to the procurement office indicating responsibility with respect to the standards set forth in § 18–1.903–1 (a) and (b), in procurements which are significant either in dollar value or in the critical nature of the requirement, consideration shall be given to requesting the survey activity to verify information regarding current workload and financial capacity.

(d) *Conducting activity.* A preaward survey may be conducted by a NASA installation, by one NASA installation for another, by another Government agency for NASA or jointly by a NASA installation and another Government agency. In this regard, NASA activities will give primary consideration to maximum utilization of the Defense Contract Administration Services Regions, or a military department as appropriate, for performance of preaward surveys (see Subpart § 18–51.3). This will usually be the most efficient and economical means available to NASA for accomplishing a preaward survey.

§ 18–1.905–50 Procedures for requesting preaward surveys.

(a) When the contracting officer determines that a preaward survey is required, he shall request a survey on DD Form 1524 in the detail commensurate with the dollar value and complexity of the procurement. In requesting a preaward survey, the contracting officer shall call to the attention of the survey activity any factors which should receive special emphasis. The factors selected by the contracting officer shall be applicable to all firms responding to the solicitation and shall be considered in all preaward surveys performed for the same solicitation. In the absence of specific instructions from the contracting officer, the scope of the preaward survey shall be determined by the survey activity and a normal time frame of seven working days after receipt of request shall be allowed for conducting the survey and submitting the report, recognizing that in unusual circumstances exception from the normal time frame may be requested.

(b) If a complete survey of financial responsibilities is required, the appropriate blocks in part I, section III of DD Form 1524 will be checked.

(c) Requests for surveys may be submitted to the NASA installation located nearest to the prospective contractor, to the military department, or the appropriate Defense Contract Administration activity with which NASA has a service agreement (see § 18–1.905–4). The survey shall be requested on Preaward Survey of Prospective Contractor (DD Form 1524) indicating in part I, section III thereof the scope of the survey desired. Factors requiring emphasis not enumerated in part I, section III should be listed by the procurement office under item "14" of that section. A survey may be requested by telegraphic communication containing the data required by part I, sections I, II, and III of the Form. A survey may be requested by telephone but shall be confirmed immediately on DD Form 1524. Unless previously furnished, a copy of the solicitation and such drawings and specifications as deemed necessary by the procurement office, shall be supplied with the preaward survey request. The procurement office shall forward any information indicating previous unsatisfactory contract performance with the preaward survey request, except where it is known that the survey activity already has this information.

38. Sections 18–1.5100, 18–1.5101, 18–1.5102, 18–1.5103, 18–1.5104, 18–1.5105, and 18–1.5106 are revised to read as follows:

§ 18–1.5100 Scope of subpart.

This subpart establishes procedures for implementing the reliability policies prescribed in NASA Policy Directive 5300.7, "Basic Policy for Reliability and Quality Assurance" by (a) establishing general principles of systematic reliability assurance actions on NASA procurements; (b) detailing the application of NASA Reliability Publication "Reliability Program Provisions for Aeronautical and Space Systems Contractors" (NHB 5300.4(1A)); and (c) defining the level at which reliability program requirements are to be placed on contractors.

§ 18–1.5101 Policy.

NASA reliability and quality assurance policy, as reflected in NPD 5300.7 is to (a) utilize every practical means to achieve levels of reliability and quality commensurate with mission objectives; (b) assign responsibility for establishing and achieving reliability and quality assurance (R&QA) requirements for products and services which are developed and fabricated within NASA installations or acquired from contractors; and (c) to review and evaluate plans, systems, and activities related to establishing and meeting reliability and quality requirements by contractors and within NASA installations to ensure that desired objectives are effectively achieved.

§ 18–1.5102 Definitions.

For the purpose of this subpart, the following terms have the meanings set forth below.

(a) *Reliability.* A characteristic or a system or any element thereof which is expressed as the probability that it will perform its required functions under defined conditions at designated times and for specified operating periods.

(b) *Reliability program.* A series of tasks, systematized under a comprehensive plan, which is designed to achieve the required level or reliability in the design, development, fabrication, test and use of a hardware end item.

(c) *Reliability assurance.* A planned and systematic pattern of actions necessary to provide adequate confidence that a space or aeronautical system or portion thereof (including test equipment) will perform reliably in actual operation. This includes actions to:

(1) Plan for achievement of satisfactory reliability when formulating procurement documents;

(2) Plan and execute reliability programs pertinent to each phase of the work from design through end use of the system hardware;

(3) Monitor and guide contractor reliability efforts; and

(4) Assess to determine whether the necessary level of reliability is being attained and maintained.

§ 18–1.5103 Application.

(a) The procedures prescribed in this subpart are applicable to:

(1) New procurements of complete space or aeronautical systems; principal systems making up a complete system (e.g., launch vehicles, spacecraft, test equipment, critical ground support equipment, experiments, etc.); critical subsystems or critical components where the total cost of the procurement is estimated to exceed $1 million. (See paragraph (b) of this section, for smaller procurements of critical items.) It is not necessarily applicable for procurements which do not entail design responsibility (e.g., "off-the-shelf" items); and

(2) Amendments to exisiting contracts of the types stated in paragraph (a)(1) of this section if the total contract value exceeds $1 million after amendment. In applying NHB 5300.4(1A) to existing contracts, cognizant personnel shall exercise discretion to prescribe reliability program requirements in such a manner as to be timely in contract performance and reasonable in cost in light of project completion status.

(b) For procurements of $1 million or less where the contractor has design responsibility for an aeronautical or space system or for critical hardware end items, or equipment to serve as part of such a system (including critical test and ground support equipment), the cognizant NASA installation shall (1) determine and impose applicable reliability program requirements (e.g., design review, design specifications, failure reporting and correction, parts and materials program, qualification and flight acceptance testing); and (2) follow those procedures set forth in § 18–1.5104(a) considered by the installation to be applicable.

§ 18–1.5104 Responsibilities.

(a) *Originators of procurement requests.* Originators of procurement requests shall consult as early as possible with appropriate reliability assurance personnel to determine the extent of applicability of NASA reliability publication NHB 5300.4(1A) to the procurement and to ensure that these reliability personnel develop detailed reliability program requirements. They shall also:

(1) Generally define in the procurement request the extent to which reliability program provisions of NHB 5300.4 (1A) will be invoked in the contract;

(2) Cite in the procurement request appropriate specifications, standards, design reliability criteria, or other documents or provisions which further establish or define reliability requirements;

(3) Recomended in the procurement request the manner in which reliability assurance requirements should be phased relative to over-all procurement phasing, and specify the time at which the contractor's reliability program plan is to be incorporated in the contract;

(4) Provide for the Statement of Work, details on the extent of applicability or necessary amplification of the provisions of NHB 5300.4(1A) and any other reliability documents to be invoked in the contract (for technical factors requiring definitization, see § 18–1.5106); and

(5) Provide the contracting officer the necessary copies of items described in subparagraph (2) of this paragraph, or advice as to where they can be obtained.

(b) *Contracting Officers.* Contracting officers, with or through appropriate reliability assurance personnel, shall:

(1) Review the reliability assurance requirements established for each procurement;

(2) Question those reliability assurance provisions which appear to be inadequate or have not been included (this will be accomplished in coordination with, and with verification by, the originator of the procurement request and reliability assurance personnel);

(3) Advise all prospective contractors of reliability assurance and program requirements for the procurement;

(4) Insure, whenever practicable, that the contractor's reliability program plan is incorporated in the contract at the time of award of Phase C and/or Phase D contracts; in multiple phase contracts, which include Phase B, negotiate as a minimum the scope of the reliability program by reliability task for this project phase prior to contract award and provide for definitization of the reliability program plan prior to the start of Phase C (see NHB 7121.2 "Phased Project Planning Guidelines");

(5) Insure that the provisions of the contract are clear as to the contractor's responsibility for meeting reliability requirements; and

(6) Insure that the contractor meets the terms and conditions of the contract relative to reliability requirements.

(c) *Reliability assurance personnel.* Reliability assurance personnel shall:

(1) Advise and assist originators of procurement requests in performing the functions described in paragraph (a) of this section;

(2) Advise and assist contracting officers in the functions described in paragraph (b) of this section;

(3) Assist contracting officers in the preparation of procurement plans to insure that the plans contain necessary provisions for reliability assurance;

(4) Assist the originators of procurement requests in evaluating and scoring the reliability program provisions of contract proposals;

(5) Advise and assist in guidance and monitoring, and other actions necessary to assure the contractor's compliance with the contract reliability program requirements;

(6) Take other actions as necessary to ensure that the system, hardware end item, or equipment being procured meets required levels of reliability; and

(7) Advise contracting officers and originators of procurements as necessary to assist them in evaluating and negotiating proposed reliability program costs and in monitoring of these costs during reliability program execution.

§ 18–1.5105 Procedures.

(a) *Processing of procurement documents for procurements of systems expected to exceed $1 million*—(1) *Procurement requests.* The procurement requests will include in the description of the procurement a statement of reliability requirements, in accordance with § 18–1.5104(a) (1) through (4).

(2) *Procurement plans.* The procurement plan will contain a discussion of the proposed provisions for reliability assurance, including a summary of reliability program requirements and an indication of the time phasing for negotiating and monitoring the reliability assurance provisions relative to overall procurement phasing. The plan will also contain estimates by fiscal year of planned funding for the contract reliability program.

(3) *Requests for proposals.* Requests for proposals will include:

(i) A clear description of the reliability program requirements for the contract including extent of applicability of NHB 5300.4(1A) and of any other pertinent documents or information which define reliability program requirements and goals. (For technical factors requiring decisions or elaboration in the Statement of Work, see §§ 18–1.5104(a)(4) and 18–1.5106);

(ii) A requirement that offerors furnish, as a part of their proposal, a reliability program plan in compliance with paragraph 1A201 of NHB 5300.4(1A) which will define how the reliability requirements to be invoked in the resulting contract will be accomplished; and

(iii) Directions for obtaining additional copies (if available) of documents provided in accordance with § 18–1.5104 (a)(2) and a statement that copies of NHB 5300.4(1A) or other reliability documents referenced in the solicitation or contract will be provided upon request.

(4) *Proposal evaluation and documentation.* In any procurement involving the reliability provisions of NHB 5300.4(1A), the contract file documentation of the technical evaluation of proposals shall include an evaluation of each bidder's or offeror's method of achieving the reliability required. Evaluation of the reliability assurance portion of technical proposals should be accomplished with the assistance of reliability assurance personnel.

(5) *Reliability representation on Source Evaluation Boards.* Paragraph 300 of the Source Evaluation Board Manual (NPC 402) provides for the participation of the designee of the Director of Reliability and Quality Assurance, NASA Headquarters, in Source Evaluation Board proceedings, whenever the Administrator of NASA is the Source Selection Official.

(b) *Monitoring of reliability effort.* At the discretion of the installation, one or more of the following methods will be used to monitor contractor reliability efforts:

(1) Use, when available, of resident NASA technical representatives (including reliability representatives) in hardware contractor facilities (or, as a minimum, use of periodic reliability surveys by nonresident NASA teams). When resident NASA representatives are assigned the reliability assurance functions, an outline of their duties will be furnished to the contracting officer in compliance with NASA PR 51.303(e);

(2) Use of delegations to plant resident contract administration offices of other Government agencies;

(3) Conducting reviews of contractor and supplier documentation to assess reliability program effectiveness and reliability status of project hardware; and

(4) Use of independent reliability assessment contractors to assist NASA in assessment of system reliability and/or evaluation of the effectiveness of the contractor's reliability program.

(c) *Inclusion of NHB 5300.4(1A), "Reliability Program Provisions for Aeronautical and Space Systems Contractors" in the contract.* When NHB 5300.4(1A) is to be invoked in the contract, a clause substantially as follows will be set forth in the schedule of the contract.

RELIABILITY ASSURANCE PROGRAM (JUNE 1971)

In performance of work under the contract, the Contractor shall to the extent provided for in the Statement of Work, implement a reliability program in accordance with NASA Reliability and Quality Assurance Publication, NHB 5300.4(1A) (indicate date of publication here), "Reliability Program Provisions for Aeronautical and Space System Contractors," and any other reliability assurance requirements set forth elsewhere herein or in the Statement of Work. Government surveillance over the Contractor's reliability effort and any required review and approval of reliability program documentation, shall be the responsibility of the Contracting Officer or his designated representative.

§ 18–1.5106 Technical factors (Statement of Work).

NHB 5300.4(1A) prescribes general reliability program requirements and guidelines essential to effective accomplishment of the task. Within these bounds, it is required that the contractor specify in detail the methods he proposes to use, the phasing of effort, and the resources he intends to program to implement each task. However, it is often necessary to provide further definition and guidance on scope, phasing, or method of implementing various tasks in order for the contractor to meet the requirements of a particular procurement. Therefore, the Statement of Work should provide additional definitization of pertinent factors in the appropriate paragraphs of NHB 5300.4(1A). Guidance for most of these is provided in Appendix F of NHB 5300.4(1A). However, in regard to paragraph 1A301–3 of that publication, the Statement of Work should also specify NASA's rights of approval or review of contractor design specifications.

39. Section 18–1.5204 is revised to read as follows:

§ 18–1.5204 Contract provisions.

(a) Specific system safety requirements which are to be included in the contract for the purpose of procuring system safety engineering services shall be defined in the contract schedule in cordance with § 18–1.5202 (a)(2) and (b)(3).

(b) Any unique facility safety or health requirements, which are in addition to the general provisions of the "Safety and Health" clause required herein, shall be prescribed as required by § 18–1.5202(b)(3).

(c) The following clause shall be included in:

(1) All negotiated contracts of $1 million or more, unless the contracting officer makes a written determination in accordance with § 18–1.5202(b) that, under the circumstances of the procurement, the clause is not necessary;

(2) All construction, repair, or alteration contracts in excess of $10,000;

(3) All contracts having, within their total requirement, construction, repair or alteration tasks in excess of $10,000; and

(4) In any procurement regardless of dollar amount when: (*a*) The deliverable

contract end items are of a hazardous nature; (b) during the life of the contract it can reasonably be expected that hazards will be generated within the operational environment, and the contracting officer determines that the hazards in the procurement warrant the inclusion of the clause.

(d) This clause may, however, be excluded from any contract which is subject to either the Walsh-Healy Public Contracts Act (§ 18–12.601) or the Services Contract Act of 1965 (§ 18–12.1004) and in which the application of either Act and any regulations thereunder constitute adequate safety and health protection.

SAFETY AND HEALTH (JUNE 1971)

(a) The Contractor shall take all reasonable safety and health measures in performing under this contract and shall, to the extent set forth in the schedule of the contract, submit a safety plan and a health plan for the Contracting Officer's approval. The Contractor is subject to (i) all applicable Federal, state and local laws, regulations, ordinances, codes and orders relating to safety and health in effect on the date of this contract; and (ii) shall comply with the Safety and Health Standards, specifications and issuances, reporting requirements, and provisions as set forth in the schedule of the contract.

(b) Further, the Contractor shall take or cause to be taken such other safety and health measures as the Contracting Officer shall direct. To the extent that the Contractor is entitled to an equitable adjustment under the terms and conditions of this contract, or any other obligations of the parties, such equitable adjustment shall be determined pursuant to the procedures of the clause of this contract entitled "Changes:" *Provided*, That no adjustment shall be made under this clause for any change for which an equitable adjustment is expressly provided under any other provision of this contract.

(c) The Contractor shall immediately notify and promptly report to the Contracting Officer or his representative, any accident or incident or exposure resulting in fatality, disabling injury or occupational disease as defined by United States of America Standards Institute (Standard Method for Reporting and Recording Occupational Injuries, Z16.1), or contamination of property beyond stated acceptable threshold limits set forth in the Schedule of the contract, or property loss of $10,000 or more arising out of work performed under this contract: *Provided*, however, the Contractor will not be required to include in any report an expression of opinion as to the fault or negligence of any employee. In addition, the Contractor shall comply with any illness, incident and injury experience reporting requirements set forth in the Schedule of the contract. The Contractor will investigate all such work related incidents or accidents to persons and property to the extent necessary to positively conclude what cause or causes resulted in said accident or incident, and furnish the Contracting Officer with a report, in such form as the Contracting Officer may require, of the investigative findings, together with proposed and/or completed corrective actions.

(d) (1) The Contracting Officer may, from time to time, notify the Contractor in writing of any noncompliance with the provisions of this clause and may specify corrective actions to be taken. The Contractor shall, after receipt of such notice, immediately take corrective action.

(2) If the Contractor fails or refuses to institute prompt corrective action in accordance with (d) (1) above, the Contracting Officer may invoke the provisions of the clause in the contract entitled "Stop Work," or may invoke whatever other rights are available to the Government under the terms and conditions of this contract or at common law, to remedy such failure or refusal to institute prompt corrective action.

(e) The Contractor (or subcontractor or supplier) shall cause the substance of this clause including this paragraph (e) and any applicable Schedule Provisions, with appropriate changes of designations of the parties, to be inserted in subcontracts of every tier which: (i) amount to $1,000,000 or more unless the Contracting Officer makes a written determination that this is not required; (ii) require construction, repair, or alteration in excess of $10,000; or (iii) the Contractor, regardless of dollar amount, determines that hazardous materials or operations are involved.

(f) The Contractor agrees that authorized Government representatives of the Contracting Officer shall have access to and the right to examine the sites or areas where work under this contract is being performed to determine the adequacy of the Contractor's safety and health measures under this clause.

PART 18–2—PROCUREMENT BY FORMAL ADVERTISING

40. Section 18–2.201–1 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 stipulated 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 procurement 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. Notwithstanding 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 1968)

(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 1968)

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 1968)

(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) If the contract is to involve construction work (subject to the Davis-Bacon Act) at Cape Kennedy, Patrick Air Force Base, or Merritt Island Launch Area, the "Employee Compensation" clause and "Table of Employee Compensation".

(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 grief 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 it 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 _____% 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 _____% 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) Invitation 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 BDSA Regulation 2 and/or DMS Regulation 1.

(b) *Supply and service contracts, excluding construction.* For supply and service contracts, excluding construction, invitation for bids shall contain the following in addition to the information required by paragraph (a) of this section, if applicable to the procurement involved.

(1) Discount provisions (see § 18–2.407–3).

(2) The quantity of supplies or services to be supplied under each item, and any provision for extent of quantity variation.

(3) Any requirement for prior testing and qualification of a product.

(4) Where needed for the purpose of bid evaluation, preaward surveys, or inspection, a requirement that all bidders state the place (including the street address) from which the supplies will be furnished or where the services will be performed. Where it is reasonably anticipated that producing facilities will be

used in the performance of the contracts, or where the Government requires the information, bidders will be required to state (i) the full address of principal producing facilities (if designation of such address is not feasible, a full explanation will be required), and (ii) names and addresses of owner and operator if other than bidder.

(5) Place and method of delivery (see Subpart 18–1.13 and § 18–2.202–3).

(6) Preservation, packaging, packing, and marking requirements, if any (see § 18–1.1204).

(7) Place, method, and conditions of inspection.

(8) If no award will be made for less than the full quantities advertised a statement to that effect.

(9) If award is to be made by specified groups of items or in the aggregate, a statement to that effect.

(10) If the contract is to include option provisions, a clear statement of such provisions (see Subpart 18–1.15 and § 18–12.1106–2).

(11) Any applicable requirements for samples or descriptive literature (see §§ 18–2.202–4 and 18–2.202–5).

(12) When minimum size of shipment requirements are appropriate, a provision substantially as set forth in § 18–2.202–3(b)(2).

(13) When the shipping weights (and dimensions if applicable) of an item are a factor in determining transportation costs for bid evaluation, a provision substantially as set forth in § 18–2.202–3(b)(3).

(14) 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, the requirements set forth in § 18–1.351.

(15) The number of copies of sellers' invoices desired, including original, if more or less than four.

(16) Any requirement for preproduction samples or tests, including a statement that the Government reserves the right to waive the requirement as to those bidders offering a product which has been previously procured or tested by the Government, and a statement that bidders offering such products, who wish to rely on such prior procurement or tests, must furnish with the bid information from which it may be clearly established that prior Government approval is presently appropriate for the pending procurement.

(17) In accordance with § 18–1.1208, a provision concerning the use of new material.

(18) [Reserved]

(19) When the contracting officer determines that it is necessary to consider the advantages or disadvantages to the Government that might result from making more than one award (multiple awards) (see § 18–2.407–5(c)), a provision substantially as follows:

EVALUATION OF BIDS (JULY 1965)

In addition to other factors, bids will be evaluated on the basis of advantages or disadvantages to the Government that might result from making more than one award (multiple awards). For the purpose of making this evaluation, it will be assumed that the sum of $50 would be the administrative cost to the Government for issuing and administering each contract awarded under this invitation, and individual awards will be for the items and combination of items which result in the lowest aggregate price to the Government, including such administrative costs.

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

SITE VISIT (JULY 1968)

Bidders 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 withdrawal of a bid after opening or for a claim after award of the contract.

(21) 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).

(22) Where liquidated damages are to be assessed, insert the clause as prescribed by § 18–7.105–5 (see § 18–1.310).

(23) In the procurement of supplies where the award may amount to $1 million or more, include the provision relating to preaward Equal Opportunity Compliance reviews set forth in § 18–12.802–4(d).

41. Sections 18–2.407–5 and 18–2.407–6 are revised to read as follows:

§ 18–2.407–5 Other factors to be considered.

The factors set forth below, among others, may be for consideration in evaluating bids for award:

(a) Foreseeable cost or delays to the Government resulting from differences in inspection, location of supplies, transportation, etc. If bids are on an FOB origin basis, transportation costs to the designated destination points shall be considered in determining the lowest cost to the Government.

(b) Changes made or requested by the bidder in any of the provisions of the invitation for bids to the extent that any such change does not constitute ground for rejection of the bid under the provisions of § 18–2.404.

(c) Advantages or disadvantages to the Government that might result from making multiple awards. (See § 18–2.201–1(b)(19).)

(d) Federal, State and local taxes (see Part 18–11).

(e) Origin of supplies, whether domestic or foreign, and, if foreign, the application of the Buy American Act or any other prohibition on foreign purchases (see Part 18–6).

(f) Royalties the Government will be required to pay under patent license agreements. (See § 18–9.102.)

§ 18–2.407–6 Equal low bids.

(a) (1) Where two or more low bids are equal in all respects, considering all factors except the priorities set forth in paragraph (a)(2) of this section, award shall be made in accordance with the order of priorities therein. Where two or more low bids are equal in all respects, considering all factors including the priorities set forth in paragraph (a)(2) of this section, award shall be made by a drawing by lot which shall be witnessed by at least three persons and which may be attended by the bidders or their representatives, subject to paragraph (a)(3) of this section.

(2) For the purpose of paragraph (a)(1) of this section, preference shall be given in the following order of priority:

(i) Certified-eligible concerns with a first preference (§ 18–1.801) that are also small business concerns (§ 18–1.701);

(ii) Other certified-eligible concerns with a first preference;

(iii) Certified-eligible concerns with a second preference (§ 18–1.801) that are also small business concerns (§ 18–1.701);

(iv) Other certified-eligible concerns with a second preference;

(v) Persistent or substantial labor surplus area concerns (§ 18–1.801) that are also small business concerns (§ 18–1.701);

(vi) Other persistent or substantial labor surplus area concerns; and

(vii) Other small business concerns.

(3) If the application of the priorities in paragraph (a)(2) of this section results in two or more bidders being eligible for award, the award shall be made to the concern that will make the most extensive use of small business subcontractors, rather than by drawing lots. If two or more bidders still remain eligible for award, the award shall be made by a drawing by lot limited to such bidders.

(b) When award is to be made by drawing by lot and the information available shows that the product of a particular manufacturer has been offered by more than one bidder, a preliminary drawing by lot shall be made to ascertain which of the bidders offering the product of a particular manufacturer will be included in the final drawing to determine the award.

(c) When an award is determined by drawing by lot, the names and addresses of the three witnesses and the person supervising the drawing shall be placed on all copies of the abstract of bids or otherwise recorded.

(d) In each award where preference is to be given under this part, the contracting officer shall, prior to award, obtain from such concern a written statement that it will perform, or cause to be performed, the contract in accordance with the circumstances justifying the priority.

PART 18–3—PROCUREMENT BY NEGOTIATION

42. Sections 18–3.101 and 18–3.102 are revised to read as follows:

§ 18–3.101 Factors to be considered in negotiated procurements.

(a) In all negotiated procurements in excess of $2,500 in which rates or prices are not fixed by law or regulation and in which time of delivery will permit, proposals shall be solicited from the maximum number of qualified sources consistent with the nature and requirements of the supplies or services to be procured. In any procurement publicized under § 18–1.1003, sources which have not been solicited, but which are not otherwise barred by law or regulation, shall be promptly furnished a copy of the solicitation on request; and shall be permitted to submit a proposal in response thereto. All proposals shall be supported by statements and analyses of estimated costs or other evidence of reasonable prices and other matters deemed necessary by the contracting officer. In all such negotiated procurements, including those subject to Source Evaluation Board procedures (see § 18–3.804–3), written or oral discussions shall be conducted with all responsible offerors who submit proposals within a competitive range, price and other factors considered: *Provided, however,* That written or oral discussions need not be conducted for:

(1) Procurements in implementation of authorized set-aside programs; or

(2) Procurements where it can be clearly demonstrated, from the existence of adequate competition or accurate prior cost experience with the product, that acceptance of an initial proposal without discussion would result in fair and reasonable prices and where the request for proposals notifies all offerors of the possibility that award may be made without discussion.

For procurements of $2,500 or less, see Subpart 18–3.6.

(b) During the course of negotiations, contracting officers and their negotiators shall give due attention to the following and any other appropriate factors:

(1) Comparison of prices quoted, and consideration of other prices for the same or similar supplies or services, with due regard to production costs, including extra-pay shift, multi-shift and overtime costs, and any other factor relating to price, such as profits, costs of transportation, and cash discounts;

(2) Comparison of the business reputations, capabilities, and responsibilities of the respective persons or firms who submit proposals;

(3) Consideration of the quality of the supplies or services offered, or of the quantity of the same or similar supplies or services previously furnished, with particular regard to the satisfaction of technical requirements;

(4) Consideration of delivery requirements;

(5) Discriminating use of price and cost analyses;

(6) Investigation of price aspects of any important subcontract;

(7) Individual bargaining, by mail or by conference;

(8) Consideration of cost sharing;

(9) Effective utilization in general of the most desirable type of contract;

(10) Consideration of the size of the business concern;

(11) Consideration as to whether the prospective supplier requires expansion or conversion of plant facilities;

(12) Consideration as to whether the prospective supplier is located in a surplus labor area;

(13) Consideration as to whether the prospective supplier will have an adequate supply of qualified labor;

(14) Consideration of the extent of subcontracting;

(15) Consideration of the existing and potential workload of the prospective supplier;

(16) Consideration of broadening the industrial base by the development of additional suppliers;

(17) Consideration of whether the contractor requires Government-furnished property, machine tools, or facilities; or Government-operated test facilities;

(18) Advantages or disadvantages to the Government that might result from making multiple awards;

(19) Consideration of the rules for the avoidance of organizational conflicts of interest (see § 18–1.113–2 and appendix G); and

(20) Royalties the Government will be required to pay under patent license agreements. (See § 18–9.102.)

§ 18–3.102 General requirements for negotiation.

(a) Procurement shall be made by formal advertising whenever such method is feasible and practicable under the existing conditions and circumstances, even though negotiation may be authorized under Subpart 18–3.2. Among the factors to be considered in determining whether formal advertising is feasible and practicable are:

(1) The number and location of potential suppliers;

(2) The adequacy of the specifications for advertising;

(3) The nature of the items being purchased;

(4) The time available; and

(5) The type of contract contemplated.

(b) No contract shall be entered into by negotiation unless or until the following requirements have been satisfied:

(1) Formal advertising is not feasible and practicable;

(2) The contemplated procurement comes within one of the circumstances permitting negotiation set forth in 10 U.S.C. 2304(a);

(3) Any necessary determinations and findings have been made;

(4) Prescribed clearances or approvals have been obtained;

(5) The prospective contractor has been determined to be responsible; and

(6) Other requirements of this chapter have been met.

(c) Negotiated procurements shall be on a competitive basis to the maximum practical extent. When a proposed procurement appears to be necessarily noncompetitive, the procurement office is responsible not only for assuring that competitive procurement is not feasible, but also for acting whenever possible to avoid the need for subsequent noncompetitive procurements. This action should include both examination of the reasons for the procurement being noncompetitive and steps to foster competitive conditions for subsequent procurements, particularly as to the availability of complete and accurate data, reasonableness of delivery requirements, and possible breakout of components for competitive procurement. Contracts shall not be negotiated on a noncompetitive basis without prior review and approval as provided in § 18–3.802–3. This restriction does not apply to those procurements listed in § 18–3.802–3(b).

§ 18–3.200 Scope of subpart.

Subject to the limitations prescribed in Subpart 18–3.1, and pursuant to the authority of 10 U.S.C. 2304(a), procurement may be effective by negotiation under any one of the exceptions contained in 10 U.S.C. 2304(a) (1) through (17) set forth and discussed in this Subpart 18–3.2, subject, in the case of construction contracts, to the further restrictions of 10 U.S.C. 2304(c). Each negotiated contract shall contain a reference to the authority under which it was negotiated.

44. Section 18–3.212 is revised in its entirety as follows:

§ 18–3.212 Classified purchases.

§ 18–3.212–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(12), purchases and contracts may be negotiated if: "for property or services whose procurement he [the Administrator] determines should not be publicly disclosed because of their character, ingredients, or components."

§ 18–3.212–2 Application.

This authority may be used for purchases or contracts classified "Confidential" or higher, or where because of other considerations, the contract should not be publicly disclosed.

§ 18–3.212–3 Limitation.

In order for this authority to be used, the required determination must be made in accordance with the requirements of Subpart 18–3.3. The determination shall set forth those facts and circumstances that are clearly illustrative of the conditions described for use of this authority, and convincingly establish that formal advertising would not be feasible and practicable. This authority shall not be used when negotiation is authorized by any other authority set forth in § 18–3.201 through § 18–3.217.

45. Sections 18–3.404–6 and 18–3.404–7 are revised to read as follows:

§ 18–3.404–6 Retroactive price redetermination after completion.

(a) *Description.* This type of contract provides for a ceiling price and retroactive price redetermination after completion of the contract. The redetermined price should be negotiated so as to give weight to the management effectiveness and ingenuity exhibited by the contractor during performance, and the basis for such negotiation should be fully discussed with the contractor when this type of contract is negotiated. Because the price is redetermined on a completely retroactive basis, this contract type (except for the price ceiling) does not provide the contractor with a calculable incentive for effective cost control. Once established, the ceiling price is subject to adjustment only if required by the operation of other contract clauses (see § 18-3.404–1).

(b) *Application.* This type of contract is appropriate in procurements where it is established at the time of negotiation that a fair and reasonable firm fixed price cannot be negotiated and the amount involved is so small or the time for performance so short that use of any other type of contract is impracticable. Even in these situations, however, it should be used only after negotiation of a billing price as fair and reasonable as the circumstances of the particular procurement permit. Based on an evaluation of the circumstances involved in contract performance, and their possible impact on cost, the ceiling price should be negotiated at a level which represents contractor assumption of a reasonable degree of risk.

(c) *Limitations.* This type of contract shall not be used unless the procurement is for research and development at an estimated cost of $100,000 or less, and

(1) The contractor's accounting system is adequate for price redetermination purposes;

(2) Reasonable assurance exists that price redetermination action will be taken promptly at the time specified;

(3) A ceiling price is established; and

(4) Written approval has been received from the Procurement Officer.

§ 18–3.404–7 Firm fixed-price level of effort term contract.

(a) *Description.* The firm fixed-price level of effort term contract describes the scope of work in general terms, usually calling for investigation or study in a specific research and development area. It obligates the contractor to devote a specified level of effort over a stated period of time for a fixed dollar amount. Normally, the contract requires submission by the contractor of reports which show the results achieved through application of the required level of effort; however, payment is based on effort expended rather than on results achieved. This type of contract can be a useful tool, particularly when the work cannot be clearly defined and the level of effort desired can be identified and agreed upon in advance of performance.

(b) *Limitations.* The firm fixed-price level of effort term contract may be used only when:

(1) The work to be performed cannot otherwise be clearly defined;

(2) The level of effort desired can be identified and agreed upon in advance of performance;

(3) There is reasonable assurance that the result desired cannot be achieved by expenditure of less than the stipulated effort; and

(4) The contract price does not exceed $100,000 unless approved by the Procurement Officer or his designee.

46. Sections 18–3.405–5 and 18–3.405–6 are revised to read as follows:

§ 18–3.405–5 Cost-plus-award-fee contract.

(a) *Description.* The cost-plus-award-fee contract is a cost reimbursement type contract with incentive fee provision which includes:

(1) A target cost;

(2) A base fee commensurate with minimum acceptable performance;

(3) Criteria against which the contractor's performance will be evaluated;

(4) An additional adjustment to the base fee, not to exceed a stipulated maximum, which is awarded on the basis of the subjective evaluation by NASA of contractor performance; and

(5) Specific provision that the determination of fee adjustment shall not be subject to the contract article entitled "Disputes."

(b) *Application.* The cost-plus-award-fee contract is suitable for use when:

(1) A cost reimbursement type of contract is found necessary in accordance with § 18–3.405–1;

(2) The work to be performed is such that specific quantitative or objective measurement is not feasible and effective incentive arrangements cannot be devised on the basis of cost (§ 18–3.405–4), performance (§ 18–3.407–2) or schedule (§ 18–3.407–2);

(3) NASA procurement objectives will be advanced if the contractor is effectively motivated to exceptional performance; and

(4) Any added administrative effort and costs required to monitor and evaluate performance are justified by the benefits expected.

(c) *Considerations of concept.* The opportunity for increase in earned fees is intended to motivate the contractor to effectively manage the required work, to control costs, and to improve the timeliness, quality, and quantity of performance. Where cost is of primary concern to NASA, the contract may provide for a combination incentive fee—award fee arrangement by setting forth a cost-based incentive separately stated from the award fee arrangement, which would then be concentrated on performance aspects. The award fee should be earned by the contractor by exceptional performance, surpassing minimum acceptable levels, and should be commensurate with the benefits accruing to NASA from the contractor's performance. The contract terms generally obligate the contractor to devote a specified level of effort for a stated period of time to satisfy the various areas of the scope of the work; it follows that the award of additional fee for exceptional performance in designated areas should be contingent upon an acceptable level of performance for all other contract requirements. Although the determination of the amount of award fee earned is a unilateral one based on subjective evaluations, the decision may be aided by such quantifying devices as adjectival ratings, point systems, or percentages of achievement. Ordinarily, the award fee adjustments will be increases only, and contract arrangements for decrease adjustment of base fee (e.g., if certain criteria or levels of performance are not met) must be carefully scrutinized prior to approval for use. Such arrangement must provide that the contractor will be informed of the reasons for decrease in fee, and will be given specific opportunity to submit information in his behalf prior to decision by the official responsible for adjustment of fee.

(d) *Limitations.* (1) The cost-plus-award-fee contract shall not be used (i) in procurements in which all factors affected by the incentive (e.g., cost, delivery performance) can be measured or objectively evaluated, or (ii) where the contract amount, term of performance or the benefits expected of the incentive are insufficient to warrant the additional administrative effort or cost.

(2) The maximum fee, which is the total of base fee, award fee, and any other incentive fee payable under the contract, is subject to the administrative limitations in § 18–3.450(f).

(e) *Cost Plus Award Fee Contracting Guide (NHB 5104.4.)* Additional guidance on the negotiation and administration of cost-plus-award-fee contracts is contained in the "Cost Plus Award Fee Contracting Guide" (NHB 5104.4).

§ 18–3.405–6 Cost-plus-a-fixed-fee contract.

(a) *Description.* The cost-plus-a-fixed-fee contract is a cost reimbursement type of contract which provides for the payment of a fixed fee to the contractor. The fixed fee once negotiated does not vary with actual cost, but may be adjusted as a result of any subsequent changes in the work or services to be performed under the contract. Because the fixed fee does not vary in relation to the contractor's ability to control costs, the cost-plus-a-fixed-fee contract provides the contractor with only a minimum incentive for effective management control of costs.

(b) *Application.* The cost-plus-a-fixed-fee contract is suitable for use when:

(1) A cost-reimbursement type of contract is found necessary in accordance with § 18–3.405–1(b);

(2) The parties agree that the contract should be fee bearing;

(3) The contract is for the performance of research, or preliminary exploration or study, where the level of effort required is unknown; or

(4) The contract is for development and test where the use of a CPIF is not practical.

(c) *Limitations.* (1) This type of contract normally should not be used in the development of space systems and equipment, once preliminary exploration and studies have indicated a high degree of probability that the development is feasible and the Government generally has determined its desired performance objectives and schedule of completion (see § 18–3.405–4).

(2) 10 U.S.C. 2306(d) provides that in the case of a cost-plus-a-fixed-fee contract the fee shall not exceed ten percent (10%) of the estimated cost of the contract, exclusive of the fee, as determined by the Administrator at the time of entering into such contract (except that a fee not in excess of fifteen percent (15%) of such estimated cost is authorized in any such contract for experimental, developmental, or research work and that a fee inclusive of the contractor's cost and not in excess of six percent (6%) of the estimated cost, exclusive of fees, as determined by the Administrator at the time of entering into the contract, of the project to which such fee is applicable, is authorized in contracts for architectural or engineering services relating to any public works or utility projects).

(3) In addition to the statutory limitations, fees under cost-plus-a-fixed-fee type contracts, except for Architect-Engineer contracts, are subject to the administrative limitations set forth below:

(i) 10 percent of the estimated cost, exclusive of fee, of any cost-plus-a-fixed-fee contract for experimental, developmental, or research work; and

(ii) 7 percent of the estimated cost, exclusive of fee, of any other cost-plus-a-fixed-fee contract.

(4) Fixed fees within the limitations imposed by 10 U.S.C. 2306(d) and in excess of those cited in subparagraph (3) of this paragraph will be submitted to the Director of Procurement for approval. The request for approval shall include a detailed justification setting forth the rationale supporting the proposed fee in terms of the factors prescribed in § 18–3.808–2.

(5) Pursuant to 10 U.S.C. 2311, authority to make the determinations of the estimated costs of a contract or project on which the allowable fee percentage is measured, has been delegated to the contracting officer (see § 18–3.304(e)).

(6) The administrative limitations on subcontract fees are set forth in § 18–3.807–10(d).

(d) *Completion or Term form.* The cost plus-a-fixed-fee contract can be drawn in one of two basic forms, Completion or Term.

(1) The Completion form is one which describes the scope of work to be done as a clearly-defined task or job with a definite goal or target expressed and with a specific end-product required. This form of contract normally requires the contractor to complete and deliver the specified end-product (in certain instances, a final report of research accomplishing the goal or target) as a condition for payment of the entire fixed-fee established for the work and within the estimated cost if possible; however, in the event the work cannot be completed within the estimated cost, the Government can elect to require more work and effort from the contractor without increase in fee provided it increases the estimated cost.

(2) The Term form is one which describes the scope of work to be done in general terms and which obligates the contractor to devote a specified level of effort for a stated period of time for the conduct of research and development. Under this form, the fixed-fee is payable at the termination of the agreed period of time on certification of the contractor that he has exerted the level of effort specified in the contract in performing the work called for, and such performance is considered satisfactory by the Government. Renewals for further periods of performance are new procurement and involve new fee and cost arrangements.

(3) The Completion form of contract, because of differences in obligation assumed by the contractor, is to be preferred over the Term form whenever the work itself or specific milestones can be defined with sufficient precision to permit the development of estimates within which prospective contractors can reasonably be expected to complete the work. A milestone is a definable point in a program when certain objectives can be said to have been accomplished.

(4) In the case of research and exploratory development work, it is rarely possible to define the scope of work with the degree of precision necessary for contracting on a Completion basis because of the nature of the work to be performed. Hence, in such cases, the Term form of contract may be considered preferable in that it provides more flexibility for effective conduct of the research effort.

(5) In no event should the Term form of contract be used unless the contractor is obligated by the contract to provide a specific level-of-effort within a definite period of time.

47. Section 18–3.410–1 is revised to read as follows:

§ 18–3.410 Other types of agreements.

§ 18–3.410–1 Basic agreement.

(a) *Description.* A basic agreement is not a contract. It is a written instrument of understanding executed between NASA and a contractor which sets forth the negotiated contract clauses which shall be applicable to future procurements entered into between the parties while the basic agreement is in effect. A basic agreement will apply to a particular procurement by the execution of a formal contractual document which will provide for the scope of the work, price, delivery, and additional matters peculiar to the requirements of the specific procurement involved, and shall incorporate by reference or append the contract clauses agreed upon in the basic agreement as required or applicable and incorporate by reference the provisions of the basic agreement which provide for the accelerated incorporation of the required NASA implementation of Executive orders and statutes. Basic agreements may be used with fixed-price or cost-reimbursement type contracts.

(b) *Applicability.* (1) Basic agreements are appropriate for use when (i) past experience and future plans indicate that a substantial number of separate contracts may be entered into with a contractor during the life of the basic agreement and (ii) substantial recurring negotiating problems exist with a particular contractor.

(2) Except for the effect of accelerated implementation of statutory and Executive order requirements, a basic agreement shall be modified only by a modification of the basic agreement itself and shall not be modified or superseded by individual contracts or purchase orders entered into under and subject to the terms of such basic agreement (see subparagraph (6) of this paragraph). Basic agreements may be modified at any time; however, it is generally desirable to modify them as infrequently as possible. Changes to clauses or new clauses resulting from statutes or Executive orders should be incorporated in the basic agreement as soon after issuance as feasible. Other changes should be incorporated on an annual basis unless one of the parties specifically requests earlier consideration. As a minimum, basic agreements should be reviewed annually before the anniversary of their effective date and revised to conform with the current requirements of this chapter. Modifications shall not have retroactive effect except as provided for in the accelerated incorporation of statutory and Executive order requirements.

(3) Basic agreements shall continue in effect until terminated or superseded and shall provide for termination upon 30 days written notice by either party except that the agreements shall provide for termination by the Government at any time should there be a failure to agree upon any deletion, amendment or addition required by statute, Executive order or this chapter. Termination of a basic agreement will not affect any individual contract referencing or appending the basic agreement entered into prior to the effective date of termination.

(4) A basic agreement shall be used to cover all subsequent procurements which fall within its scope. Provisions of the basic agreement, including supplements thereto, shall be incorporated into the formal contractual document covering a particular procurement by referring therein to the number of the basic agreement and each of its supplements. When an existing contract is amended to effect new procurement, the contract modification shall incorporate the most recent

basic agreement, including supplements thereto, to apply only to the work added by the contract modification.

(5) Contract modifications negotiated pursuant to the terms of an existing contract and not involving new procurement may, by mutual agreement of the parties and if determined to be in the interest of the Government, amend the existing contract to conform to a subsequently executed or supplemented basic agreement.

(6) Clauses pertaining to subjects not covered in a basic agreement but applicable to the contract or modifications to contracts being negotiated, and clauses required by statute or Executive order, if any, which have become effective after the last modification to the basic agreement shall be included in the contract and modifications as if no basic agreement existed. In addition to the foregoing, basic agreements shall provide for accelerated incorporation, in subsequent contracts and new work supplements, of the latest clauses implementing statutory or Executive order requirements which have become effective after the last modification to the agreement.

(7) Where a clause which was included in the basic agreement pursuant to a deviation must be replaced by a revised clause, the revised clause may deviate to the same extent as the original clause if the revision is not related to the deviation, and if the deviation has not expired or been rescinded.

(8) If a letter contract has been entered into under a basic agreement which thereafter was superseded by a new basic agreement, or amended by supplemental agreement, the contractual instrument which definitizes such letter contract shall incorporate the superseding basic agreement or supplemental agreement, as applicable. If the basic agreement has been terminated without being superseded, the definitive contract which supersedes the letter contract shall incorporate, the clauses required by statute, Executive order, and this chapter.

(9) Basic agreements may include negotiated overhead rates for cost reimbursement type contracts. Where negotiated rates are included the bases to which the rates apply and the period of applicability must also be stated. All pertinent provisions such as final rates for past periods, provisional rates for current or future periods, ceilings, and any specific items to be treated as indirect costs shall also be included as appropriate.

(10) Normally a basic agreement will continue in effect until terminated or superseded. Basic agreements for a specified term are not, however, precluded.

(c) *Content and form.* Basic agreements shall contain a set of "General Provisions." These general provisions shall include three groups of clauses. The first group, identified as "Section A," shall include all of the clauses made mandatory by statute, Executive Order, and this Regulation for use in negotiated research and development contracts. The second group, identified as "Section B", shall add clauses and/or modifications to the "Section A" clauses made mandatory by statute, Executive Order, and this chapter for use in negotiated supply contracts. The third group, identified as "Section C", shall consist of clauses which may be made a part of each formal contractual document, depending upon their applicability to the particular procurement. The format set forth below may be adapted to fit specific circumstances.

BASIC AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND _____

1. This agreement is entered into as of the _____ day of _____ 19__ between the United States of America, hereinafter called the "Government," represented by the Contracting Officer and _____, a corporation organized and existing under the laws of the State of _____, hereinafter called "Contractor."

2. The clauses and provisions of sections A, B, and C hereinafter set forth have been agreed upon by the parties hereto for use in negotiated _____ type contracts between the parties, entered into on or after the date of this Agreement, and prior to its termination.

3. The clauses set forth in section A shall apply to cost-reimbursement research and development contracts whereas cost-reimbursement supply contracts shall include the clauses in section A modified by the clauses in section B. These clauses are mandatory and shall, by reference or attachment, be incorporated in every such contract which makes reference to this agreement. The clauses set forth in section C are to be incorporated in individual contracts only when applicable and agreed to by the parties. In addition, every contract subject to this agreement shall incorporate by reference the accelerated incorporation provisions that are stated in paragraphs 3(b) and 4 of this agreement.

4. This agreement, including sections A, B, and C hereof, may be amended only by mutual agreement of the parties, and the agreement may be terminated in its entirety by either party upon thirty (30) days written notice to the other party, except that this agreement may be terminated by the Government at any time if the parties fail to agree upon any deletion, amendment, or addition to this agreement which is required by statute, Executive Order, or the NASA Procurement Regulation. No deletion, modification, addition to, or termination of this agreement shall affect any contracts theretofore entered into between the parties in which this agreement or a portion thereof has been incorporated except that (a) letter contracts citing this agreement shall, when formalized, contain the latest modification hereto and any required NASA implementations of Executive Orders and Federal Statutes; and (b) contracts and new work supplements entered into during the acceptance/rejection period stated below for accelerated incorporation of required NASA implementations of Executive Orders and Federal statutes, shall be deemed to include such implementations if the required implementation date falls within the acceptance/rejection period and the contractor has not rejected the implementation.

5. It is the intent of the parties to this agreement that this agreement be carried out in consonance with requirements established by Federal statutes and Executive Orders. When a statute or Executive Order is implemented by a new NASA clause or by a change to a clause already contained in the agreement, the Contracting Officer shall furnish the Contractor five (5) copies of such implementation by registered mail, return receipt requested. If the Contractor desires to reject the clause he shall so inform the Contracting Officer within ____ days from receipt thereof. If notice of rejection is not received by the Contracting Officer within such time period, the implementation shall be deemed to have been accepted by the Contractor and incorporated in all individual contracts and new work supplements to contracts entered into thereafter. However, in the event that the required effective date of the implementation falls within the period stated above for acceptance/rejection and if the Contractor has not rejected the implementation it is further agreed, as stated above, that the implementation shall be deemed to be retroactive to such required effective date and that individual contracts and new work supplements incorporating this agreement and entered into on or after the effective date, within the acceptance/rejection period, shall also be deemed to incorporate the implementation.

6. This agreement shall continue in effect until terminated in accordance with paragraph three (3) above or until superseded by another agreement. This agreement should be reviewed, as a minimum, annually before the anniversary of its effective date, and revised to conform with all requirements of statutes, Executive Orders, and the NASA Procurement Regulations. Such revision shall be evidenced by an agreement modifying this agreement or by the issuance of a superseding basic agreement.

7. This agreement shall not be referred to by the Contractor in bids submitted in response to invitations for bids nor become a part of any contract placed through the process of formal advertising.

In witness whereof, the parties hereto have executed this agreement as of the day and year first above written:

_____
(Name of company)

By _____
(Signature of authorized individual)

_____
(Typed or printed name)

Title _____

UNITED STATES OF AMERICA

By _____
(Signature of contracting officer)

_____
(Typed or printed name)

(d) *Limitations.* (1) Basic agreements shall neither cite appropriations to be charged nor be used alone for the purpose of obligating funds.

(2) Basic agreements shall not in any manner provide for or imply any agreement on the part of the Government to place future orders or contracts with the contractor involved, nor shall they be used in any manner to restrict competition.

(e) The Director of Procurement, NASA Headquarters, is responsible for negotiation of all basic agreements and amendments thereto. Procurement offices may not enter into basic agreements nor alter existing basic agreements without the prior written authorization of the Director of Procurement.

(f) Where a procurement office is authorized to enter into a basic agreement with a particular contractor, an introductory paragraph to the basic agreement shall include the "Approval of Contract" clause set forth in § 18-7.104-51 with the word "contract" deleted from the title and text of the clause and the

words "basic agreement" inserted in lieu thereof.

(g) Prior to the negotiation for renewal of a basic agreement or of a special clause requested by a contractor, each field installation procurement office, and concerned Headquarters offices will be informed and will be asked to comment on any special items to be discussed.

(h) Basic agreements submitted to the Director of Procurement for approval, shall include the following information:

(1) A memorandum of negotiation describing each deviation from the NASA Procurement Regulation as it appears in the basic agreement together with supporting data required by § 18–1.109–3 (a), (b), (d), (e), and (f);

(2) A listing of all nonstandard clauses used, the genesis of such clauses, and the reasons for use in the basic agreement;

(3) A résumé of all salient features of the agreement which will facilitate the review and approval consideration, and

(4) Documentation of the coordination effected between the negotiator and the procurement offices of other NASA field installations.

48. 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–IC 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, 18–3.9, 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 instructions 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 pre-negotiation 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 § 18–12.1106–2);

(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 § 18–3.109, the following statement and legend shall be included in all requests for proposals and requests for quotations:

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 furnished in connection with RPP No. _____ shall not be used or disclosed, except for evaluation purposes, provided that if a contract is awarded to this offeror 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.

Proposals submitted with restrictive legends or statements differing from the above legend will be treated under the terms of the above legend. The Government assumes no liability for disclosure or use of unmarked technical data and may use or disclose the data for any purpose. (February 1966)

(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 BDSA Regulation 2 and/or DMS Regulation 1.

(47) Requirements 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 electro-sensitive 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) (July 1966 edition) 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) If the contract is to involve construction work (subject to the Davis-Bacon Act) at the Cape Kennedy, Patrick Air Force Base, or Merritt Island Launch Area complex, the "Employee Compensation" clause and "Table of Employee Compensation";

(69) [Reserved].

(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 requirement for "Certification of Nonsegregated Facilities" as prescribed in § 18–12.802–4(b);

(74) Where Standard Form 33 (Solicitation, Offer, and Award) of 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 ____% 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 ____% set-aside for labor surplus area concerns.

(c) In addition to the information specified in § 18–3.501(b), 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 three 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 of 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. 2000 d-1), shall include a requirement for obtaining an "Assurance of Compliance" (NASA Form 1206) in accordance with the provisions of § 18-1.355.

49. Section 18-3.604-2 is revised to read as follows:

§ 18-3.604-2 Competiton in purchases in excess of $250.

(a) The procedures in paragraphs (b), (c), and (d) of this section apply to purchases in excess of $250 made pursuant to this Subpart 18-3.6.

(b) Solicitation of quotations from a reasonable number of qualified sources of supply shall be made to assure that the procurement is to the advantage of the Government, price and other factors considered, including the administrative cost of the purchase. Generally, solicitation shall be made of at least three suppliers and, to the maximum extent possible, shall be restricted to the local trade area of either the purchasing or the receiving activity. If practicable, two sources not included in the previous solicitation should be requested to furnish quotations. Quotations should generally be solicited orally. Written solicitations should be used when (1) the suppliers are located outside the local area, (2) special specifications are involved, (3) a large number of line items are included in a single proposed procurement, or (4) obtaining oral quotations is not considered economical or possible.

(c) Reasonableness of a proposed price should be based on competitive quotations. If only one response is received, or the price variance between multiple responses reflects lack of adequate competition, a statement shall be included in the contract file setting forth the basis of the determination of fair and reasonable price. This determination may be based on a comparison of the proposed price with prices found reasonable on previous purchases, current price lists, catalogs, advertisements, similar items in a related industry, value analysis, the contracting officer's personal knowledge of the item being procured, or any other means. Written records of solicitation may be limited to notes or abstracts to show vendor or vendors contacted, prices, delivery, and any other informal historical data. If a separate form is used for documentation of price reasonableness, DD Form 1784, Small Purchase Pricing Memorandum, shall be based. If this form is not used, the price reasonableness statement shall be used on one or more of the criteria set forth on the form. (Local reproduction of DD Form 1784 is authorized.) In any case, the contracting officer should gain as much knowledge as practicable of the physical and material characteristics and intended use of the item to be purchased. When only one source is solicited, a justification, in the form prescribed by § 18-3.802-3(d)(1), must be made a part of the file to explain the absence of competition, except for procurement of utility services available only from one source or of educational services from non-profit institutions. Notification to unsuccessful suppliers shall be given only if requested.

(d) Occasionally an item can be obtained only from a supplier who quotes a minimum order price or quantity, which either unreasonably exceeds stated quantity requirements, or results in an unreasonable price for the quantities required. If practicable before placing the order, the requiring activity should be informed in such cases of all facts regarding the quotation and requested to confirm or alter its requirement for the item or items under consideration. The file shall be documented to support the final action taken.

§ 18-3.604-3 [Deleted]

49a. Section 18-3.604-3 is deleted.

50. Section 18-3.802-3 is revised to read as follows:

§ 18-3.802-3 Noncompetitive procurement.

(a) While competition must be obtained whenever possible, there are circumstances where one institution or company has exclusive or predominate capability by reason of experience, specialized facilities, or technical competence to perform the work within the time required and at reasonable prices. In such a circumstance, the initiating technical office may recommend, for approval by the appropriate authority listed in paragraph (d) of this section, that only one institution or company is qualified to perform the work or services and that a proposal be solicited only from this source. This recommendation shall be in writing and will be contained in a separate document entitled "Justification for Noncompetitive Procurement" and shall set forth full and complete justification for the selection in accordance with paragraph (c) of this section, except as otherwise authorized by paragraph (d)(1) of this section. In those cases where the initiating technical office does not make such a recommendation, the recommendation may be made by the procurement office, if deemed appropriate. In such a case, the recommendation will be prepared for the signature of an appropriate individual, consistent with the approval requirements of paragraph (d) of this section, and shall have the concurrence of the cognizant technical office before submission to the approving authority specified in paragraph (d) of this section, except that such concurrence may be waived in the case of small purchases (see paragraph (d)(1) of this section).

(b) The provisions of this § 18-3.802-3 do not apply to: (1) procurements of $250 or less; (2) procurements from or through other Government agencies; (3) procurements of utility services where the services are available from only one source; (4) procurements of architect-engineer services; (5) procurements of industrial facilities required in support of related procurement contracts; (6) procurements of scientific experiments, based on unsolicited proposals, where selection is made pursuant to NASA Management Instruction 7100.1, "Conduct of Space Science Program—Selection and Support of Scientific Investigations and Investigators" (§ 18-4.403(d)); or (7) procurements based on unsolicited proposals where a "Justification for Acceptance of Unsolicited Proposal" is provided in accordance with Subpart 18-4.4.

(c) Justification for Noncompetitive Procurement:

(1) The document entitled "Justification for Noncompetitive Procurement" shall:

(i) Fully express the circumstances which operate to make competitive negotiation impractical or not feasible;

(ii) Explain with particularity the exclusive or predominant capability the

proposed contractor possesses which meet the requirements of the procurement; and

(iii) Contain, in the first sentence of the document, an appropriate recommendation (e.g., "I recommend that we negotiate with the _____ only for
(Name of company)
the detailed documentation and fabrication of _____").
(Item being procured)

(2) Each "Justification" shall reflect the degree of consideration which has been given to other sources in the particular field and the reasons they lack the capability which the proposed contractor evidences. The following illustrations represent factors which should be considered, as appropriate, in preparing the "Justification":

(i) What capability does the proposed contractor have which is important to the specific effort and makes him clearly more desirable than another firm in the same general field?

(ii) What prior experience of a highly specialized nature does he possess which is vital to the proposed effort?

(iii) What facilities and test equipment does he have which are specialized and vital to the effort?

(iv) Does he have a substantial investment of some kind which would have to be duplicated at Government expense by another source entering the field?

(v) If schedules are involved, why are they critical and why can the proposed contractor best meet them?

(vi) If lack of drawings or specifications is a guiding factor, why is the proposed contractor best able to perform under these conditions? Why are drawings and specifications lacking? What is the leadtime required to get drawings and specifications suitable for competition?

(vii) Are Government-owned facilities involved?

(viii) Is the effort a continuation of previous effort performed by the proposed contractor?

(ix) Does the proposed contractor have personnel considered predominant experts in the particular field?

(x) Is competition precluded because of the existence of patent rights, copyrights or secret processes?

(xi) Are parts or components being procured as replacement parts in support of equipment specially designed by a manufacturer, where data available is not adequate to assure that the parts or components will perform the same function in the equipment as those parts or components being replaced?

(d) *Review and approval.* The "Justification" shall, as a minimum requirement, be reviewed and approved as follows:

(1) For small purchases in excess of $250, but not in excess of $2,500, the "Justification" may be in the form of a statement and shall be submitted for the approval of the contracting officer.

(2) For procurements in excess of $2,500, but not in excess of $100,000, the "Justification" shall be submitted for the approval of the Procurement Officer or his designees after prior review and written concurrence by the initiating technical individual's immediate superior. (For the purpose of this requirement, the term "or his designees" shall mean the individuals authorized by the Procurement Officer to sign the "Justification." Such authorization shall be in writing and shall not be delegated beyond the first level of supervision below the Procurement Officer.)

(3) For procurements in excess of $100,000, but less than the dollar amount set forth below for the installation concerned, the "Justification" shall be submitted for the approval of the Procurement Officer or his designee after prior review and written concurrence by the head of the cognizant technical division or laboratory, as applicable. (For the purpose of this requirement, the term "or his designee" shall mean the individual authorized by the Procurement Officer to sign the "Justification." Such authorization shall be in writing and shall not be delegated to more than one individual.)

(i) $250,000:

Flight Research Center.
Wallops Station.

(ii) $500,000:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $1,000,000:

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).

(4) For procurements within the range of the dollar amounts set forth below for the installation concerned, the "Justification" shall be submitted for the approval of the Head of the Installation, his Deputy or Associate Director (the title "Associate Director" means a full Associate Director and not an Associate Director for _____) after prior review and written concurrences by the Director or Assistant Director of the cognizant technical directorate, cognizant Program Manager, or cognizant staff official, as applicable, who reports directly to the Head of the Installation, and by the Procurement Officer.

(i) $250,00 but less than $500,000:

Flight Research Center.
Wallops Station.

(ii) $500,000 but less than $1,000,000:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $1,000,000 but less than $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).

(5) For procurements that equal or exceed the dollar amounts set forth below for the installation concerned, the "Justification" shall be submitted for the signature of the Head of the Installation after prior review and written concurrences by the Director or Assistant Director of the cognizant technical directorate, cognizant Program Manager, or cognizant staff official, as applicable, who reports directly to the Head of the Installation, and by the Procurement Officer. The "Justification" shall contain additional signature blocks for approval by the Administrator and for concurrences by the Director of Procurement, the cognizant Program Associate Administrator, the Assistant Administrator for Industry Affairs and Technology Utilization, the Assistant Administrator for Administration, the Associate Administrator for Organization and Management, and the Deputy Administrator.

(i) $500,000 and over:

Flight Research Center.
Wallops Station.

(ii) $1,000,000 and over:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $2,500,000 and over:

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).

51. Section 18-3.804-2 is revised to read as follows:

§ 18-3.804-2 Evaluation procedures not involving source evaluation board.

The evaluation procedures set forth in paragraphs (a) through (c) of this section shall be utilized except where the procedures set forth in § 18-3.804-3 apply.

(a) *Responsibility of contracting officer.* (See § 18-3.801-2.)

(b) *Technical evaluation.* Generally, procurement personnel are not qualified to evaluate proposals from a technical viewpoint and must rely on scientific and engineering personnel for this function. In research and development contracting, awards should usually be made to those companies that have the highest competence in the specific field of science or technology involved, although awards should not be made on the basis of research and development capabilities that exceed those needed for the successful performance of the work. It is imperative therefore that technical evaluations and recommendations be fully documented and reviewed by responsible personnel. Technical evaluation should include the following:

(1) The contractor's understanding of the scope of the work as shown by the scientific and technical approach proposed;

(2) Availability and competence of experienced engineering, scientific, or other technical personnel;

(3) Availability of necessary research, test, and production facilities;

(4) Experience or pertinent novel ideas in the specific branch of science or technology involved;

(5) The contractor's willingness to devote his resources to the proposed work with appropriate diligence; and

(6) The contractor's proposed method of achieving the reliability required.

In making this evaluation, technical personnel may be given access to portions of the business proposals upon request. After evaluation and preparation of written recommendations as to selection of source by the technical personnel, proposals shall be returned to the negotiator. The contracting officer is responsible for reviewing the justification in support of the recommendations of technical personnel to determine that the justification is adequate and that the documentation is complete.

(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 Office of Management and Budget criteria (NASA Handbook 2410.1, "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, and cost controls.

52. Section 18–3.807–2 is revised to read as follows:

§ 18–3.807–2 Requirement for Price or Cost Analysis.

(a) *General.* Some form of price or cost analysis is required in connection with every negotiated procurement action. The method and degree of analysis, however, is dependent on the facts surrounding the particular procurement and pricing situation. Cost analysis shall be performed in accordance with paragraph (c) of this section when cost or pricing data is required to be submitted under the conditions described in §18–3.807–3; however, the extent of the cost analysis should be that necessary to assure reasonableness of the pricing result, taking into consideration the amount of the proposed contract and the cost and time needed to accumulate the necessary data for analysis. Price analysis shall be used in all other instances to determine the reasonableness of the proposed contract price. Price analysis may also be useful in corroborating the overall reasonableness of a proposed price where the determination of reasonableness was developed through cost analysis.

(b) *Price analysis.* (1) Price analysis is the process of examining and evaluating a prospective price without evaluation of the separate cost elements and proposed profit of the individual prospective supplier whose price is being evaluated. Price analysis may be accomplished in various ways including the following:

(i) The comparison of the price quotations submitted;

(ii) The comparison of prior quotations and contract prices with current quotations for the same or similar end items (to provide a suitable basis for comparison, appropriate allowances must be made for differences in such factors as specifications, quantities ordered, time for delivery, Government-furnished materials, and experienced trends of improvements in production efficiency; it must also be recognized that such comparison may not detect an unreasonable current quotation unless the reasonableness of the prior price was established and unless changes in the general level of business and prices have been considered);

(iii) The use of rough yardsticks (such as dollars per pound, per horsepower, or other units) to point up apparent gross inconsistencies which should be subjected to greater pricing inquiry;

(iv) The comparison of prices set forth in published price lists issued on a competitive basis, published market prices of commodities and similar indices, together with discount or rebate arrangements; and

(v) The comparison of proposed prices with estimates of cost independently developed by personnel within the procurement office.

(2) Price analysis techniques should be used to support or supplement cost analysis wherever appropriate.

(c) *Cost analysis.* (1) Cost analysis is the review and evaluation of a contractor's cost or pricing data (§ 18–3.807–3) and of the judgmental factors applied in projecting from the data to the estimated costs, in order to form an opinion on the degree to which the contractor's proposed costs represent what performance of the contract should cost, assuming reasonable economy and efficiency. It includes the appropriate verification of cost data, the evaluation of specific elements of costs (see § 18–16.202), and the projection of these data to determine the effect on prices of such factors as:

(i) The necessity for certain costs;

(ii) The reasonableness of amounts estimated for the necessary costs;

(iii) Allowances for contingencies;

(iv) The basis used for allocation of overhead costs; and

(v) The appropriateness of allocations of particular overhead costs to the proposed contract.

(2) Cost analysis shall also include appropriate verification that the contractor's cost submissions are in accordance with the Part 18–15, Contract Cost Principles and Procedures.

(3) Among the evaluations that should be made where the necessary data are available, are comparisons of a contractor's or offeror's current estimated costs with:

(i) Actual costs previously incurred by the contractor or offeror;

(ii) His last prior cost estimate for the same or similar item or a series of prior estimates;

(iii) Current cost estimates from other possible source; and

(iv) Prior estimates or historical costs of other contractors manufacturing the same or similar items.

(4) Forecasting future trends in costs from historical cost experience is of primary importance. In periods of either rising or declining costs, an adequate cost analysis must include some evaluation of the trends. In cases involving production of recently developed, complex equipment, even in periods of relative price stability, trend analysis of basic labor and materials costs should be undertaken, and in contracts extending over a period of several years, trend analysis should be made of overhead forecasts for life of the contract.

53. Section 18–3.807–3(a) is revised to read as follows:

§ 18–3.807–3 Cost or pricing data.

(a) The contracting officer shall require the contractor to submit, either actually or by specific identification in writing, cost or pricing data in accordance with § 18–16.202 and to certify, by use of the certificate in paragraph (b) of the clause set forth in § 18–3.807–4, that, to the best of his knowledge and belief,

the cost or pricing data he submitted was accurate, complete, and current prior to:

(1) The award of any negotiated contract (other than a letter contract) expected to exceed $100,000 in amount;

(2) The pricing of any contract modification expected to exceed $100,000 in amount to any formally advertised or negotiated contract whether or not cost or pricing data was required in connection with the initial pricing of the contract when the modification involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000. (For example, the requirement applies to a $30,000 modification resulting from a reduction of $70,000 and an increase of $40,000, or as another example, when the modification results in no change in contract price because there is an increase of $200,000 and a reduction of $200,000. However, this requirement shall not apply when unrelated and separately priced changes for which cost or pricing data would not be required are included in the same modification for administrative convenience);

(3) The award of any negotiated contract not expected to exceed $100,000 in amount or any contract modification not expected to exceed $100,000 in amount to any formally advertised or negotiated contract whether or not cost or pricing data was required in connection with the initial pricing of the contract, provided the contracting officer considers that the circumstances warrant such action in accordance with paragraph (d) of this section;

unless the contracting officer determines in writing, that the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The requirements under subparagraphs (1) and (2) of this paragraph may be waived in exceptional cases where the Associate Administrator for Organization and Management, or in the case of a contract with a foreign government or agency thereof, the Assistant Administrator for Industry Affairs and Technology Utilization or the Director of Procurement authorizes such waiver and states in writing his reasons for such determination. The determination will set forth the procedures followed in attempting to obtain cost and pricing data, including any direct requests therefor, the contractor's reasons for refusing to submit cost or pricing data or reasons why data submitted by the contractor could not be used, and other efforts made by NASA to obtain confirmation of the accuracy of pricing from sources other than the contractor. Whenever the Contractor and Subcontractor Certified Cost of Pricing Data clause set forth in § 18-3.807-4 is to be included in the contract, it should also be included in the request for proposals, the invitation for bids, or the request for quotations.

* * * * *

54. Section 18-3.807-5 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) (i) Properly supported and verified claims of understated cost or pricing data will be recognized if such data has been 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 do not need to be in the same cost groupings (e.g., material, labor, and overhead).

(ii) Although the Government has no duty to uncover contractor understated cost or pricing data, such understatements, when discovered, will be considered in arriving at the amount of a price reduction for overstated cost or pricing data.

(b) If, at any time prior to agreement on price, the contracting officer learns through audit or otherwise that any cost or pricing data submitted is inaccurate, incomplete, or noncurrent, he shall immediately call it to the attention of the contractor whether that defective data tends to increase or decrease the contract price. Thereafter, the contracting officer shall negotiate on the basis of any new data submitted, or on a basis which in his opinion makes satisfactory allowance for the incorrect data as he considers appropriate and shall reflect these facts in his record of negotiation.

(c) After award, if the contracting officer obtains information which leads him to believe that the data furnished may not have been accurate, complete, or current, or if he considers that the data may not have been adequately verified as of the time of negotiation, he should request an audit to evaluate the accuracy, completeness, and currency of such data. In the case of negotiated firm fixed-price contracts, post-award cost performance audit, pursuant to paragraph (c) of the clause set forth in § 18-3.807-4, shall be limited to the single purpose of determining whether or not defective cost or pricing data were submitted. Such audits shall not be for the purpose of evaluating profit-cost relationships, nor shall any repricing of such contracts be made because the realized profit was greater than was forecast, or because some contingency cited by the contractor in his submission failed to materialize—unless the audit reveals that the cost or pricing data certified by the contractor were, in fact, defective.

(d) Under 10 U.S.C. 2306(f), as implemented by the Contractor and Subcontractor Certified Cost or Pricing Data

clause set forth in § 18–3.807–4, the Government's right to reduce the prime contract price extends to cases where the prime contract price was increased by any significant sums because of subcontractor furnished defective cost or pricing data in connection with a subcontract where a certificate of cost or pricing data was or should have been furnished. In some cases, as where the defective nature of a subcontractor's data is only disclosed by Government audit, the information necessary to support a reduction in prime contract and subcontract prices may be available only from the Government. In effecting a prime contract price reduction, the contracting officer should make such necessary information available upon request, to the prime contractor or higher tier subcontractors; however, if the release of such information would compromise security or disclose trade secrets or other confidential business information, it shall be made available only under conditions that will fully protect it from improper disclosure, as may be prescribed or authorized by the Director of Procurement. Information made available pursuant to this paragraph shall be limited to that used as the basis for the prime contract price reduction.

(e) Inasmuch as price reductions under the "Contractor and Subcontractor Certified Cost or Pricing Data" clause may involve first- and lower-tier subcontractors as well as the prime contractor, the contracting officer should give the prime contractor reasonable advance notice before making a determination to reduce the contract price under such clause, in order to afford the prime contractor an opportunity to take any action deemed advisable by him, particularly in connection with any subcontracts that may be involved.

55. Section 18–3.807–12 is added:

§ 18–3.807–12 Forward pricing rate agreements.

(a) *Definition.* A forward pricing rate agreement is a written understanding negotiated between a contractor and the Government to make certain rates available for use during a specified period of time in pricing contracts or modifications. Such rates represent reasonable projections of specific costs to be incurred in future periods that are not easily estimated for, identified to, or generated by a specific contract, contract end item or task such as but not limited to labor rates, overhead rates, material obsolescence and usage, spare parts provisioning, and material handling.

(b) *Establishment.* Forward pricing rate agreements may be negotiated by the contracting officer on his own initiative or on request of the contractor. Normally, these agreements shall be negotiated by a Department of Defense administrative contracting officer (ACO). In determining whether or not to establish such an agreement, the contracting officer should consider whether the benefits to be derived from the existence of the agreement are commensurate with the effort necessary to establish and monitor it. Normally, these agreements are warranted at contractor locations where a significant volume of proposals is processed.

(c) *Use.* The rates specified in the agreement are not binding but are available for use by the contractor and Government personnel during the period of the agreement. In deciding whether to use such rates in pricing contracts or modifications, the contracting officer should consider: (1) the type of contract contemplated; (2) whether the dollar amount of the proposed contract action would significantly change the rates in the agreement; (3) whether the performance period of the proposed contract action is significantly different from the period to which the rate agreement applies; and (4) any new data or other information that may raise a question as to the acceptability of the rates. However, in the absence of any specific reason to question the rates, the contracting officer may rely upon and use them, subject to paragraph (d)(1) of this section, without revalidation of the data, negotiations or judgments that lead to the establishment of the forward pricing rate agreement.

(d) *Procedure.* Prior to entering into a forward pricing rate agreement, the contracting officer will obtain a proposal from the contractor which contains cost or pricing data which is accurate, complete and current as of the date of submission. However, a certificate is not required at this time. The contracting officer will conduct a review and analysis. Advice and recommendations of other contracting officers having a particular interest in the forward pricing rate agreement should be solicited. Upon completion of negotiation, a memorandum of negotiation will be prepared.

(1) The forward pricing rate agreement shall provide specific terms and conditions covering expiration, application and data requirements for systematic monitoring of the agreement to assure the validity of the rates. The agreement shall provide for cancellation at the option of either party. The duration of the agreement normally should not exceed 1 year. As a minimum, the agreement shall require the contractor to submit to the contracting officer and to the cognizant contract auditor any significant change in cost or pricing data.

(2) Note 10 on the DD Form 633 requires offerors to describe, in their procurement proposals, any forward pricing rate agreement. When the forward pricing rate agreement is used, offerors are required to identify the latest cost or pricing data already submitted in accordance with the rate agreement. All data submitted in connection with the forward pricing rate agreement, updated as necessary, form a part of the total data that the contractor certifies to be accurate, complete and current at the time of agreement on price of a contract or contract modification.

56. Section 18–3.808–2(j) is revised to read as follows:

§ 18–3.808–2 Factors for determining fee or profit.

* * * * *

(j) *Cost reduction accomplishments.* Accomplishments of contractors who successfully reduce the cost of space research, development, and procurement should be taken into account in determining the amount of fee or profit.

57. Section 18–3.808–5 is revised to read as follows:

§ 18–3.808–5 Fee limitation for experimental, developmental, or research work.

In connection with the administrative and statutory limitations on fixed fees set forth in § 18–3.405–6(c)(2) the existence of the administrative limitation of 10 percent for research and development work should not prevent the negotiation of fixed fees up to the level of the statutory limitation of 15 percent in the appropriate circumstances. Such cases, however, shall be fully documented through factual support including specific details of prior experience with the contractor, the complexity of the work to be performed, and the details in connection with all of the above factors. Contractors proposing such fees should be required to support their proposals in a similar manner.

58. Section 18–3.809(c) is revised to read as follows:

§ 18–3.809 Contract audit as a pricing aid.

* * * * *

(c) *Additional functions of the contract auditor.* (1) Under cost-reimbursement type contracts, the cost-reimbursement portion of fixed-price contracts, letter contracts which provide for reimbursement of costs, time and material contracts, and labor-hour contracts:

(i) The contract auditor is the authorized representative of the contracting officer for the purpose of examining reimbursement vouchers received directly from contractors, transmitting those vouchers approved for provisional payment (see (ii)) to the cognizant fiscal or financial management officer and issuing NASA Form 456, "Notice of Contract Costs Suspended and/or Disapproved," through the cognizant contracting officer to the contractor, with respect to costs claimed but not considered allowable. In the case of costs suspended, if the contractor disagrees with the suspension action, the contractor may appeal in writing through the auditor (who shall add appropriate comments) to the contracting officer, who will make his determination promptly in writing. If the contractor appeals in writing to the contracting officer from a disallowance action within the 60-day period mentioned above, the contracting officer will make his determination in writing, as promptly as practicable, as a final decision of the contracting officer (see § 18–1.314 regarding decisions under the Disputes clause) and mail or otherwise

furnish a copy to the contractor. Normally, the NASA Form 456, "Notice of Contract Costs Suspended and/or Disapproved," is issued by the auditor; however, the contracting officer also may issue or direct the issuance of NASA Form 456 with respect to any cost he has reason to believe should be suspended or disapproved. The contract auditor will examine and approve (except see (ii)) separate fee vouchers and fee portions of vouchers for provisional payment in accordance with the contract schedule and any instructions received from the contracting officer. After examination by the auditor, completion vouchers shall be forwarded to the contracting officer for approval and transmittal to the cognizant fiscal or financial management officer.

(ii) When delegating audit functions (see Subpart 18–51.3), special instructions may be issued to the contract auditor:

(*a*) Requiring submission of separate vouchers for reimbursable costs and for payment of earned fee.

(*b*) Reserving to the contracting officer approval of separate fee vouchers and all vouchers submitted by contractors performing on a NASA installation.

(iii) Unless otherwise notified, the contractor shall submit public vouchers to the auditor in accordance with the following normal requirements:

1—Original SF 1034, SF 1035 or equivalent
Contractor's attachment
7—Copies SF 1034a, SF 1035a or equivalent
Contractor's attachment

The contractor shall mark on copies 1, 2, 3, 4 and such other copies as may be directed by the contracting officer, of the foregoing SF 1034a, by insertion in memorandum block, the name and address of the following parties to facilitate distribution of paid copies of vouchers by the fiscal or financial management office:

NASA Contracting Officer (Copy 1).
Defense Contract Audit Agency Auditor (Copy 2).
Contractor (Copy 3).
Contract Administration Office (Copy 4).
Project Management Office (Copy 5, when required by the NASA contracting officer).

The auditor will retain an unpaid copy of the voucher. When a voucher contains one or more individual direct freight charges of $100 or more, an additional copy of SF 1034a and SF 1035a shall be submitted and marked for return to the contractor after payment. This copy shall me transmitted quarterly by the contractor with the freight bills to the General Accounting Office. When a voucher is identified as the "Completion Voucher," an additional copy shall be submitted for transmittal to the NASA contracting officer.

(iv) Following a prompt and careful review of the facts and circumstances leading the auditor to issue the NASA Form 456 and after coordination with other NASA and DOD contracting officers administering contracts with the same contractor where a NASA Form 456, or a DCAA Form 1 in the case of a DOD contract, has been issued for the same items of cost, the contracting officer shall take one of the following actions:

(*a*) Countersign the NASA Form 456 disapproving the costs; or

(*b*) Countersign the NASA Form 456 suspending the costs;

(*c*) Issue a new NASA Form 456 suspending the costs rather than disapproving them, pending resolution of the issues;

(*d*) Have the contractor issue a new voucher removing the costs in question from his claim and return the NASA Form 456 to the auditor unsigned;

(*e*) Return the NASA Form 456 unsigned to the auditor with a detailed explanation of why the suspension or disapproval is not being countersigned and process the contractor's claim for payment.

Where the contracting officer is in agreement with the NASA Form 456 issued by the auditor, he shall assign a notice number and shall countersign the form. An original and three copies (which includes two acknowledgement copies, one each for return to the contracting officer and the auditor) of the form shall be sent to the contractor by certified mail, return receipt requested; one copy shall be attached to the SF 1034 and each copy of the SF 1034a (see iii) on which the deduction is made, and one copy shall be sent to the auditor. The total amount suspended and/or disapproved as shown on the NASA Form 456 shall be inserted in the "differences" block of the public voucher, SF 1034 and SF 1034a, as follows:

NASA Form 456 No.---------- $---------
Net Amount Approved---------- $---------

When the contracting officer does not agree with a NASA Form 456 as issued by the auditor, he shall state his reasons for disagreement and shall furnish the auditor a copy of his statement, with an unsigned and unnumbered copy of the applicable NASA Form 456. Subsequent thereto, he should consult with the auditor and other Government personnel, as may be necessary, and the contractor, if appropriate, to dispose of any remaining items in question. If the amount of the deduction is more than the amount of the public voucher, the installment method of deduction shall be applied to this and subsequent public vouchers, until the amount is fully liquidated against the contractor's claim. The deductions on any voucher shall not exceed the amount thereof to avoid processing of a voucher in a credit amount. Public voucher(s) with zero amounts must be forwarded to the fiscal or financial management office for appropriate action. If deductions are in excess of contractor claims, recovery may be made through a direct refund from the contractor, in the form of a check payable to the Treasurer of the United States, or by a set-off deduction from the voucher(s) submitted by the contractor under any other contract, except where precluded by a "no set-off provision. If a set-off is effected, the voucher(s) from which the deduction is made should be annotated to identify the contract and appropriation affected and the applicable NASA Form 456.

(v) When necessary, the contracting officer should consult with the auditor or the financial management officer (see FMM 9630) concerning preparation, examination, and payment of vouchers. Functions to be performed by auditors and financial management and fiscal office personnel during the examination of vouchers is set forth in FMM 9630–20b(1).

(vi) The contract auditor shall be responsible for making appropriate recommendations to the contracting officer concerning the establishment of interim overhead billing rates, when such rates are provided for in the contract.

(2) Under cost-reimbursement type contracts with Canadian contractors:

(i) On contracts with the Canadian Commercial Corp., audits are automatically arranged by the Department of Defence Production (Canada) (DDP) in accordance with agreement between the National Aeronautics and Space Administration and Department of Defence Production (Canada). Audit reports are furnished to the DDP. Upon advice from DDP, the Canadian Commercial Corp. (CCC) will certify the invoice and forward it with Standard Form 1034 (Public Voucher) to the contracting officer for further processing and transmittal to the fiscal or financial management officer.

(ii) On contracts placed directly with Canadian firms, audits are requested by the contracting officer from the Audit Services Branch, Comptroller of the Treasury, Department of Finance, Ottawa, Ontario, Canada. Invoices are approved by the auditor on a provisional basis pending completion of the contract and final audit. These invoices, accompanied by Standard Form 1034 (Public Voucher), are forwarded to the contracting officer for further processing and transmittal to the fiscal or financial management officer. Periodic advisory audit reports are furnished directly to the contracting officer. In the event that costs claimed are suspended or disapproved, the contracting officer shall issue the NASA Form 456, Notice of Contract Costs Suspended and/or Disapproved" to the contractor. NASA Form 456 will be processed in the same manner as indicated in subparagraph (1)(i) of this paragraph with regard to contractor appeals, and shall contain the statement prescribed therein with respect to costs disapproved.

(iii) Audits performed by the Audit Services Branch are normally conducted in accordance with Department of Defense Production regulations.

59. Section 18–3.852–2 is revised to read as follows:

§ 18–3.852–2 Approval of procurement plans.

(a) Procurement plans, whether for competitive or noncompetitive procurement action, shall, as a minimum re-

quirement, be reviewed and approved in accordance with the procedures set forth below, whenever the estimated cost of the procurement, including the aggregate amount of follow-on contracts under the same program (see paragraph (b) of this section), is within the applicable dollar amounts set forth in subparagraphs (1), (2), or (3) of this paragraph.

(1) For procurements in excess of $100,000, but less than the dollar amount set forth below for the installation concerned, the procurement plan shall be submitted for the approval of the Procurement Officer or his designee after prior review and written concurrence by the head of the cognizant technical division or laboratory, as applicable. (For the purpose of this requirement, the term "or his designee" shall mean the individual authorized by the Procurement Officer to sign the procurement plan. Such authorization shall be in writing and shall not be delegated to more than one individual.)

(i) $250,000:

Flight Research Center.
Wallops Station.

(ii) $500,000:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $1,000,000:

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).

(2) For procurements within the range of the dollar amounts set forth below for the installation concerned, the procurement plan shall be submitted for the approval of the Head of the Installation, his Deputy or Associate Director (the title "Associate Director" means a full Associate Director and not an Associate Director for _____) after prior review and written concurrences by the Director or Assistant Director of the cognizant technical directorate, cognizant Program Manager, or cognizant staff official, as applicable, who reports directly to the Head of the Installation, and by the Procurement Officer.

(i) $250,000 but less than $500,000:

Flight Research Center.
Wallops Station.

(ii) $500,000 but less than $1,000,000:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $1,000,000 but less than $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).

(3) For procurements that equal or exceed the dollar amounts set forth below for the installation concerned, the procurement plan shall be submitted for the signature of the Head of the Installation after prior review and written concurrences by the Director or Assistant Director of the cognizant technical directorate, cognizant Program Manager, or cognizant staff official, as applicable, who reports directly to the Head of the Installation, and by the Procurement Officer. The procurement plan shall contain additional signature blocks for approval by the Associate Administrator for Organization and Management and for concurrences by the Director of Procurement, the cognizant Program Associate Administrator, the Assistant Administrator for Industry Affairs and Technology Utilization, and the Assistant Administrator for Administration.

(i) $500,000 and over:

Flight Research Center.
Wallops Station.

(ii) $1,000,000 and over:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $2,500,000 and over:

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).

The original and 20 copies of the procurement plan shall be submitted in the case of those procurements under the cognizance of the Office of Manned Space Flight. In all other instances, the original and 10 copies shall be submitted. The position title will be shown for each individual signing the procurement plan as required by subparagraphs (1) through (3) of this paragraph.

(b) Examples of what is meant by the phrase "including the aggregate amount of follow-on contracts under the same program" appearing in paragraph (a) of this section are: (1) options as defined in Subpart 18–1.15; (2) agreements-to-agree, wherein the parties agree to negotiate for the extension of the supplies or services being procured; and (3) later phases of the same project subject to the Phased Project Planning concept prescribed by NHB 7121.2.

60. Section 18–3.853 is revised to read as follows:

§ 18–3.853 Award and preparation of the contract.

(a) In determining to whom the contract shall be awarded, the contracting officer shall consider not only technical competence, but all other pertinent factors including management capabilities, cost controls, and past performance in adhering to contract requirements, weighing each factor in accordance with the requirements of the particular procurement (see § 18–1.903).

(b) Except as authorized in § 18–16.102–3(b)(3), a contract embodying the agreement will be prepared by the procurement office for execution by the contractor and the contracting officer when negotiations have been completed.

PART 18–5—INTERDEPARTMENTAL PROCUREMENT

61. Section 18–5.507 is added; section 18–5.550 is deleted.

§ 18–5.507 Procurement of services from agencies for the blind.

(a) Services, as distinguished from supplies, shall not be procured pursuant to the procedure in § 18–5.501 which does not apply to labor or services or anything other than tangible articles produced by the blind.

(b) Agencies for the blind may be solicited in connection with proposed procurements of services but contracts must be awarded pursuant to normal contracting procedures.

(c) When it is known that agencies for the blind are qualified to furnish services, requests for bids or proposals shall be forwarded to: National Industries for the Blind, 1511 K Street NW., Washington, DC 20005. Phone: (202) 347–5119.

62. Section 18–5.701 is revised to read as follows:

§ 18–5.701 Procuring materials from the Department of the Air Force Missile Procurement Fund.

The Department of the Air Force has assigned the operational authority and responsibility for the procurement and distribution of missile propellants and related items to the San Antonio Air Materiel Area (SAAMA), Kelly Air Force Base, Texas. Propellants, oxidizers, fuels pressurants, and related materials are financed under a single Air Force appropriation designated the "Missile Procurement Fund" (MPF). Supplies are obtained by SAAMA from Government-owned contractor-operated plants and by consolidated procurements from industry. NASA and its contractors (where materials are Government-furnished) may acquire from SAAMA the items listed in § 18–52.508 of this chapter (except for liquid hydrogen, see § 18–1.357) on a reimbursable basis. The Air Force MPF shall be utilized as a supply source for propellants whenever there are economic or other advantages to the Government. Field installations and offices obtaining supplies from the Missile Procurement Fund shall comply with the reporting requirements of § 18–52.500.

PART 18–6—FOREIGN PURCHASES

63. Section 18–6.705 is revised to read as follows:

§ 18–6.705 Assignment of contract administration.

(a) *General.* Assignment of contract administration responsibility will be made by agreement between the initiating office and the Headquarters Contracts Division. Since principal responsibility for the monitoring of contractor progress and performance generally rests with a field installation, the Headquarters Contracts Division normally will designate the procurement officer of the cognizant

field installation as his authorized representative for purposes of contract administration.

(b) *Contracts performed in Canada.* (1) When, in accordance with the provisions of Subpart 18–51.3, contract administration and related support service functions of the Defense Contract Administration Services are desired on a contract to be performed in Canada (whether placed with Canadian Commercial Corp. or direct with a Canadian firm), a letter of delegation shall be issued to: Defense Contract Administration Services Office, Ottawa, Gillin Building, 141 Laurier Avenue, Ottawa 4, ON Canada.

(2) In order that DCASO, Ottawa may utilize the capabilities of the Canadian Government agencies in the performance of contract administration services functions, each letter of delegation shall provide that the DCASO, Ottawa is delegated authority to act as the contracting officer's representative with power of further delegation for the performance of the requested services.

PART 18–7—CONTRACT CLAUSES

64. Section 18–7.103–54 is added.

§ 18–7.103–54 Pricing of adjustments.

Insert the following clause in all contracts which contain the "Changes" clause or provisions for adjustment of the contract price:

PRICING OF ADJUSTMENTS (AUGUST 1970)

When costs are a factor in any determination of a contract price adjustment pursuant to the "Changes" clause or any other provision of this contract, such costs shall be in accordance with Part 15 of the NASA Procurement Regulation as in effect on the date of this contract.

65. Section 18–7.104–20 is revised to read as follows:

§ 18–7.104–20 Utilization of labor surplus area concerns.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

§ 18–7.104–63 [Deleted]

66. Section 18–7.104–63 is deleted.

67. Section 18–7.108 is revised to read as follows:

§ 18–7.108 Incentive price revision clause.

When, in accordance with the provisions of Subpart 18–3.4, of this chapter, the fixed-price incentive contract described in § 18–3.404–4(a)(2) is to be used, the following clause shall be made a part of the contract. As to each item which is to be subject to incentive price revision, the contract schedule shall set forth the target cost, target profit, and target price. Subparagraph (d)(2) of the following clause may be modified to provide, within the price ceiling, for a ceiling, a floor, or both on the final profit.

INCENTIVE PRICE REVISION (AUGUST 1970)

(a) *Definitions.* As used in this clause, the following terms shall have the meanings set forth below:

(i) The term "cost" or "costs" means allowable cost in accordance with Part 15 of the NASA Procurement Regulation as in effect on the date of this contract.

(ii) The term "target price" means the unit price of any supplies or services under this contract, which is subject to adjustment in accordance with this clause, and is composed of "target cost" and "target profit."

(iii) The term "target cost" means that part of the target price which, at the time of its negotiation, was agreed to as the estimate of the unit cost of the supplies or services being procured.

(iv) The term "target profit" means that part of the target price which, at the time of its negotiation, was agreed to as the unit profit for furnishing the supplies or services at a cost equal to the target cost.

(v) The term "total target price" means the sum of the target prices.

(vi) The term "total target cost" means the sum of the target costs.

(vii) The term "total target profit" means the sum of the target profits.

(viii) The term "total adjusted cost" means the final negotiated cost of all supplies or services which are subject to price revision under this clause.

(ix) The term "total adjusted price" means the final contract price, as computed in accordance with this clause, for all supplies or services which are subject to price revision under this clause.

(b) *General.* The supplies or services identified in the Schedule as Items _____ are subject to price revision in accordance with the provisions of this clause: *Provided*, That in no event shall the total adjusted price of such items exceed _____ percent (_____%) of the total target cost. Any supplies or services which are to be ordered separately under, or otherwise added to, this contract, and which are to be subject to price revision in accordance with the provisions of this clause, shall be identified as such in a modification of this contract.

(c) *Submission of Data.* Within _____ (_____) days after the end of the month in which the Contractor has delivered the last unit of supplies and completed the services called for by those items listed in paragraph (b) above, the Contractor shall submit, in such form as the Contracting Officer may require, (i) a detailed statement of all costs incurred up to the end of that month in performing all work under such items, and (ii) an estimate of costs of such further performance, if any, as may be necessary to complete performance of all work with respect to such items.

(d) *Price Revision.* Upon submission of the data required by paragraph (c) above, the Contractor and the Contracting Officer shall promptly establish the total final price in accordance with the following:

(1) On the basis of the information required by paragraph (c) above, together with any other pertinent information, there shall be established by negotiation the total final cost incurred or to be incurred for and properly allocable to the supplies delivered (or services performed) and accepted by the Government, which are subject to price revision under this clause.

(2) The total adjusted price shall be established by adding to the total adjusted cost an allowance for profit determined as follows:

WHEN THE TOTAL ADJUSTED COST IS:	THE ALLOWANCE FOR PROFIT IS:
Equal to the total target cost	Total target profit.
Greater than the total target cost	Total target profit less ____ percent (____%) of the amount by which the total adjusted cost exceeds the total target cost.
Less than the total target cost	Total target profit plus ____ percent (____%) of the amount by which the total adjusted cost is less than the total target cost.

(e) *Records.* (1) The Contractor shall maintain books, records, documents, and other evidence, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. The Contractor shall segregate the costs of any supplies or services for which the price is fixed and not subject to revision under this clause. Each subcontract placed by the Contractor hereunder on other than a firm fixed-price basis in connection with the furnishing of the supplies or services identified in paragraph (b) above as being subject to price revision (i) shall provide that the subcontractor shall maintain books, records, documents, and other evidence, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of such subcontract, and (ii) shall require each such subcontractor to insert the entire substance of this subparagraph, including this (ii), in all his subcontracts which are on other than a firm fixed-price basis.

(2) The Government may at all reasonable times make such examination or audit as the Contracting Officer may require of the Contractor's books, records, documents, and other evidence, pertinent to the performance of this contract.

(f) *Certification.* An authorized responsible official of the Contractor shall certify on each statement of costs submitted to the Contracting Officer pursuant to (c) above that the incurred costs are based upon records of the Contractor, that such records reflect generally accepted accounting principles and practices normally followed by the Contractor, that such costs are correct to the best of his knowledge and belief, and that the accompanying estimate of costs to complete is considered reasonable.

(g) *Subcontracts.* (1) No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis; and the Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which is on a cost-plus-a-fee basis and which would involve a total price in excess of $10,000, including the fee. The Contracting Officer may, in his discretion, ratify in writing any such cost-plus-a-fee subcontract and such action shall constitute the consent of the Contracting Officer as required by this subparagraph (1).

(2) Each subcontract placed by the Contractor hereunder (i) shall provide that the Government may at all reasonable times make such examination or audit as the Contracting Officer may require of the subcontractor's books, records, documents, and other evidence, pertinent to the performance of the subcontract, and (ii) shall require each such subcontractor whose subcontract is on other than a firm fixed-priced basis to insert the entire substance of this subparagraph, including this (ii), in all his subcontracts. The term "subcontract," as used in this subparagraph (2) only, excludes firm fixed-price subcontracts not in excess of $2,500 and subcontracts for utility services at rates established for uniform application to the general public.

(h) *Contract Modifications.* The total adjusted price, as determined in accordance with paragraph (d) above, shall be evidenced by a modification to this contract signed by the Contractor and the Contracting Officer and shall apply to supplies delivered and to services performed under this contract.

(i) *Adjustment of Payments.* Pending execution of the contract modification referred to in paragraph (h) above, the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the target prices set forth in this contract; *provided*, that if at any time it appears that the then current billing prices do not provide for payments consistent with the provisions of subparagraph (j) (3) below, the parties may agree to revise billing prices, which shall be reflected in a modification to this contract. Billing prices are for the sole purpose of providing for interim payments and shall not affect the determination of the total adjusted price under paragraph (d) above. After execution of the contract modification referred to in paragraph (h) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the total adjusted price and any additional payments, refunds, or credits resulting therefrom shall be promptly made.

(j) *Limitation on Payments.* (1) This paragraph (j) shall not apply after final price revision to the full extent permitted by this contract.

(2) Within forty-five (45) days after the end of each quarter of the Contractor's fiscal year, beginning for the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each quarter, the Contractor shall submit to the Contracting Officer a cumulative statement setting forth:

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) That portion of the total target profit which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established, increased or decreased in accordance with the incentive profit formula set forth in (d) (2) above when the amount of costs stated under (ii) above differs from the aggregate target costs of such supplies or services; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount of (2) (iv) above exceeds the sum of (2) (i), (ii), and (iii) above, the Contractor shall immediately refund or credit to the Government against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any tax credits under Section 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the progress payments clause of this contract, instead of direct refund thereof.

(4) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontractor hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this "Limitation on Payments" provision, including this subparagraph (4) modified as outlined in (i) above.

(k) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon the total adjusted price within 60 days after the date on which the data required by (c) above are to be submitted, or within such further time as may be specified by the Contracting Officer, such failure to agree shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes," and the Contracting Officer shall promptly issue a decision thereunder.

(l) *Termination.* If this contract is terminated prior to establishment of the total adjusted price, prices of supplies or services subject to price revision under this clause shall be established pursuant to this clause for (i) completed supplies accepted by the Government and services performed and accepted by the Government, and (ii) in the event of a partial termination, supplies and services which are not terminated. All other elements of the termination shall be resolved pursuant to other applicable provisions of this contract.

In the event the contract calls for spare parts or other supplies or services, which are to be ordered under a provisioning document or Government option, and the prices of such supplies or services are to be made subject to incentive price revision in accordance with the above clause, the following provision (m) shall be included in such clause:

(m) *Spare Parts.* Spare parts, other supplies, or services, which are to be furnished under this contract pursuant to a provisioning document or Government option, shall be subject to price revision in accordance with the provisions of this clause, and any prices established for such spare parts, other supplies, or services, pursuant to such provisioning document or Government option, shall be deemed to be target prices. Target cost and profit covering such spare parts, other supplies, or services may be established either separately, in the aggregate, or in any combination thereof, as the parties may agree.

68. Section 18–7.109–2 is revised to read as follows:

§ 18–7.109–2 Prospective periodic price redetermination at stated intervals.

(a) *Description, applicability, and limitations.* See § 18–3.404–5.

(b) *Clause.*

PRICE REDETERMINATION (TYPE A)
(AUGUST 1970)

(a) *General.* The unit prices and the total price set forth in this contract shall be periodically redetermined in accordance with the provisions of this clause.[1] The prices for supplies delivered and services performed prior to the first effective date of price redetermination shall remain fixed.

(b) *Price Redetermination Periods.* For the purpose of price redetermination the performance of this contract is divided into successive periods. The first period shall extend from the date of this contract to _____,[2] and the second and each succeeding period shall extend for _____ (____) months from the end of the last preceding period, except that the final period may be varied by agreement of the parties. The first day of the second and each succeeding period shall be the effective date of price redetermination for the period.

(c) *Price Redetermination.* Not more than _____[3] days nor less than _____[3] days before the end of each redetermination period, except the last, and as otherwise provided in (iii) below, the Contractor shall submit:

(i) Proposed prices for supplies which may be delivered or services which may be performed in the next succeeding period under this contract, together with—

(A) An estimate and breakdown of the costs of such supplies or services on DD Form 784 or in any other form on which the parties may agree;

(B) Sufficient data to support the accuracy and reliability of such estimate; and

(C) An explanation of the differences between such estimate and the original (or last preceding) estimate for the same supplies or services;

(ii) A statement of all costs incurred in the performance of this contract through the end of the _____[4] month prior to the date of the submission of proposed prices, on DD Form 784 or in any other form on which the parties may agree, together with sufficient supporting data to disclose unit costs and cost trends for—

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary);

(iii) Supplemental statements of costs incurred subsequent to the date set forth in (ii) above for—

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary);

as and to the extent that such information becomes available prior to the conclusion of negotiations on redetermined prices; and

(iv) Any other relevant data which may reasonably be required by the Contracting Officer.

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[1] Where a ceiling is applicable, the following proviso shall be added: "*provided*, that in no event shall the total amount paid under this contract exceed _____ dollars ($_____)". Alternatively, the contract may provide ceiling amounts for each or any of the price redeterminations under the contract.

[2] This point may be expressed in terms of units delivered, or as a calendar date, but in either case the period shall generally end on the last day of a month.

[3] Insert in the blanks numbers of days so that the Contractor's submission will be late enough to reflect recent cost experience (having in mind the Contractor's accounting system), but early enough to permit review, audit if necessary, and negotiation prior to the start of prospective period.

[4] Insert the word "first," except the word "second" may be inserted if necessary to achieve compatibility with the contractor's accounting system.

For the purpose of the foregoing submission, "costs" means allowable costs in accordance with Part 15 of the NASA Procurement Regulation as in effect on the date of this contract.

Upon receipt of the data required by this subparagraph (e), the Contractor and the Contracting Officer shall promptly negotiate to redetermine fair and reasonable contract prices for supplies which may be delivered and services which may be performed in the period following the effective date of price redetermination. Where the Contractor fails to submit the data as required above within the time specified, payments under this contract may be suspended by the Contracting Officer until the data are furnished.

(d) *Subcontracts.* No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis; and the Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which is on a cost-plus-a-fee basis and which would involve an estimated amount in excess of $10,000, including the fee. The Contracting Officer may, in his discretion, ratify in writing any such cost-plus-a-fee subcontract and such action shall constitute the consent of the Contracting Officer as required by this paragraph (d).

(e) *Contract Modifications.* Each negotiated redetermination of prices shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer, setting forth the redetermined prices for supplies delivered and services performed hereunder during the applicable price redetermination period.

(f) *Adjustment of payments.* Pending execution of the contract modification referred to in paragraph (e) above, the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the prices set forth in this contract: *Provided* That, if at any time it appears that the then current billing prices do not provide for payments consistent with the provisions of subparagraph (g) (3) below, the parties may agree to greater or lesser billing prices, which shall be reflected in an amendment or supplemental agreement to this contract. Billing prices are for the sole purpose of providing for interim payments and shall not affect the redetermination of prices under this clause. After execution of the contract modification referred to in paragraph (e) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the agreed prices, and any additional payments, refunds, or credits, resulting therefrom shall be promptly made.

(g) *Limitation on Payments.* (1) This paragraph (g) shall apply only during a period for which firm prices have not been established.

(2) Within 45 days after the end of each quarter of the Contractor's fiscal year, beginning for the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each quarter, the Contractor shall submit to the Contracting Officer a statement cumulative from the inception of the contract, setting forth:

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) That portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (g), Limitation on Payments), which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments);

provided, that such statement need not be submitted for any quarter for which either no costs are to be reported under (ii) above or revised billing prices have been established in accordance with paragraph (g) above and do not exceed the existing contract price, the Contractor's price-redetermination offer, or a price based on the most recent quarterly statement, whichever is least.

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount of (2) (iv) above exceeds the sum of (2) (i), (ii), and (iii) above, the Contractor shall immediately refund or credit to the Government against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the progress payments clause of this contract, instead of direct refund thereof.

(4) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified as outlined in (i) above.

(h) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon redetermined prices for any price redetermination period within sixty (60)[6] days after the date on which the data required by (c) above is to be filed, or within such further time as may be agreed upon by the parties, the failure to agree upon redetermined prices shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes," and the Contracting Officer shall promptly issue a decision thereunder. For the purpose of (e), (f), and (g) above, and pending final settlement of the disagreement on appeal, or by failure to appeal, or by agreement, such a decision shall be treated as an executed contract modification. Pending such final settlement, price redetermination for subsequent periods, if any, shall continue to be negotiated as hereinbefore provided.

(i) *Termination.* If this contract is terminated, prices shall continue to be established pursuant to this clause (i) for completed supplies accepted by the Government and services performed and accepted by the Government, and (ii) in the event of a partial termination, for supplies and services which are not terminated. All other elements of the termination shall be resolved pursuant to other applicable provisions of this contract.

[6] This period may be varied by the parties at the time of negotiating the contract.

69. Section 18–7.203–21 is revised to read as follow:

§ 18–7.203–21 Government property.

In accordance with the requirements of § 18–13.703, insert the clause set forth therein.

70. Section 18–7.203–26 is revised to read as follows:

§ 18–7.203–26 Utilization of labor surplus area concerns.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

71. Section 18–7.204–53 is revised to read as follows:

§ 18–7.204–53 Limitation of Government's obligation.

The clause set forth below is authorized for use under the following conditions:

(a) The total value of the contract is $1 million or more;

(b) The period of performance under the contract is in excess of 12 months or the period of performance overlaps the succeeding fiscal year; and

(c) Funds are not available to fully fund the total contract value at the time of entering into the contract.

Authority to use the clause shall not be construed as an approval to incrementally fund the contract.

LIMITATION OF GOVERNMENT'S OBLIGATION (SEPTEMBER 1962)

(a) It is estimated that the total cost to the Government, inclusive of any fixed fee for the performance of this contract will not exceed the estimated cost and fixed fee set forth in the schedule, and the Contractor agrees to use his best efforts to perform the work specified in the schedule and all obligations under this contract within such estimated cost. The fixed fee for complete performance of this contract is specified in the schedule.

(b) The sum presently available for payment and allotted to this contract, the items covered thereby, and the period of performance which it is estimated the allotted amount will cover, are specified in the schedule. It is anticipated that from time to time additional funds will be allotted to this contract up to the full estimated cost, including any fixed fee. When additional funds are allotted from time to time for continued performance of the work, the parties shall agree as to the applicable estimated period of contract performance which shall be covered by such funds and the contract schedule

amended accordingly. The Contractor agrees to perform or have performed work on this contract up to the point at which in the event of termination of this contract for the convenience of the Government pursuant to the clause of this contract entitled "Termination," the total amount paid and payable by the Government pursuant to any settlement including cost and fixed fee under paragraph (e) of such clause would, in the exercise of reasonable judgement by the Contractor, approximate the total amount at the time allotted to this contract. The Contractor shall not be obligated to continue performance of the work beyond such point.

(c) The Government shall not be obligated to reimburse the Contractor for costs incurred (including amounts payable in respect to subcontracts and termination settlement costs) and to pay any fixed fee to which the Contractor may be entitled in excess of the total amount from time to time allotted to this contract. However, when and to the extent that the total amount allotted to this contract has been increased, any costs incurred by the Contractor and any fixed fee to which the Contractor may be entitled, prior to the increase and in excess of the amount previously allotted, shall be allowable to the same extent as if such costs had been incurred and fee earned after such increase in amount allotted.

(d) In the event funds allotted are considered by the Contractor to be inadequate to cover the work to be performed for the period set forth in the schedule, the Contractor shall notify the Contracting Officer in writing when within the next thirty (30) days the work will reach a point at which, in the event of termination of this contract for the convenience of the Government pursuant to the clause of this contract entitled "Termination," the total amount paid and payable by the Government pursuant to a settlement including cost and fixed fee under paragraph (e) of such clause will approximate eighty-five percent (85%) of the total amount then allotted to the contract. The notice shall state the estimated date when such point will be reached and the estimated amount of additional funds required to continue performance for the period set forth in the schedule. The Contractor shall, thirty (30) days prior to the end of the period specified in the schedule, advise the Contracting Officer in writing as to the estimated amount of additional funds which will be required on the basis of the obligation for performance in accordance with paragraph (b) of this clause for the timely performance of the work under the contract for such further period as may be specified in the schedule or otherwise agreed to by the parties. If, after such notification, additional funds are not allotted by the end of the period set forth in the schedule, or an agreed date in substitution therefor, the Contracting Officer will, upon written request of the Contractor, terminate this contract on such date, or on a date to be specified in such request, on which the Contractor, in the exercise of his reasonable judgment, estimates that he will have discharged his obligation to perform hereunder in accordance with paragraph (b) of this clause, whichever is later, pursuant to the provisions of the clause of this contract entitled "Termination."

(e) When additional funds are allotted from time to time for continued performance of the work under this contract, the parties shall agree as to the applicable period of contract performance which shall be covered by such funds, and the provisions of paragraphs (b), (c), and (d) of this clause shall apply in like manner to such additional allotted funds and substituted date pertaining thereto, and the contract shall be amended accordingly.

(f) The Government may at any time prior to termination allot additional funds for this contract, and, with the consent of the Contractor, after notice of termination, may rescind such termination in whole or in part, and allot additional funds for this contract.

(g) In the event that sufficient amounts are not allotted to this contract to allow completion of the work contemplated by this contract, the Contractor shall be entitled, subject to the limitations of paragraph (c) of this clause, to a percentage of the fixed fee set forth in the schedule equivalent to the percentage of completion of the work contemplated by this contract.

(h) Nothing in this clause shall affect the right of the Government to terminate this contract pursuant to the clause of this contract entitled "Termination."

(i) For the purpose of this clause, the allotment or allotments specified in the schedule shall not be decreased without the consent of the Contractor.

(j) This clause shall be applicable and the clause of this contract entitled "Limitation of Cost" inapplicable until such time as an amount equal to the total estimated cost and fee set forth in the schedule is allotted to this contract, and thereafter the clause of this contract entitled "Limitation of Cost" shall be applicable and this clause inapplicable.

§ 18–7.204–63 [Deleted]

72. Section 18–7.204–63 is deleted.

73. Section 18–7.302–26 is revised to read as follows:

§ 18–7.302–26 Utilization of labor surplus area concerns.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

74. Section 18–7.303–63 is revised to read as follows:

§ 18–7.303–63 Pricing of adjustments.

In accordance with the requirements of § 18–7.103–54, insert the clause set forth therein.

75. Section 18–7.350–4 is revised to read as follows:

§ 18–7.350–4 Government-furnished property.

In accordance with the requirements of § 18–13.710, insert the clause set forth therein.

76. Section 18–7.402–25 is revised to read as follows:

§ 18–7.402–25 Government property.

In accordance with § 18–13.703, insert the clause set forth therein.

77. Section 18–7.402–27 is revised to read as follows:

§ 18–7.402–27 Utilization of labor surplus area concerns.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

§ 18–7.403–63 [Deleted]

78. Section 18–7.403–63 is deleted.

79. Section 18–7.451–24 is revised to read as follows:

§ 18–7.451–24 Security requirements.

Insert the clause set forth below only in contracts without fee with educational institutions. In contracts with nonprofit institutions which are not educational institutions, insert the clause set forth in § 18–7.204–12.

SECURITY REQUIREMENTS (JUNE 1971)

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential," or higher.

(b) NASA shall notify the Contractor of the security classification of this contract and the elements thereof, and of any subsequent revisions in such security classification, by the use of a Security Requirements Check List (DD Form 254), or other written notification.

(c) To the extent the Government has indicated as of the date of this contract, or thereafter indicates, security classification under this contract as provided in paragraph (b) above, the Contractor shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within his own organization in accordance with the requirements of:

(i) The Security Agreement (DD Form 441), including the Department of Defense Industrial Security Manual for Safeguarding Classified Information as in effect on the date of this contract, and any modification to the Security Agreement for the purpose of adapting the Manual to the Contractor's business; and

(ii) Any amendments to said Manual made after the date of this contract, notice of which has been furnished to the Contractor by the Security Office of the Military Department having security cognizance over the facility.

(d) Representatives of the Military Department having security cognizance over the facility and representatives of NASA shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the security requirements under this contract. Should the Government, through these representatives, determine that the Contractor is not complying with the security requirements of this contract, the Contractor shall be informed in writing by the Security Officer of the cognizant Military Department of the proper action to be taken in order to effect compliance with such requirements.

(e) In the event a change in security requirements, as provided in paragraphs (b) and (c), results (i) in a change in the security classification of this contract or any element thereof from a nonclassified status to a classified status or from a lower classification to a higher classification or (ii) in more restrictive area controls than previously required, the Contractor shall exert every reasonable effort compatible with his established policies to continue the performance of work under the contract in compliance with such change in security classification or requirements. If, despite such reasonable efforts, the Contractor determines that the continuation of work

under this contract is not practicable because of such change in security classification or requirements, he shall so notify the Contracting Officer in writing.

(f) After receiving such written notification, the Contracting Officer shall explore the circumstances surrounding the proposed change in security classification or requirements and shall endeavor to work out a mutually satisfactory method whereby the Contractor can continue performance of the work under this contract.

(g) If, upon the expiration of fifteen (15) days after receipt by the Contracting Officer of the notification of the Contractor's stated inability to proceed, (i) the application to this contract of such change in security classification or requirements has not been withdrawn, or (ii) a mutually satisfactory method for continuing performance of work under this contract has not been agreed upon, the Contractor may request the Contracting Officer to terminate the contract in whole or in part. Thereupon, the Contracting Officer shall terminate the contract in whole or in part, as may be appropriate, and such termination shall be deemed a termination under the provisions of the clause of this contract entitled "Termination for the Convenience of the Government."

(h) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (h) but excluding paragraphs (e), (f), and (g) of this clause. In addition, the Contractor may insert in any subcontract, not involving fee or profit, with an educational institution, and any like lower-tier subcontract entered into thereunder may contain, in lieu of paragraphs (e), (f), and (g) of this clause, appropriate provisions extending to such subcontracts relief consistent with that provided for in those paragraphs, on account of changes in security classifications or requirements made under the provisions of this clause subsequent to the date of the subcontract involved. With respect to subcontracts other than those covered by the preceding sentence, "the mutually satisfactory method" provided for in paragraph (f) above may include a provision amending this contract to provide for an equitable adjustment on account of changes in security classifications or requirements made under the provisions of this clause subsequent to the date of the subcontract involved; and the Contractor may insert in any such subcontract, and any like lower-tier subcontract entered into thereunder may contain, in lieu of paragraphs (e), (f), and (g) of this clause, appropriate provisions with respect to such equitable adjustment. Failure of the Contractor and Contracting Officer to agree to any adjustment pursuant to the preceding sentence shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(i) The Contractor also agrees that he shall determine that any subcontractor proposed by him for the performance of a subcontract hereunder which will involve access to classified information in the Contractor's custody has been granted an appropriate facility security clearance which is still in effect, prior to being accorded access to such classified information.

80. Section 18–7.451–27 is revised to read as follows:

§ 18–7.451–27 Utilization of labor surplus area concerns.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

§ 18–7.452–63 [Deleted]

81. Section 18–7.452–63 is deleted.

82. Section 18–7.460–3 is revised to read as follows:

§ 18–7.460–3 Government property.

In accordance with the requirements of § 18–13.707, insert the clause set forth therein.

83. Section 18–7.702–35 is revised to read as follows:

§ 18–7.702–35 Utilization of labor surplus area concerns.

Insert the clause set forth in § 18–1.805–3(a).

84. Section 18–7.703–27 is revised to read as follows:

§ 18–7.703–27 Utilization of labor surplus area concerns.

Insert the clause set forth in § 18–1.805–3(a).

85. Sections 18–7.901–4 and 18–7.901–5 are revised to read as follows:

§ 18–7.901–4 Termination.

TERMINATION (JUNE 1966)

(a) The performance of work under the contract may be terminated by the Government in accordance with this clause in whole, or from time to time, in part:

(i) Whenever the Contractor shall default in performance of this contract in accordance with its terms (including in the term "default" any such failure by the Contractor to make progress in the prosecution of the work hereunder as endangers such performance), and shall fail to cure such default within a period of ten (10) days (or such longer periods as the Contracting Officer may allow) after receipt from the Contracting Officer of a notice specifying the default; or

(ii) 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 Notice of Termination specifying whether termination is for the default of the Contractor or for the convenience of the Government, the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. If, after notice of termination of this contract for default under (i) above, it is determined for any reason that the Contractor was not in default pursuant to (i), or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor pursuant to the provisions of the clause of this contract relating to excusable delays, the Notice of Termination shall be deemed to have been issued under (ii), above, and the rights and obligations of the parties hereto shall in such event be governed accordingly.

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

(i) Stop work under 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 Contracting Officer, all right, title, and interest of the Contractor under the orders or 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 payable by the Government 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 of the performance of, the work terminated by the Notice of Termination, (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, and (C) the jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for the performance of this contract for the cost of which the Contractor has been or will be reimbursed under this contract;

(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 and 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 or adjusting any amount due or owing under this clause. At any time after expiration of the plant clearance period, as defined in Part 8, NASA Procurement Regulation, as it may be amended from time to time, 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. 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 execution 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 (e), and subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution 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) above, as to the amounts 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 execution 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) If the termination of the contract is determined to be for the convenience of the Government, there shall be included—

(A) An amount for direct labor hours (as defined in the schedule of the contract) which shall be determined by multiplying the number of direct labor hours expended prior to the effective date of the Notice of Termination by the hourly rate or rates set forth in the schedule, less any hourly rate payments theretofore made to the Contractor;

(B) An amount (computed pursuant to the provisions of the contract providing for payment for materials) for material expenses incurred prior to the effective date of the Notice of Termination, not previously paid to the Contractor for the performance of this contract;

(C) An amount for labor and material expenses computed as if the expenses were incurred prior to the effective date of the termination reasonably incurred after the effective date of the Notice of Termination with the approval of or as directed by the Contracting Officer: *Provided*, That the Contractor shall discontinue such expenses as rapidly as practicable;

(D) To the extent not included in (A), (B), and (C) 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 this contract; and

(E) 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; or

(ii) If the termination of the contract is for the default of the Contractor, there shall be included the amounts computed in accordance with (i) above except there shall not be included—

(A) Any amount for the preparation of the Contractor's settlement proposal; or

(B) The portion of the hourly rate allocable to profit for any direct labor hours expended in furnishing materials and services not delivered to and accepted by the Government.

(f) The Contractor shall have the right of appeal, under the "Disputes" clause of this contract, from any determination made by the Contracting Officer under paragraphs (c) or (e), above, except that if the Contractor has failed within the time provided in paragraph (c), above, 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.

(g) In arriving at the amount due to 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.

(h) In the event of a partial termination, the hourly rates for direct labor hours with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the Contractor and the Contracting Officer, and such adjustment shall be evidenced by an amendment to this contract.

(i) The Government under such terms and conditions as it prescribes may 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 (6) percent 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.

§ 18–7.901–5 Government property.

In accordance with the requirements of § 18–13.703, insert the clause set forth therein except that:

(a) The phrase "estimated cost, fixed-fee or delivery or performance dates, or all of them," appearing in lines 14, 15, 23 and 24 of paragraph (a) shall be deleted and the phrase "ceiling price, hourly rate, the delivery or performance date, or all of them," substituted therefor;

(b) Paragraph (l) shall be deleted, and paragraph (l) of the clause set forth in § 18–13.702(a) substituted therefor; and

(c) Add to the end of (g)(3), the following: "For any such repairs or renovations so directed, the Contracting Officer shall, upon written request of the Contractor, equitably adjust the ceiling price, hourly rate, delivery or performance date, or all of them in accordance with the procedures provided for in the clause of this contract entitled "Changes". In any such equitable adjustment due regard shall be given to the liability of the Contractor as determined under (1) above."

86. Section 18-7.902-2 is revised to read as follows:

§ 18-7.902-2 Utilization of labor surplus area concerns.

In accordance with § 18-1.805-3(a), insert the clause set forth therein.

PART 18-8—TERMINATION OF CONTRACTS

87. Section 18-8.208 is revised to read as follows:

§ 18-8.208 Audit of prime contract settlement proposals and of subcontract settlements.

(a) Each settlement proposal of $10,000 or over submitted by a prime contractor shall be referred by the TCO to the cognizant audit office for appropriate examination and recommendation. The TCO may, when circumstances indicate the necessity therefor, refer settlement proposals of less than $10,000 to such office. The TCO's referral shall be in writing, indicate any specific information or data which the TCO desires to have developed, and include any facts or circumstances within the knowledge of the TCO which will assist the cognizant audit office in the accomplishment of its function. The auditor shall develop such information and may make such further accounting review as he deems appropriate. The cognizant audit office shall submit written comments and recommendations to the TCO. In claims of less than $10,000 where a formal examination of the settlement proposal is not warranted, a desk review will be performed by the TCO or a qualified member of his staff. A written summary of the review will be incorporated in the termination case file.

(b) Subcontract settlements submitted by a contractor to the TCO for approval or ratification in accordance with § 18-8.209 shall be referred to the cognizant audit office for review and recommendations if (1) the settlement involves $25,000 or more unless an accounting review of the settlement proposal has been performed by the cognizant audit office; or (2) the TCO considers an accounting review in whole or in part, desirable. The requirement for review under subparagraph (1) or (2) of this paragraph does not relieve the prime contractor or higher tier subcontractor of the responsibility for performing an accounting review. The audit office shall submit written comments and recommendations to the TCO.

(c) The responsibility of the contractor set forth in § 18-8.209-1 for settlement of immediate subcontractors' settlement proposals applies equally to prime contractors and subcontractors and includes responsibility for performing accounting reviews and any necessary field audits. However, in the situations outlined below, the audit office generally should be requested to perform the accounting review of a subcontractor's settlement proposal where:

(1) A subcontractor objects to an accounting review of his records by an upper-tier contractor for competitive reasons;

(2) The cognizant audit office is currently performing audit work at the subcontractor's plant, or where it can be performed more economically or efficiently;

(3) Audit by the cognizant audit office is necessary for consistent audit treatment and orderly administration; or

(4) The contractor has a substantial or controlling financial interest in the subcontractor.

Duplication by the audit office of accounting reviews performed by the upper tier contractor on subcontractor settlement proposals will be avoided to the extent possible. However, when appropriate, the Government will make additional reviews. Where the contractor is performing accounting reviews in accordance with this paragraph, the TCO should request the cognizant audit office periodically to examine the contractor's accounting review procedures (including but not limited to audit programs, cost principles applied, working papers, and audit reports) and performance thereunder and make such comments and recommendations to the contracting officer as may be deemed appropriate.

(d) The audit report is an advisory document rendered to the TCO for his use in negotiating a settlement or issuing a unilateral determination. Due care and prudence will be exercised by Government personnel in the handling of audit reports covering a contractor's or subcontractor's settlement proposals so as not to reveal privileged information or information that will jeopardize the negotiation position of the Government, prime contractor, or a higher tier subcontractor. Consistent with the foregoing and when considered in the Government's interest, accounting reviews under paragraph (c) of this section may be made available to prime and higher tier subcontractors for their use in settling subcontract claims.

88. Section 18-8.214 is revised to read as follows:

§ 18-8.214 Cost principles.

The cost principles and procedures set forth in the applicable Subpart of Part 18-15 shall, subject to the general policies set forth in § 18-8.301, (a) be used in claiming, negotiating, or determining costs relevant to termination settlements under fixed-price and cost-reimbursement type contracts with other than educational institutions; and (b) be a guide for the negotiation of settlements under fixed-price or cost-reimbursement type contracts for experimental, developmental or research work with educational institutions (but see §18-15.103(c)).

§ 18-8.302 [Deleted]

89. Section 18-8.302 is deleted.

90. Section 18-8.701 is revised to read as follows:

§ 18-8.701 Termination clause for fixed-price contracts.

(a) Except as otherwise permitted by §18-8.705, the following clause shall be used in any fixed-price contract in excess of $2,500 for supplies or experimental, developmental, or research work other than experimental, developmental, or research work with educational or nonprofit institutions, where no profit is contemplated. The following clause shall be used in all fixed-price construction contracts in excess of $10,000 except that paragraphs (e) and (f) thereof shall be deleted and the paragraphs in (b) below shall be used.

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (AUGUST 1970)

(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 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 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 under 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, at the times, and to the extent directed by the Contracting Officer, all of the

right, title, and interest of the Contractor under the orders and 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) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;

(vi) Transfer title and deliver to the Government, in the manner, at the times, and to the extent, if any, directed by the Contracting Officers, (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with 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 have been 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 and in which the Government has or may acquire an interest.

At any time after expiration of the plant clearance period, as defined in Part 8, NASA Procurement Regulation as it may be amended from time to time, 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 title to 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 certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than one (1) year from the effective date of termination, unless one or more extentions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such one (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 one (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 execution 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 execution 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, which amount or amounts may include a reasonable allowance for profit on work done: *Provided,* That such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price, as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph (d).

(e) In the event of the failure of the Contractor and the Contracting Officer to agree as provided in paragraph (d) upon the whole amount to be paid to the Contractor by reason of 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 execution of this contract, pay to the Contractor the amount determined by the Contracting Officer as follows, but without duplication of any amounts agreed upon in accordance with paragraph (d):

(i) For completed supplies accepted by the Government (or sold or acquired as provided in paragraph (b)(vii) above) and not theretofore paid for, a sum equivalent to the aggregate price for such supplies computed in accordance with the price or prices specified in the contract, appropriately adjusted for any saving of freight or other charges;

(ii) The total of—

(A) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies paid or to be paid for under paragraph (e)(i) hereof;

(B) 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 (exclusive of amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or vendors prior to the effective date of the Notice of Termination, which amounts shall be included in the costs payable under (A) above); and

(C) A sum, as profit on (A) above, determined by the Contracting Officer pursuant to 8.303 of the NASA Procurement Regulation, in effect as of the date of execution of this contract, to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (C) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

(iii) 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 property allocable to this contract.

The total sum to be paid to the Contractor under (i) and (ii) of this paragraph (e) shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage, and except to the extent that the Government shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor as provided in (e)(i) and (ii)(A) above, the fair value, as determined by the Contracting Officer, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government, or to a buyer pursuant to paragraph (b)(vii).

(f) Costs claimed, agreed to, or determined pursuant to (c), (d), and (e) hereof shall be in accordance with Part 15 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 on account 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) If the termination hereunder be partial, prior to the settlement of the terminated portion of this contract, the Contractor may file with the Contracting Officer a request in writing for an equitable adjustment of the price or prices specified in the contract relating to the continued portion of the contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices.

(j) 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 this 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 agreed or 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 6 percent 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 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.

(k) Unless otherwise provided for in this contract, or by applicable statute, the Contractor, from the effective date of termination and for a period of 3 years after final settlement under this contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor but without direct charge to the Government, all his books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions thereof.

(b) The following paragraphs shall be used in place of (e) of the above clause when the contract is for construction in excess of $10,000.

(e) In the event of the failure of the Contractor and the Contracting Officer to agree, as provided in paragraph (d) upon the whole amount to be paid to the Contractor by reason of 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 execution of this contract, pay to the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed upon in accordance with paragraph (d):

(i) With respect to all contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of—

(A) The cost of such work;

(B) 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, exclusive of the amounts paid or payable on account of supplies or materials delivered or service furnished by the subcontractor prior to the effective date of the Notice of Termination of Work under this contract, which amounts shall be included in the cost on account of which payment is made under (A) above; and

(C) A sum, as profit on (A) above, determined by the Contracting Officer pursuant to 8.303 of the NASA Procurement Regulation, in effect as of the date of execution of this contract, to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (C) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

(ii) The reasonable cost of the preservation and protection of property incurred pursuant to paragraph (b) (ix); and any other reasonable cost incidental to termination of work under this contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under this contract.

The total sum to be paid to the Contractor under (i) above shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage, and except to the extent that the Government shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor under (i) above, the fair value, as determined by the Contracting Officer, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government, or to a buyer pursuant to paragraph (b) (vii).

91. Section 18–8.702 is revised to read as follows:

§ 18–8.702 Termination Clause for Cost-Reimbursement Type Contracts.

(a) The following clause shall be used in any cost-reimbursement type contract, as defined in § 18–3.405, for supplies and experimental, developmental, or research work other than experimental, developmental, or research work with educational or nonprofit institutions where no fee is contemplated. The following clause shall be used in all cost-reimbursement type construction contracts except that paragraph (e) (i) (D) (II) thereof shall be deleted and the paragraph in (b) below substituted therefor:

TERMINATION (AUGUST 1970)

(a) The performance of work under the contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part:

(i) Whenever the Contractor shall default in performance of this contract in accordance with its terms (including in the term "default" any such failure by the Contractor to make progress in the prosecution of the work hereunder as endangers such performance), and shall fail to cure such default within a period of 10 days (or such longer periods as the Contracting Officer may allow) after receipt from the Contracting Officer of a notice specifying the default; or

(ii) 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 Notice of Termination specifying whether termination is for the default of the Contractor or for the convenience of the Government, the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. If, after notice of termination of this contract for default under (i) above, it is determined for any reason that the Contractor was not in default pursuant to (i), or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor pursuant to the provisions of the clause of this contract relating to excusable delays, the Notice of Termination shall be deemed to have been issued under (ii) above, and the rights and obligations of the parties hereto shall in such event be governed accordingly.

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

(i) Stop work under 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 or 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 of the performance of, the work terminated by the Notice of Termination, (B) the completed or partially completed plans, drawings, infor-

mation, and other property which, if the contract had been completed, would be required to be furnished to the Government, and (C) the jigs, dies, and fixtures, and other special tools and tooling acquired or manufactured for the performance of this contract for the cost of which the Contractor has been or will be reimbursed under this contract;

(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 and 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 or adjusting the amount of the fee, or any item of reimbursable cost, under this clause. At any time after expiration of the plant clearance period, as defined in Part 8, NASA Procurement Regulation, as it may be amended from time to time, 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 one (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 one (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 one (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 execution 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 execution 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 (including an allowance for the fee) 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 and fee, or as to the amount of the fee, 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 execution 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) If the settlement includes cost and fee—

(A) 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;

(B) There shall be included therein, so far as not included under (A) 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;

(C) 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; provided, however, that if the termination is for default of the Contractor there shall not be included any amounts for the preparation of the Contractor's settlement proposal; and

(D) There shall be included therein a portion of the fee payable under the contract determined as follows—

(I) In the event of the termination of this contractor for the convenience of the Government and not for the default of the Contractor, there shall be paid a percentage of the fee equivalent to the percentage of the completion of work contemplated by the contract, less fee payments previously made hereunder; or

(II) In the event of the termination of this contract for the default of the Contractor, the total fee payable shall be such proportionate part of the fee (or, if this contract calls for articles of different types, of such part of the fee as is reasonably allocable to the type of article under consideration) as the total number of articles delivered to and accepted by the Government bears to the total number of articles of a like kind called for by this contract;

if the amount determined under this subparagraph (i) is less than the total payment theretofore made to the Contractor, the Contractor shall repay to the Government the excess amount; or

(ii) If the settlement includes only the fee, the amount thereof will be determined in accordance with subparagraph (i) (D) above.

(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) In the event of a partial termination, the portion of the fee which is payable with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the Contractor and the Contracting Officer, and such adjustment shall be evidenced by an amendment to this contract.

(j) 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 6 percent 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.

(k) The provisions of this cause relating to the fee shall be inapplicable if this contract does not provide for payment of a fee.

(b) In all cost-reimbursement type construction contracts paragraph (e)(i)(D)(II) above should be deleted and the following substituted:

(II) In the event of the termination of this contract for the default of the Contractor, the total fee payable shall be such proportionate part of the fee as the actual work in place bears to the total work in place required by the contract; (OCTOBER 1969)

PART 18–9—PATENTS DATA, AND COPYRIGHTS

92. Sections 18–9.102–1 and 18–9.102–2 and revised to read as follows:

§ 18–9.102 Procurement of patented items by NASA.

§ 18–9.102–1 Purchase of patented items when Government is a licensee.

NASA occasionally becomes licensed under privately held patents as a result of infringement claims, direct license proffers, or preprocurement license agreements as set forth in § 18–9.102–2. When it is known that a specific procurement will be covered by a privately held patent and NASA is licensed under the patent prior to award, an amount equal to the royalty which the Government will be required to pay under the license agreement will be added as an evaluation factor to each bid or offer unless the bidder or offeror is licensed under the patent. Before any such royalty payments are considered for evaluation purposes, each bidder or offeror will be given an opportunity to show that he is licensed under the patent or that performance of the contract in accordance with his bid or offer will not result in infringement of the patent.

§ 18–9.102–2 Procurement license agreements.

(a) Upon timely written notice by a patent owner, hereinafter interpreted to mean any party legally entitled to license the patent, that a proposed NASA procurement, either formally advertised or negotiated, will infringe his privately owned U.S. patent, and upon a determination by patent counsel that the procurement will infringe the patent, NASA may enter into a license agreement with the patent owner prior to the procurement using NASA Form 1333, Patent License Agreement. This procedure shall be applicable only in those solicitations where bids or offers are received from both licensed and unlicensed sources, where the following conditions are satisfied:

(1) The pertinent claim or claims of the patent have not been held invalid by a final determination of a court of competent jurisdiction, or determined to be unenforceable against the Government by any department or agency in an administrative claim procedure, or form the basis of an unresolved administrative claim against any Government department or agency;

(2) The patent owner demonstrates that his patent is respected commercially as evidenced by one or more royalty-bearing commercial licenses under the patent, or the patent owner shows that his patent has been held valid by a final determination of a court of competent jurisdiction;

(3) The patent owner agrees to license NASA for the proposed procurement at a rate which is reasonable under the circumstances. Generally, such rate should not exceed the lowest rate at which the patent owner has licensed a private concern. If the contracting officer agrees to a higher rate, he shall document the reasons for such agreement.

(4) The contracting officer, in consultation with NASA patent counsel, determines that entering into the license agreement will not unduly delay the procurement.

(b) If the conditions of paragraph (a) of this section are satisfied and a preprocurement license agreement is entered into, royalties which will be payable to the patent owner under the agreement, if a contract is awarded to an unlicensed supplier, will be considered by the contracting officer as a factor in determining which bid or proposal is most advantageous to the Government. The preprocurement license agreement will apply only to contracts to be awarded under the proposed procurement, and under the agreement, royalties will be payable to the patent owner only if the patented items are procured from an unlicensed source, and only upon acceptance by NASA of the patented item.

(c) Notice that a proposed NASA procurement will infringe a privately owned patent and an offer by the patent owner to enter into a preprocurement license agreement with NASA will be considered by the contracting officer only if the patent owner:

(1) Gives timely notice to the contracting officer in writing of the alleged infringement, identifying the proposed procurement or those portions thereof which he believes will infringe his patent;

(2) Submit a copy of his patent to the contracting officer together with a brief explanation outlining the claim or claims of his patent which he believes will be infringed by the proposed procurement;

(3) Submits evidence showing that his patent is respected commercially including applicable royalty rates, or that it has been held to be valid by a final determination of a court of competent jurisdiction;

(4) Establishes his interest in the patent and that he has the right to enter into a license agreement with NASA; and

(5) Specifies the terms, including the royalty, upon which he will license NASA for the proposed procurement.

(d) If the contracting officer, in consultation with patent counsel, determines that entering into a preprocurement license agreement would not unduly delay the procurement, he shall refer the matter to patent counsel who shall determine whether the proposed procurement would infringe the patent. If the determination is affirmative, patent counsel shall negotiate the terms of such agreement at a royalty rate which is considered reasonable under the circumstances. Negotiations regarding the terms of such an agreement shall be coordinated with the Office of General Counsel, NASA Headquarters, and in the case of formally advertised procurements, a mutually acceptable royalty rate must be established prior to bid opening. Each nonlicensed bidder or offeror shall have an opportunity to demonstrate that his performance of the contract will not infringe the asserted patent. Preprocurement licenses will be binding upon NASA only upon execution thereof by the General Counsel of NASA.

(e) When the date for bid opening is imminent and there does not appear to be sufficient time to evaluate a preprocurement license request, the contracting officer may delay bid opening for a specified period of time to allow evaluation of the request. In the event of such delay, all bidders will be notified, by amending the invitation for bid (see § 18–2.207), and will be advised of the reason therefor. If the contracting officer determines that it is not in the best interests of the Government to delay bid opening, he shall document his reasons for such determination.

(f) *Solicitations provisions*—(1) *Formal advertising.* In order to notify prospective bidders in formally advertised procurements that royalties payable to a patent owner may be a factor in evaluating their bids, the following "Patent Royalties" notification shall be inserted in all invitations for bids; except (i) when each contract to be awarded is not likely to exceed $2,500; (ii) when the invitation calls for nonpersonal services.

PATENT ROYALTIES (FORMAL ADVERTISING) (NOVEMBER 1970)

I. *Purchase of Patented Items When Government Is a Licensee.* Award of a contract shall not be refused to a bidder merely because he is not the owner or a licensee under any patent involved in the procurement. If, at the time an invitation for bids is issued, the Government is obligated to pay royalties applicable to the proposed procurement because of a preexisting license agreement between the Government and a patent owner, an amount equal to the royalty which the Government will be required to pay under the license agreement will be added as an evaluation factor to each bid unless the bidder is licensed under the patent. Before any such royalty payments are considered for evaluation purposes, each bidder will be given an opportunity to show that he is licensed under the patent or that performance of the contract in accordance with his bid will not result in infringement of the patent.

II. *Procurement License Agreements.* (a) Upon timely written notice by a patent owner, hereinafter interpreted to mean any party legally entitled to license the patent, to the Contracting Officer that this procurement will infringe his privately owned U.S. patent, and upon a determination by NASA Patent Counsel that this procurement will infringe the patent, NASA may enter into a patent license agreement with the patent owner prior to award of a contract pursuant to this invitation for bids, provided the following conditions are satisfied:

(1) The pertinent claim or claims of the patent have not been held invalid by a final

determination of a court of competent jurisdiction or determined to be unenforceable against the Government by any department or agency in an administrative claim procedure, or form the basis of an unresolved administrative claim against any Government department or agency;

(ii) The patent owner demonstrates that his patent is respected commercially as evidenced by one or more royalty-bearing commercial licenses under the patent, or the patent owner shows that his patent has been held valid by a final determination of a court of competent jurisdiction;

(iii) The patent owner agrees to license NASA for the proposed procurement at a rate which is reasonable under the circumstances. Generally, such rate should not exceed the lowest rate at which the patent owner has licensed a private concern;

(iv) A mutually acceptable royalty rate is established prior to bid opening; and

(v) The Contracting Officer, in consultation with NASA Patent Counsel, determines that entering into the license agreement will not unduly delay the procurement.

(b) Under the agreement, royalties will be payable to the patent owner if the patented item is procured from an unlicensed source and only upon acceptance by NASA of the patented item. These royalties will be considered by NASA as a factor in the evaluation of bids of unlicensed suppliers in determining the bid which is most advantageous to the Government. Before any royalty payments are considered for evaluation purposes, each bidder will be given an opportunity to show that he is licensed under the patent determined by NASA Patent Counsel to be infringed by the procurement or that performance of the contract in accordance with this bid will not result in infringement of the asserted patent. In the latter instance, each bidder shall have 10 days from the date of notification in which to submit evidence sufficient to show that his contract performance will not infringe the patent, specifically pointing out how his article or process is distinct from the claimed subject matter. In the event that the Contracting Officer, after consulting Patent Counsel, determines that the bidder's performance will not infringe the patent in question, and the bidder is to be awarded the contract, a patent indemnity clause shall be included in the contract, specifically identifying the asserted patent. This clause shall be included at no additional cost to the Government. Any bidder who fails to show that he is licensed under such patent or that his performance will not result in infringement of the patent, will be regarded as an unlicensed supplier for evaluation purposes.

(c) When the date for bid opening is imminent and there does not appear to be sufficient time to evaluate a preprocurement license request, the Contracting Officer may delay bid opening for a specified period of time to allow evaluation of the request. In the event of such delay, all bidders will be notified and advised of the reason therefor.

(2) *Negotiated.* In negotiated procurements wherein the delivery of hardware or use of a specific process is contemplated, the following "Patent Royalties" shall be included in the request for proposals in order to notify prospective offerors that royalties payable to a patent owner may be a factor in evaluating their offers; except (i) when the contract to be awarded is not likely to exceed $2,500; or (ii) when the request calls for nonpersonal services.

PATENT ROYALTIES (NEGOTIATED) (NOVEMBER 1970)

I. *Purchase of Patented Items When Government Is a Licensee.* Award of a contract shall not be refused to an offeror merely because he is not the owner or a licensee under any patent involved in the procurement. If, at the time a solicitation is issued, the Government is obligated to pay royalties applicable to the proposed procurement because of a preexisting license agreement between the Government and a patent owner, an amount equal to the royalty which the Government will be required to pay under the license agreement will be added as an evaluation factor to each offer unless the offeror is licenced under the patent. Before any such royalty payments are considered for evaluation purposes, each offeror will be given an opportunity to show that he is licensed under the patent or that performance of the contract in accordance with his offer will not result in infringement of the patent.

II. *Preprocurement License Agreements.* (a) Upon timely written notice by a patent owner, hereinafter interpreted to mean any party legally entitled to license the patent, to the Contracting Officer that this procurement will infringe his privately owned U.S. patent, and upon a determination by NASA Patent Counsel that this procurement will infringe the patent, NASA may enter into a patent license agreement with the patent owner prior to award of a contract pursuant to this request provided the following conditions are satisfied:

(i) The pertinent claim or claims of the patent have not been held invalid by a final determination of a court of competent jurisdiction or determined to be unenforceable against the Government by any department or agency in an administrative claim procedure, or form the basis of an unresolved administrative claim against any Government department or agency;

(ii) The patent owner demonstrates that his patent is respected commercially as evidenced by one or more royalty-bearing commercial licenses under the patent, or the patent owner shows that his patent has been held valid by a final determination of a court of competent jurisdiction;

(iii) The patent owner agrees to license NASA for the proposed procurement at a rate which is reasonable under the circumstances. Generally, such rate should not exceed the lowest rate at which the patent owner has licensed a private concern;

(iv) The Contracting Officer, in consultation with NASA Patent Counsel, determines that entering into the license agreement will not unduly delay the procurement.

(b) Under the agreement, royalties will be payable to the patent owner if the patented item is procured from an unlicensed source and only upon acceptance by NASA of the patented item. These royalties will be considered by NASA as a factor in determining the proposal which is most advantageous to the Government. Before any royalty payments are considered for evaluation purposes, each offeror will be given an opportunity to show that he is licensed under the patent determined by NASA Patent Counsel to be infringed by the procurement or that performance of the contract in accordance with his offer will not result in infringement of the asserted patent. In the latter instance, each offeror will have 10 days from the date of notification in which to submit evidence to show that his contract performance will not infringe the patent, specifically pointing out how his article or process is distinct from the claimed subject matter. In the event that the Contracting Officer, after consulting Patent Counsel determines that the offeror's performance will not infringe the patent in question, and the offeror is to be awarded the contract, a patent indemnity clause shall be included in the contract, specifically identifying the asserted patent. This clause shall be included at no additional cost to the Government. Any offeror who fails to show that he is licensed under such patent or that his performance will not result in infringement of the patent, will be regarded as an unlicensed supplier for evaluation purposes.

(c) If NASA does not enter into a preprocurement license agreement with a patent owner prior to the procurement of patented items, competing bids, proposals or quotations will be evaluated without regard to royalties or compensation which may ultimately be payable to the patent owner. In such event, the patent owner may bring a claim for patent infringement in accordance with § 18–9.106.

93. Sections 18–9.150, 18–9.151 and 18–9.152 are revised to read as follows:

§ 18–9.150 Designation of representative for new technology and for patents.

(a) (1) When a NASA contract contains the clause entitled "New Technology" set forth in § 18–9.101–4 (hereinafter referred to as "the clause"), the contracting officer shall designate representatives (hereinafter referred to as the "New Technology Representative" and the "Patent Representative") to administer the clause.

(2) When a NASA contract contains the Property Rights in Inventions clause set forth in § 18–9.101–5, the contracting officer shall designate a New Technology Representative and a Patent Representative to administer that clause. The respective responsibilities and authorities of these representatives in administering that clause shall be as set forth in paragraphs (c) and (f) of this section and §§ 18–9.151, 18–9.152 and 18–9.153 with respect to the "New Technology" clause, to the extent applicable in view of the more limited requirements of the "Property Rights in Inventions" clause.

(b) Designation of these representatives shall be accomplished by incorporation of a provision into the contract schedule containing the following or similar statements:

DESIGNATION OF NEW TECHNOLOGY REPRESENTATIVE AND PATENT REPRESENTATIVE (AUGUST 1969)

(a) For purposes of facilitating administration of the clause of this contract entitled "New Technology" or "Property Rights in Inventions," whichever is included, the following named representatives are hereby designated by the contracting officer to administer the clause:

Title	*Address Code*	*Address*
New Technology Representative	(Office Code)	(Address including zip code).
Patent Representative		

(b) Correspondence with respect to the clause should be directed to the New Technology Representative unless transmitted in response to correspondence from the Patent Representative.

(c) For contracts containing the New Technology clause, the requirement to identify the contracting officer in subcontracts set forth in paragraph (d)(1) of the clause may be satisfied by the inclusion of this entire provision.

(c) The New Technology Representative shall be the Technology Utilization

Officer or the staff member (by titled position) having cognizance of technology utilization matters for the NASA installation concerned; and the Patent Representative shall be the Patent Counsel or the staff member (by titled position) having cognizance of patent matters for the NASA installation concerned.

(d) The New Technology Representative shall be furnished a copy of the contract, modifications thereto, progress reports, and other pertinent material by the contracting officer, and shall be notified by the contracting officer of the organizational unit of the NASA installation having technical cognizance of the contract.

(e) The Patent Representative shall be furnished a copy of the contract, and modifications thereto, by the contracting officer, as well as copies of findings pursuant to § 18–9.101–3.

(f) The New Technology Representative and the Patent Representative shall maintain complete files of correspondence and other actions involving their respective administration of the clause. Copies of documents which are appropriate for inclusion in the general contract files shall be furnished the contracting officer.

§ 18–9.151 Contract review.

(a) The New Technology Representative shall review, as necessary, the technical progress of work performed under the contract to ascertain whether the contractor and his subcontractors, where appropriate, are complying with paragraphs (b), (c), (d), and (e) contained in section II of the clause.

(b) The New Technology Representative shall forward to the Patent Representative copies of all contractors' and subcontractors' written reports of reportable items and inventions, and a copy of the written statement, if any, submitted with the report of the reportable item. All correspondence relating to inventions and waivers will also be forwarded to the Patent Representative.

(c) Consultations will be held by the New Technology Representative and the Patent Representative with cognizant technical personnel and others concerned, where required, to determine the relationship of inventions, discoveries, improvements and innovations made under contracts and subcontracts to work performed under the contract, and the value thereof to NASA or other Government agencies.

(d) No action shall be taken by either the New Technology Representative or the Patent Representative which would involve a change or increase in the work required to be performed under the contract, or which otherwise is outside the scope of obligations imposed upon the contractor by the contract. Any written decision pursuant to paragraph (r) of the New Technology clause or other correspondence relating thereto shall be prepared for and signed by the contracting officer.

(e) Upon completion of the contract work, the New Technology Representative shall determine whether the contractor and his subcontractors, where appropriate, have complied with paragraphs (b), (c), (d), and (e), contained in section II of the clause. Such determinations generally will require consultation with the cognizant technical personnel.

(f) Upon completion of the contract work, the Patent Representative shall determine whether the contractor, and his subcontractors, where appropriate, have complied with paragraph (h) and section III of the clause.

§ 18–9.152 Contract clearance.

(a) Upon submission by the contractor of the final reports required by paragraphs (c) and (d)(4) of the clause, the New Technology Representative shall determine whether the contractor has complied with paragraphs (b), (c), and (d) of the clause, and, if so, shall certify such compliance promptly to the contracting officer, with copy to the Patent Representative.

(b) Upon receipt of the copy of the New Technology Representative's certification of compliance, the Patent Representative shall determine whether the contractor has complied with paragraph (h) of the clause, and, if so, shall certify such compliance to the contracting officer.

(c) Pursuant to the withholding provisions of the clause, final payment under the contract shall not be approved by the contracting officer until he has received the certifications of compliance referred to in paragraphs (a) and (b) of this section.

PART 18–11—FEDERAL, STATE, AND LOCAL TAXES

94. Section 18–11.102–4 is revised to read as follows:

§ 18–11.102–4 Lubricating oils.

(a) *General.* A tax of 6 cents per gallon is imposed on lubrication oil (other than cutting oils) sold by the manufacturer or producer unless sold to another manufacturer or producer of lubricating oils for resale. Lubricating oil means all oils which are either sold for use as a lubricant or are suitable for use as a lubricant. The tax applies unless—

(1) The sale is exempt from tax under § 18–11.202; or

(2) The oil has been determined by the Commissioner of Internal Revenue to be "seldom used as a lubricant" and is sold for a nonlubricating use; or

(3) The oil is sold as cutting oil under the procedure described in paragraph (c) of this section.

(b) *"Seldom used as a lubricant."* The following oils have been determined by the Commissioner of Internal Revenue to be "seldom used as a lubricant" and, thus, may be sold tax free: castor oil, petroleum white oil of certain specifications, crude neatsfoot oil, transformer or insulating oil, and a certain product used as an additive to the fuel used in internal combustion engines.

(c) *Cutting oils.* Oil sold as cutting oil is not subject to the tax if the manufacturer or producer follows one of three procedures:

(1) Lubricating oils may be sold tax free by the manufacturer or producer as cutting oil in any case where:

(i) The manufacturer or producer packages the oil in containers of 5 gallons or less furnished by it and labeled by it to indicate use of the oil only in cutting and machining operations on metals;

(ii) Any advertising of the oil so packaged and labeled indicates that the oil is for use only in cutting and machining operations on metals; and

(iii) The oil so packaged and labeled is sold by the manufacturer or producer to a purchaser for such use by him or for resale by him for such use.

(2) Where the Commissioner of Internal Revenue has determined oil to be suitable for use as a lubricant only in cutting and machining operations on metals, the oil may be sold tax free by the manufacturer or producer as cutting oils, unless the manufacturer has definite knowledge, prior to or at the time of the sale, that the oil is not being purchased for use, or resale for use, in cutting and machining operations on metals. Oils as to which the Commissioner has made such a determination may be sold tax free whether in bulk or otherwise. However, the Commissioner may require that the oil be specifically represented to the purchaser, whether by labeling or otherwise, as being suitable for use only in cutting and machining operations on metals.

(3) Lubricating oils which are sold for use, or for resale for use in cutting and machining operations on metals, but which may not be sold tax free under one of the procedures described above, may be sold tax free, provided the manufacturer obtains from the purchaser a properly executed cutting oil certificate. The form set forth in § 18–11.501–3 shall be utilized for this purpose.

(d) *Refunds.* The ultimate purchaser of lubricating oil (other than cutting oils, imported lubricating oils, or rerefined oil) is entitled to a refund of 6 cents per gallon on oil purchased tax paid which is used otherwise than as a lubricant in a highway motor vehicle. However, activities of NASA will not apply for such refunds.

95. Section 18–11.203 is revised to read as follows:

§ 18–11.203 Supplies and services for the exclusive use of the United States.

By virtue of action taken by the Secretary of the Treasury, pursuant to Section 4293 of the Internal Revenue Code, exemption is available, and shall be obtained, from the Federal excise taxes on communication services and facilities furnished directly to the United States (as distinguished from being furnished to a Government contractor) and paid for directly by the Government (such exemption is obtained without any exemption certificate).

96. Section 18–11.250 is revised to read as follows:

§ 18–11.250 Exemptions from other Federal taxes.

Distilled spirits of 160 degrees or more proof alcohol, and specially denatured alcohol, may be withdrawn tax free by

the United States or any Government agency thereof.

(a) The authority to sign applications to the Treasury Department, Commissioner of Internal Revenue, for permits to procure, tax free, spirits and specially denatured alcohol (TD Form 1444, "Tax Free Spirits for Use of United States," and TD Form 1486, "Specially Denatured Spirits for Use of United States") has been delegated by the Administrator to certain officers of NASA installations.

(b) TD Forms 1444 and 1486 shall be submitted to the Treasury Department in accordance with the instructions printing thereon. The letter of transmittal shall contain the following information:

(1) That the appropriate form is submitted in triplicate according to Internal Revenue Regulations for permit to procure tax-free or specially denatured alcohol;

(2) Name and location of supplier;

(3) Name and location of consignee;

(4) Purpose for which alcohol will be used; and

(5) Address to which permit is to be sent (requesting installation).

97. Section 18–11.301 is revised to read as follows:

§ 18–11.301 Applicability.

(a) As a general rule, purchases made by the Government itself are exempt from State and local sales and use taxes; similarly, personal and real property is exempt from State and local property taxes when the property is both owned and possessed by the Government. These exemptions shall be made use of to the fullest extent available when Government property is located in a State or local tax jurisdiction, or when purchases are made directly by the Government, by asserting the Government's immunity from taxation of its property by States and localities, and in case of purchases, by executing an approved tax exemption certification. (See §§ 18–3.607–4 and 18–11.502.

(b) However, when purchases are not made by the Government itself, but by a prime contractor of the Government or by a subcontractor under a prime contract, the right to an exemption of the transaction from a sales or use tax may not rest on the Government's immunity from direct taxation by States and localities. It may rest instead on provisions of the particular State or local law involved, or in some cases, the transaction may not in fact be expressly exempt from the tax. Similary, when property is owned by the Government, but the property is in the possession of a contractor or subcontractor on tax day, situations may arise where States or localities believe they may have the right to tax the property directly or to tax the contractor's or subcontractor's possession of, interest in, or use of that property.

(c) Wherever there is any doubt as to the availability of the Government's immunity or exemption from any State or local tax, the matter shall be handled in accordance with § 18–11.001.

98. Sections 18–11.500 and 18–11.501 are revised to read as follows:

§ 18–11.500 General.

(a) This Subpart prescribes forms and procedures to provide evidence appropriate to establish exemption from Federal, State, and local taxes, and the form required to purchase cutting oil at the tax rate of 3 cents per gallon rather than 6 cents per gallon.

(b) Unless the contract otherwise requires, evidence of exemption shall not be issued if the amount of taxes on any one invoice or purchase is $1 or less.

(c) With respect to the form set out in § 18–11.503–3, the Internal Revenue Service will accept one certificate covering all orders under a single contract for a specified period not exceeding 4 calendar quarters.

§ 18–11.501 Federal excise taxes.

The forms of certificates set forth in §§ 18–11.501–1 and 18–11.501–3 may be reproduced locally.

§ 18–11.501–1 Certificate of export to a possession or to Puerto Rico.

The following form of exemption certificate shall be used as proof of exportation or shipment to a possession or Puerto Rico, in accordance with §§ 18–11.201(b) and 18–11.202(b).

CERTIFICATE OF EXPORT

(For use by purchasers of articles for export or shipment to a possession under section 4056 and 4221(a)(2), Internal Revenue Code of 1954)

_____, 19 --

_____

(Name of Contractor)

The undersigned does hereby certify that

_____

_____

(Quantity and description of supplies)

which were purchased for export, or for shipment to a possession of the United States or to Puerto Rico, under Contract No. _____, were in fact exported to a foreign country, or shipped to a possession of the United States or to Puerto Rico, and a copy of the export bill of lading No. _____ or loading manifest No. _____ pursuant to which the supplies were shipped, is being retained in the files of _____

_____

(Official address of office)

_____

Signature

_____

Title

_____

Address

_____

This certificate is not intended for use as proof in claiming drawback of import taxes.

99. Section 18–11.501–3 is added as follows:

§ 18–11.501–3 Cutting oil certificate.

The following form of certificate shall be used by the purchaser of cutting oil, in accordance with, § 18–11.102–4(c).

CUTTING OIL CERTIFICATE

(For use by purchaser of lubricating oil subject to tax under Section 4091 of the Internal Revenue Code of 1954, for use by purchaser in cutting and machining operations on metals)

Certificate Serial No._____

_____

(Date)

Contract No.:
Contractor:
Product:
End Use:

The undersigned hereby certifies that he is officially authorized to issue tax-exemption certificates for the National Aeronautics and Space Administration under the above described contract, and that the product indicated above, being purchased under said contract, is purchased for the following use as a lubricant in cutting and machining operations on metals:

_____

_____

_____

The undersigned understands that the National Aeronautics and Space Administration must be prepared to establish by satisfactory evidence the actual use or disposition made of such oil, and that upon his use of the oil for a lubricating purpose other than in cutting and machining operations on metals, or upon his sale or other disposition of oil, he is required to notify the manufacturer.

The undersigned understands that he and all guilty parties will, for fraudulent use of this certificate for the purpose of purchasing oils tax free rather than at the rate of 6 cents a gallon, be subject to a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contract Period_____ By_____

Name
Title
Address
Identification Card No.

§ 18–11.501–4 [Deleted]

99a. Section 18–11.501–4 is deleted.

PART 18–13—GOVERNMENT PROPERTY

100. Section 18–13.5002 is revised to read as follows:

§ 18–13.5002 Procedure.

(a) *Requests for idle industrial plant equipment.* Requests for item(s) of equipment to be acquired by screening availability from DIPEC idle inventories shall be submitted on DD Form 1419 (DOD Industrial Plant Equipment Requisition) in an original and three (3) copies to the Procurement Office, NASA Headquarters (Code KDP–3) for processing.

(b) *Instructions for preparation of DD Form 1419.* A separate DD Form 1419 will be completed for each item of equipment required, i.e. if sixteen (16) lathes of the same type and model are required, sixteen (16) DD Form 1419's will be completed as follows:

Requisition number. A requisition number will be assigned to each DD Form 1419 request by the NASA installation. Each number assigned will be coded for Automatic Data Processing by DIPEC. It will also identify the requiring installation and provide a serial number and date of submission for

subsequent reference. The requisition number will begin with the appropriate NASA Installation Symbol Identification set forth below:

Langley Research Center	XNAS01
Ames Research Center	XNAS02
Lewis Research Center	XNAS03
Flight Research Center	XNAS04
Goddard Space Flight Center	XNAS05
Wallops Station	XNAS06
NASA Pasadena Office	XNAS07
George C. Marshall Space Flight Center	XNAS08
Manned Spacecraft Center	XNAS09
John F. Kennedy Space Center	XNAS10
Headquarters Contracts Division	XNASOW
SNSO Germantown	XSNSOG
SNSO Cleveland Extension	XSNSOC
SNSO Nevada Extension	XSNSON

Next will be a four-digit entry comprised of the last digit of the current calendar year and the Julian date of the year, i.e. 9035 for February 4, 1969. The last entry will be a four digit number from 0001 to 9999, to sequentially number requisition forms prepared on the same date. For example: the ninth requisition prepared on February 1, 1969 would be 9032–0009 preceded by the Field Installation Symbol Identification, an example being Langley—"XNAS01 3032–0009". When submitting subsequent DD Forms 1419 related to the item requested, the same requisition number is to be used and alpha code added to the end of the requisition number to indicate a second or third action on the basic request. Alpha "A" would indicate a second request, "B" a third, etc. In this manner, all actions, correspondence, etc., relative to a given request can be identified at all levels of processing, by the use of the requisition number.

SECTION I

Item description. It is necessary to provide a complete description of the item desired, to obtain maximum screening results. Requests for single purpose or general purpose equipment with special features must contain detailed descriptive data as to the size and capacities, setting forth special operating features or particular operations required to be performed by the item.

Block 1. Enter the complete 12-digit Production Equipment Code (PEC) (see NASA PR 13.312 or Defense Industrial Plant Equipment Center Operations Manual DSAM 4215.1, Appendix 1C, Index of Industrial Plant Equipment Handbooks). If not available, enter the applicable 11-digit Federal Stock Number (FSN).

Block 2. Enter the manufacturer's name and Federal supply code for manufacturer's (Cataloging Handbook H4–1) of the item requested.

Block 2a. Enter the manufacturer's model, style or catalog number assigned to the equipment being requisitioned. Always use the model number if available. The style number is the next preference. Insert "NONE" in this block if the model, type or catalog number is not known.

Block 3. Activities using Federal Stock Numbers (FSN) as the identifying number will enter that number. When the FSN is known, it will be included in all reports in addition to the commodity code.

Block 4. Enter the two-digit power code described in Appendix 1D of Defense Industrial Plant Equipment Center Operations Manual DSAM 4215.1. These codes designate the voltage, current, phase and cycle by which the item requested will be operated.

Block 5. Self-explanatory.

Block 6. Place an "X" in the applicable block to indicate whether physical inspection is or is not desired, prior to acceptance.

Block 7. Self-explanatory.

Block 8. Enter the complete description of the item, including the major group, class, subclass, type, subtype, size group, specifying size, etc., as selected from the appropriate directory or handbook. (See § 18–13.312, "Index of Industrial Plant Equipment Handbooks" for descriptive information.) Continue the item description in Block 51 if additional space is required to describe the item desired.

* * * * *

PART 18–15—CONTRACT COST PRINCIPLES AND PROCEDURES

101. Sections 18–15.000 and 18–15.102 are revised to read as follows:

§ 18–15.000 Scope of part.

This Part 18–15 contains general cost principles and procedures for the pricing of contracts and contract modifications whenever cost analysis is performed (see § 18–3.807–2), and for the determination, negotiation, or allowance of costs when such action is required by a contract clause.

§ 18–15.102 Negotiated supply, service and research contracts, and contract changes with concerns other than educational institutions.

This category includes all contracts and contract modifications for supplies, services, or experimental, developmental, or research work with other than educational institutions negotiated on the basis of costs. It does not include facilities contracts (see § 18–15.105), construction contracts (see § 18–15.104) or contracts for research work with educational institutions (see § 18–15.103). The cost principles and procedures set forth in Subpart 18–15.2 shall be used in the pricing of negotiated supply, service and research contracts and contract modifications with concerns other than educational institutions whenever cost analysis is to be performed pursuant to § 18–3.807–2. In addition, the cost principles and procedures set forth in Subpart 18–15.2 shall be incorporated by reference in cost-reimbursement and fixed-price type supply, service and research contracts with other than educational institution as the basis—

(a) For determination of reimbursable costs under cost-reimbursement type contracts (§ 18–3.405) including cost-reimbursement type subcontracts thereunder, and the cost-reimbursement portion of time and materials contracts (§ 18–3.406–1) except in such contracts where material is priced on a basis other than at cost in accordance with § 18–3.406–1(d);

(b) For the negotiation of overhead rates (Subpart 18–3.7);

(c) For claiming, negotiating, or determining costs under terminated fixed-price and cost-reimbursement type contracts (§§ 18–8.204 and 18–8.214);

(d) For the price revision of fixed-price incentive contracts (§ 18–3.404–4);

(e) For price redetermination of prospective and retroactive price redetermination contracts § 18–3.404–5 and § 18–3.404–7); and

(f) For pricing changes and other contract modifications (§§ 18–7.103–54 and 18–7.303–64).

102. Section 18–15.104 is revised to read as follows:

§ 18–15.104 Construction contracts.

This category includes all contracts for the construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property. It also includes contracts for architect-engineer services related to such construction. It does not include contracts for vessels, aircraft, or other kinds of personal property. The cost principles and procedures set forth in Subpart 18–15.4 shall be used in the pricing of negotiated construction contracts and contract modifications with concerns other than educational institutions whenever cost analysis is to be performed pursuant to § 18–3.807–2. In addition, the cost principles and procedures set forth in Subpart 18–15.4 shall be incorporated by reference in cost-reimbursement and fixed-price type construction contracts as the basis—

(a) For determination of reimbursable costs under cost-reimbursement type contracts, including cost-reimbursement type subcontracts thereunder (§ 18–3.405);

(b) For the negotiation of overhead rates (Subpart 18–3.7);

(c) For claiming, negotiating, or determining costs under terminated fixed-price and cost-reimbursement type contracts (§ 18–8.204 and § 18–8.214);

(d) For the price revision of fixed-price incentive contracts (§ 18–3.404–4); and

(e) For pricing changes and other contract modifications (§§ 18–7.103–54 and 18–7.303–64).

103. Sections 18–15.106 and 18–15.107 are revised to read as follows:

§ 18–15.106 Fixed-price type contracts.

This Part 18–15 shall be used in the pricing of fixed-price type contracts and contract modifications whenever cost analysis is performed. It also will be used whenever a fixed-price type contract clause requires the determination or negotiation of costs. However, application of these cost principles to fixed-price type contracts shall not be constructed as a requirement to negotiate agreements on individual elements of cost in arriving at agreement on the total price. The final price accepted by the parties reflects agreement only on the total price. Further, notwithstanding the mandatory

use of these cost principles, the objective will continue to be to negotiate prices that are fair and reasonable, cost and other factors considered.

§ 18–15.107 Advance understandings on particular cost items.

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 important that prospective contractors, particularly those whose work is predominantly or substantially with the Government, seek agreement with the Government in advance of the incurrence of special or unusual costs in categories where reasonableness or allocability is difficult to determine. Such agreement may also be initiated by contracting officers individually or jointly, for all NASA work of the contractor, as appropriate. Any such agreement should be incorporated in cost-reimbursement type contracts, or made a part of the contract file in the case of negotiated fixed-price type contracts, and should govern the cost treatment covered thereby throughout the performance of the contract. But the absence of such an advance agreement on any element of cost will not, in itself, serve to make that element either allowable or unallowable. Examples of costs on which advance agreements may be particularly important are:

(a) Compensation for personal services, including but not limited to allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost of living differential;

(b) Use charge for fully depreciated assets;

(c) Deferred maintenance costs;

(d) Precontract costs;

(e) Research and development costs;

(f) Royalties;

(g) Selling and distribution costs; and

(h) Travel costs, as related to special or mass personnel movement;

(i) Idle facilities and idle capacity;

(j) Leasing of automatic data processing equipment (ADPE); and

(k) Rental costs (other than ADPE);

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

104. In § 18–15.205–6, paragraph (a) (1) 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. 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 off-site 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.

* * * * *

105. Section 18–15.400 is revised to read as follows:

§ 18–15.400 Scope of subpart.

This subpart prescribes general principles and procedures for the evaluation and determination of costs in connection with contracts and subcontracts for construction and architect-engineer services related to construction. The applicability of this subpart to cost-reimbursement and fixed-price type contracts is set forth in § 18–15.104. In addition, because of the unique nature of certain aspects of construction contracts, guidance is provided with respect to some elements of cost wherein the basis for determination of cost under cost-reimbursement type contracts differs from that used for evaluation of cost under fixed-price type contracts.

§ 18–15.6 [Deleted]

106. Subpart 18–15.6 is deleted.

PART 18–16—PROCUREMENT FORMS

107. 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	May 1963	Proposal and Acceptance (Negotiated Supply Contract).
246	November 1970	General Provisions for Short Form Fixed-Price Contract with Nonprofit Institutions.
247	September 1969	General Provisions for Fixed-Price Research and Development Contract.
250	November 1970	Additional General Provisions to U.S. Standard Form 32 (6-64 Ed.).
302	November 1958	Agreement for Use of NASA Unitary Plan Wind Tunnel Facilities.
404	June 1968	Procurement Request.
417	November 1970	General Provisions for Cost-Reimbursement Research and Development Contract.
418	do	General Provisions for Cost-Plus-a-Fixed-Fee Supply Contract.
419	do	General Provisions for Cost-Reimbursement Research and Development Contracts with Educational or Nonprofit Institutions.
446	August 1960	Request for Contractor Clearance.
456	November 1968	Notice of Contract Costs Suspended and/or Disapproved.
456-1	do	Notice of Contract Costs Suspended and/or Disapproved—Continuation Sheet.
507	June 1963	Individual Procurement Action Report.
523	July 1969	NASA—Defense Purchase Request.
524	July 1965	NASA Small Business Subcontracting Program Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns.
533	February 1967	Contractor Financial Management Report.
533a	do	Monthly Contractor Financial Management Report.
533b	do	Contractor Financial Management Report—Contracts Under $500,000.
533c	do	Contractor Financial Management Report—Support Services Contracts.
534	do	Contract Fiscal Year Functional Cost/Hour Report.
534a	do	Contract Progress Curve Report.
534b	February 1967	Annual Direct, Relatively Fixed Recurring Costs Report.
543	November 1966	Justification for Negotiation.
550	January 1963	Negotiated Utility Service Contract.
550S	do	Negotiated Utility Service Contract (Short Form).
550A	July 1965	General Provisions for Negotiated Utility Service Contract.
550A-1	January 1963	Electric Service Specifications.
550A-2	do	Gas Service Specifications
550A-3	do	Water Service Specifications.
550A-4	do	Steam Service Specifications.
550A-5	do	Sewage Service Specifications.
550B	do	Signature Page.
551	April 1962	Cover Page for Letter Contracts.
551-1	do	Letter of Transmittal for Letter Contracts.
551-2	September 1962	Schedule Format for Letter Contracts.
551-3	1963	General Provisions for Letter Contracts.
558	February 1964	Materials Requirements Report.
604	March 1971	Additional General Provisions to U.S. Standard Form 23A (10-69 Ed.).
667	November 1966	Report on NASA Subcontracts.
746	January 1971	General Provisions for Cost-Reimbursement Facilities Acquisition Contract.
747	do	General Provisions for Facilities Use Contract.
748	do	General Provisions for Cost-Reimbursement Consolidated Facilities Contract.

Number	Date	Title
778	April 1968	Contractor's Release.
779	do	Assignee's Release.
780	January 1963	Contractor's Assignment of Refunds, Rebates, Credits, and Other Amounts.
781	do	Assignee's Assignment of Refunds, Rebates, Credits, and Other Amounts.
811	December 1962	Determination for Classification of Property as Scrap or Salvage.
812	do	Determination & Authorization to Abandon or Destroy Surplus Property.
1017	June 1968	Government-Owned/Contractor-Held Space Hardware Report.
1018	do	Analysis of Government-Owned/Contractor-Held Property Other Than Space Hardware.
1057	October 1966	Forecast of Propellant Requirements.
1098	June 1964	Check List for Contract File Content.
1129	May 1969	Incentive Contracts Currently Under Administration.
1132	do	Incentive Contracts Evaluation of Incentive Effectiveness.
1162	June 1966	New Technology.
1168	October 1964	Procurement Plan Contents Checklist.
1206	April 1965	Assurance of Compliance with the National Aeronautics and Space Administration Regulations Under Title VI of the Civil Rights Act of 1964.
1214	do	MSF Procurement Milestone Status Report.
1333	September 1966	Patent License Agreement.
1334	February 1971	General Provisions (Time and Material and Labor Hour Contracts).
1350	May 1967	NASA Contracting Officer's Certificate of Appointment.
1379	September 1968	Order for Supplies or Services.
1379 (Reverse).	do	Terms and Conditions.
1379A	do	Order for Supplies or Services (Continuation Sheet).
1379B	do	Additional General Provisions, Modification, and Acceptance.
1412	September 1969	Termination Authority.
1413	do	Termination Docket Checklist.

(b) *U.S. Standard Forms.*

Number	Date	Title
18	July 1966	Request for Quotations.
19	October 1969	Invitation, Bid, and Award (Construction, Alteration, or Repair).
19-A	April 1965	Labor Standards Provisions Applicable to Contracts in Excess of $2,000.
19-B	October 1969	Representations and Certifications (Construction Contracts).
20	January 1961	Invitation for Bids (Construction Contract).
21	December 1965	Bid form (Construction Contract).
22	October 1969	Instructions to Bidders (Construction Contract).
23	January 1961	Construction Contract.
23-A	October 1969	General Provisions (Construction Contract).
24	June 1964	Bid Bond.
25	June 1967	Performance Bond.
25-A	June 1964	Payment Bond.
25-B	do	Continuation Sheet (For Standard Forms 24, 25 and 25-A).
26	July 1966	Award/Contract.
28	June 1966	Affidavit of Individual Surety.
30	July 1966	Amendment of Solicitation/Modification of Contract.
32	November 1969	General Provisions (Supply Contract).
33	do	Solicitation, Offer, and Award.
33-A	March 1969	Solicitation Instructions and Conditions.
34	June 1964	Annual Bid Bond.
35	do	Annual Performance Bond.
36	July 1966	Continuation Sheet.
38	October 1964	Notice of Nondiscrimination in Employment.
44	June 1964	Purchase Order—Invoice—Voucher.
97	September 1961	The U.S. Government Certificate of Release of a Motor Vehicle.
97-A	do	Agency Record Copy of The U.S. Government Certificate of Release of a Motor Vehicle.
98	June 1966	Notice of Intention to Make a Service Contract and Response to Notice.
99	May 1965	Notice of Award of Contract.
100	January 1967	Employer Information Report EEO-1.
119	December 1952	Contractor's Statement of Contingent or Other Fees.
120	April 1957	Report of Excess Personal Property.
125	December 1959	Report of Strategic and Critical Materials.
129	January 1966	Bidder's Mailing List Application.
147	June 1964	Order for Supplies or Services.
148	do	Continuation Sheet for Standard Form 147.
251	June 1961	Architect-Engineer Questionnaire.
1034	(Undated)	Public Voucher for Purchases and Services Other than Personal.
1034a	do	Public Voucher for Purchases and Services Other than Personal—Memorandum Copy.
1035	do	Public Voucher for Purchases and Services Other than Personal, Continuation Sheet.
1035a	do	Public Voucher for Purchases and Services Other than Personal, Continuation Sheet—Memorandum.
1080	do	Voucher for Transfers Between Appropriations and/or Funds.
1093	do	Schedule of Withholdings under the Davis-Bacon Act.
1094	do	U.S. Tax Exemption Certificate.
1165	March 1952	Receipt for Cash—Subvoucher.

(c) *Department of Defense Forms.*

Number	Date	Title
250	November 1968	Material Inspection and Receiving Report.
250c	October 1966	Material Inspection and Receiving Report—Continuation Sheet.
254	October 1964	Security Requirements Checklist.
346	July 1952	Raw (Basic Processed) and Semifabricated Stock Form.
347	do	Bill of Materials for Subcontracted Parts—Purchased Parts—Government-Furnished Property.
441	May 1954	Security Agreement.
448-2	March 1961	Acceptance of MIPR.
492	December 1960	Report of Allotments and Authorized Controlled Materials Orders (Cumulative).
529	January 1960	Allocation Determination.
530	do	Return of Controlled Materials Allocations.
540	April 1957	Settlement Proposal (Inventory Basis).
541	April 1957	Settlement Proposal (Total Cost Basis).
542	June 1968	Inventory Schedule A (Metals in Mill Product Form).
542c	April 1957	Inventory Schedule A (Continuation Sheet).
543	June 1968	Inventory Schedule B (Raw Materials, Purchased Parts, Finished Components, Finished Products, Miscellaneous).
543c	April 1957	Inventory Schedule B (Continuation Sheet).
544	June 1968	Inventory Schedule C (Work in Process).
544c	April 1967	Inventory Schedule C (Continuation Sheet).
545	June 1968	Inventory Schedule D (Dies, Jigs, Fixtures, etc., and Special Tools).
545c	April 1957	Inventory Schedule D (Continuation Sheet).
546	do	Schedule of Accounting Information.
547	do	Settlement Proposal for Cost-Reimbursement Type Contracts.
548	July 1958	Application for Partial Payment.
614	June 1957	Materials Requirements—Steel and Nickel Alloys.
614-1	do	Materials Requirements—Copper and Aluminum.
633	April 1968	Contract Pricing Proposal.*
633-1	do	Contract Pricing Proposal (Technical Services).*
633-2	do	Contract Pricing Proposal (Technical Publications).*
633-3	do	Contract Pricing Proposal (Motion Pictures).*
633-4	do	Contract Pricing Proposal (Research and Development).*
633-5	do	Contract Pricing Proposal (Change Orders).*
783	July 1961	Royalty Report (Foreign and Domestic).
784	April 1959	Cost and Price Analysis for Contract Price Redetermination.
831	October 1959	Settlement Proposal (Short Form).
832	March 1969	Termination Inventory Schedule E (Short Form for Use With DD Form 831 Only).
1114	October 1959	Instructions for Use of Contract Termination Settlement and Inventory Schedule Forms.*
1115	February 1968	Instructions in Preparing Inventory Schedules of Contractor Inventory.*
1149	March 1959	Requisition and Invoice/Shipping Document.
1342	February 1968	DOD Property Record.
1419	do	DOD Industrial Plant Equipment Requisition.
1524	January 1966	Pre-Award Survey of Prospective Contractor—General.
1598	February 1967	Contract Termination Status Report.
1635	January 1968	Plant Clearance Case Register.
1636	do	Inventory Disposal Report.
1637	do	Notice of Acceptance of Inventory.
1639	do	Scrap Warranty.
1641	do	Disposal Determination/Approval.
1642	do	Inventory Verification Survey.
1784	November 1970	Small Purchase Pricing Memorandum.

(d) *Miscellaneous Forms.*

Number	Date	Title
AF-15		Monthly Report of Letter Contracts.
AF-857	August 1962	USAF Propellant Sale, Return Slip.
BDSAF-138	January 1967	Request for Special Priorities Assistance.
CB 16-19	February 1962	Construction Contract Award Notification.

*NASA Edition.

Number	Date	Title
DB 11	July 1964	Request for Determination.
DJ 1300	June 1961	Identical Bid Report for Procurement.
DMS-10	July 1959	Allotment of Controlled Materials (Production).
DMS-11	do	Allotment Decrease (Production).
DMS-12	do	Applicant's Return of Allotment.
DMS-13	do	Allotment of Controlled Materials (Construction).
DMS-14	do	Allotment Decrease (Construction).
GSA-457	October 1966	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	February 1968	Minimum Wage Determinations Under the Walsh-Healey Public Contracts Act.
SC-1	1966	Notice to Employees Working on Goverment Service Contracts.
SOL-155	July 1961	Wage Rate Information.
SOL-184 } SOL-185 }		Optional Payroll Forms for Use on Federal Construction Contracts Subject to the Davis-Bacon Act and Related Acts.
TD 720	July 1964	Quarterly Federal Excise Tax Return.
TD 1444	September 1969	Tax Free Spirits for Use of United States.
TD 1486	November 1969	Specially Denatured Spirits for Use of United States.

108. Section 16.101–1 is revised to read as follows:

§ 18–16.101–1 General.

The following contract forms shall be used effecting procurements of supplies or services by formal advertising:

(a) Solicitation, Offer, and Award (Standard Form 33), and the reverse side (Representations, Certifications and Acknowledgments);

(b) Solicitation Instructions and Conditions (Standard Form 33A);

(c) General Provisions (Supply Contract) (Standard Form 32);

(d) NASA Form 250 (Additional General Provisions to U.S. Standard Form 32), and any other special terms for the solicitation or additional contract provisions which are prescribed by this chapter;

(e) Continuation Sheet (Standard Form 36);

(f) Amendment of Solicitation/Modification of Contract (Standard Form 30) when needed (see § 18–16.103);

(g) Award/Contract (Standard Form 26) when needed.

109. Section 18–16.201–2 is revised to read as follows:

§ 18–16.201–2 Proposal and acceptance (NASA Forms 147 and 1379).

NASA Form 147 will normally be used in negotiated supply contracts for standard or commercial type items unless a purchase order form (NASA Form 1379) is appropriate for use.

110. Sections 18–16.201–4, 18–16.201–5, 18–16.201–6, and 18–16.201–7 are revised to read as follows:

§ 18–16.201–4 General provisions—fixed-price research and development contracts (NASA Form 247).

Except when NASA Form 246 is used, NASA Form 247 shall be used in all fixed-price research and development contracts, together with Standard Form 26 (Award/Contract).

§ 18–16.201–5 General provisions—fixed-price research contracts with nonprofit institutions—short form (NASA Form 246).

The General Provisions contained in NASA Form 246 are authorized for use in fixed-price contracts for basic or applied research with nonprofit institutions of higher education, or with nonprofit institutions whose primary purpose is the conduct of scientific research, when a short form is desired. Additional clauses may be added to or substituted for the clauses contained in NASA Form 246 in accordance with § 18–7.350–19. Standard Form 26 (Award/Contract) used with NASA Form 246.

§ 18–16.201–6 General provisions—cost-reimbursement research and development contracts (NASA Form 417).

Except when NASA Form 419 is used pursuant to § 18–16.201–7, NASA Form 417 shall be used in cost-reimbursement type research and development contracts. Standard Form 26 (Award/Contract) shall be used with NASA Form 417.

§ 18–16.201–7 General provisions—cost-reimbursement research and development contracts with educational or nonprofit institutions (NASA Form 419).

NASA Form 419 shall be used in cost-reimbursement type research and development contracts with educational or nonprofit institutions which involve no fee or profit, together with either Standard Form 26 (Award/Contract.).

111. Section 18–16.201–9 is added as follows:

§ 18–16.201–9 General provisions—time and material and labor hour contracts.

The general provisions contained in NASA Form 1334 shall be used in all time and material and labor hour contracts together with Standard Form 26 (Award/Contract).

112. Section 18–16.401–1 is revised to read as follows:

§ 18–16.401 Advertised construction contract forms.

§ 18–16.401–1 General.

The following forms are prescribed for use in formally advertised construction contracts where the work is to be performed in the United States, its possessions, or Puerto Rico:

(a) Standard Form 19—Invitation, Bid and Award (Construction, Alteration, or Repair).

(b) Standard Form 19–A—Labor Standards Provisions—Applicable to Contracts in Excess of $2,000.

(c) Standard Form 19–B—Representations and Certifications (Construction Contract).

(d) Standard Form 20—Invitation for Bids (Construction Contract).

(e) Standard Form 21—Bid Form (Construction Contract).

(f) Standard Form 22—Instructions to Bidders (Construction Contract).

(g) Standard Form 23—Construction Contract.

(h) Standard Form 23–A—General Provisions (Construction Contract).

(i) NASA Form 604—Additional General Provisions to U.S. Standard Form 23–A.

(j) Standard Form 30—Amendment of Solicitation/Modification of Contract (see § 18–16.103).

(k) *Continuation sheet.* There is no prescribed form of Continuation Sheet for construction contracts. A blank sheet, incorporating (1) the contract or invitation number, as appropriate; (2) page number and number of pages; and (3) name of bidder or contractor may be used for this purpose. Standard Form 36, Continuation Sheet (Supply Contract), shall not be used for construction contracts.

113. Section 18–16.401–3 is revised to read as follows:

§ 18–16.401–3 Terms, conditions, and provisions.

(a) The use of additional contract provisions consistent with those contained in the above forms is authorized, and, where required elsewhere in this Regulation, the use of such additional provisions is mandatory. NASA Form 604 shall be used to supplement Standard Form 23–A. The NASA "New Technology" and "Property Rights in Inventions" clauses shall be used as additional required clauses under the circumstances set forth in §§ 18–9.101–2 and 18–9.101–5.

(b) Changes or additional provisions inconsistent with those contained in the standard forms shall be incorporated when required by this chapter, and may be incorporated when authorized by this Regulation, or when approved pursuant to § 18–1.109. A copy of such approval pursuant to § 18–1.109–2 shall be forwarded by the Procurement Office, NASA Headquarters, to the General Services Administration.

(c) The provisions of paragraphs (a) and (b) of this section shall not be construed to authorize the reinstatement in Standard Form 19 of clauses which appear in Standard Form 23–A and which have either been condensed or omitted in the development of Standard Form 19 in the interests of simplification and uniformity. Where such reinstatement is deemed essential, the matter shall be handled as a deviation as provided in § 18–1.109. Deviations are not required for use with Standard Form 19 of clauses which, although not properly a part of Standard Form 23–A, may accompany it when printed for use within NASA.

(d) The "Disputes" clause of Standard Form 19, may be altered by inserting in

the Schedule or in the Specifications, the following:

Alterations. As used in the "Disputes" clause of the General Provisions, "head of the Federal Agency" means the "Administrator, NASA." (May 1965)

(e) During a period of national emergency, paragraph (d)(1) of the "Termination for Default—Damages for Delay—Time Extensions" clause of Standard Form 23–A has been changed by the "Alterations" clause in NASA Form 604 by deleting the words "unforeseeable causes" in the two places where they appear in the first sentence and substituting therefor the words "causes, other than normal weather."

(f) Deletion or modification of provisions in the above forms shall be accomplished in the "Alterations" paragraph added in the Schedule of Standard Form 19, or in the "Alterations" paragraph in NASA Form 604, or in the Specifications, as may be appropriate.

114. Section 18–16.804 is revised to read as follows:

§ 18–16.804 U.S. tax exemption certificate (Standard Form 1094).

(a) The U.S. Tax Exemption Certificate, Standard Form 1094, shall be used as prescribed in § 18–11.502–1.

(b) Treasury Department Form 1444 (Tax Free Spirits for Used of United States) and Treasury Department Form 1486 (Specially Denatured Spirits for Use of United States) shall be used in accordance with the provisions of § 18–11.250.

115. Section 18–16.813 is revised to read as follows:

§ 18–16.813 Small purchase pricing memorandum.

Small Purchase Pricing Memorandum (DD Form 1784) shall be used to document purchase order files as to reasonableness of price when a separate form is used for that purpose (see § 18–3.604–2). Local reproduction of DD Form 1784 is authorized.

116. Section 18–16.868 is added:

§ 18–16.868 Letters of delegation.

The forms set forth in this paragraph are prescribed for use, in accordance with the provisions of Subpart 18–51, 3, in requesting contract administration, audit, and other related support functions from another NASA installation or Government agency.

117. Sections 18–16.902 and 18–16.903 are revised to read as follows:

§ 18–16.902 Geographic distribution of NASA subcontracts (NASA Form 667).

In order to obtain information relating to the geographic distribution of subcontracts awarded under certain NASA contracts, the following clause will be inserted in all NASA contracts of $500,000 or more and in all contracts where a modification increases the amount of a contract to $500,000 or more. In the latter instance, the clause will be inserted at the time of the applicable modification but will not be retroactive so as to require the reporting of subcontracts awarded prior to such modification.

REPORT ON NASA SUBCONTRACTS (MARCH 1970)

(a) The Contractor agrees to submit information on NASA Form 667 to the National Aeronautics and Space Administration (Code: KD), Washington, D.C. 20546, substantially as follows with respect to each subcontract or modification thereof exceeding $10,000 as soon as possible after execution thereof:

(i) The name and address of the prime contractor and the NASA prime contract number;

(ii) The name and address of the subcontractor;

(iii) Whether the subcontractor is a large or small business concern;

(iv) Whether the type of effort being performed involves research and development;

(v) A brief description of the subcontract work;

(vi) The amount of the subcontract; and

(vii) The principal location where the subcontract work is to be performed, if known.

(b) The Contractor and his subcontractors will submit negative reports annually, when applicable, on each prime contract and first-tier subcontract subject to this reporting requirement. The negative reports will be submitted not later than July 31 for the 12 months' period ending June 30th of each year. The negative reporting will be continued until the contract or subcontract has been physically completed and the National Aeronautics and Space Administration (Code KD), Washington, D.C. 20546, so notified by the contractor or subcontractor.

(c) The term "subcontract" as used herein means procurement in excess of $10,000 by the Contractor or first-tier subcontractor of articles, materials, or services entering into the performance of this contract, except purchases, regardless of amount, of stock items, materials, or services which cannot be specifically identified with this contract.

(d) The term "research and development" as used herein means basic and applied research, and design and development of prototypes and processes to (1) pursue a planned search for new knowledge, with or without reference to a specific application, (2) apply existing knowledge in the creation of new products or processes and (3) apply existing knowledge in the improvement or modification of present products and processes. It excludes subcontracts for the purchase of standard commercial items and services.

(e) The Contractor further agrees to insert the provisions of paragraphs (a), (b), (c) and (d) of this clause in each subcontract in excess of $50,000. The Contractor will instruct his subcontractors to submit their reports directly to the National Aeronautics and Space Administration (Code: KD), Washington, D.C. 20546, and will provide his subcontractors with the number of the NASA prime contract.

§ 18–16.903 NASA small business subcontracting program quarterly report (NASA Form 524).

This report is designed to furnish statistics on the extent to which small business concerns are performing work or services as subcontractors under NASA prime contracts through implementation of the "Small Business Subcontracting Program." Complete instructions covering the preparation and submissions of this report are provided on the face of the report form.

§ 18–16.904 [Deleted]

117a. Section 18–16.904 is deleted.

PART 18–26—CONTRACT MODIFICATIONS

118. Section 18–26.400 is added.

§ 18–26.400 Scope of subpart.

This subpart prescribes the policy and procedures for (a) recognition of a successor in interest to Government contracts when such interests are acquired incidental to a transfer of all the assets of a contractor or such part of his assets as is involved in the performance of the contracts, (b) a change of name of a contractor, (c) single installation execution of novation agreements and change of name agreements affecting more than one installation, and (d) execution of novation agreements and change of name agreements by the Department of Defense (DOD) on behalf of NASA.

§ 18–26.401 [Deleted]

119. Section 18–26.401 is deleted.

120. Sections 18–26.402, 18–26.403, and 18–26.404 are revised to read as follows:

§ 18–26.402 Agreement to Recognize a Successor in Interest.

(a) The transfer of a Government contract is prohibited by law (41 U.S.C. 15). However, the Government may recognize a third party as the successor in interest to a Government contract where the third party's interest is incidental to the transfer of all the assets of the contractor, or all of that part of the contractor's assets involved in the performance of the contract. Examples include, but are not limited to:

(1) Sale of such assets;

(2) Transfer of such assets pursuant to merger or consolidation of corporation; and

(3) Incorporation of a proprietorship or partnership.

(b) When a contractor requests that the Government recognize a successor in interest the contractor should be advised that, if there is an affected contract between the contractor and any element of the DOD, the cognizant DOD Administrative Contracting Officer (ACO) should be contacted who will process the necessary agreement on behalf of NASA. If the contractor has no affected contract with an agency of the DOD, the contractor shall be required to provide the NASA installation designated (see § 18–26.404) with one copy of each of the following, as applicable:

(1) A properly authenticated copy of the instrument by which the transfer of assets was effected, as for example, a bill of sale, certificate of merger, indenture of transfer, or decree of court;

(2) A list of all contracts and purchase orders which have not been finally settled between NASA and the transferor, showing for each contract the contract number, the name and address of the installation involved, the total dollar value of each contract as amended, the type of contract involved, and the balance remaining unpaid;

(3) A certified copy of the resolutions of the Boards of Directors of the corporate parties authorizing the transfer of assets;

(4) A certified copy of the minutes of any stockholders' meetings of the corporate parties necessary to approve the transfer of assets;

(5) A properly authenticated copy of the certificate and articles of incorporation of the transferee if such corporation was formed for the purpose of receiving the assets involved in the performance of the Government contracts;

(6) Opinion of counsel for the transferor and transferee that the transfer was properly effected in accordance with applicable law and the effective date of transfer;

(7) Evidence of the capability of the transferee to perform the contracts;

(8) Balance sheets of the transferor and the transferee as of dates immediately prior to and after the transfer of assets;

(9) Evidence of security clearance requirements; and

(10) Consent of sureties on all contracts listed under (subparagraph (2) of this paragraph) where bonds were required, or a statement that none is required.

(c) When it is consistent with the Government's interest to recognize a successor in interest to a Government contract, the installation designated shall execute an agreement with the transferor and the transferee, which shall ordinarily provide in part that:

(1) The transferee assumes all the transferor's obligations under the contract;

(2) The transferor waives all rights under the contract as against the Government;

(3) The transferor guarantees performance of the contract by the transferee (a satisfactory performance bond may be accepted in lieu of such guarantee); and

(4) Nothing in the agreement shall relieve the transferor or the transferee from compliance with any Federal law.

All agreements, prior to execution, shall be reviewed by Government counsel for legal sufficiency. A form for such an agreement for use when the transferor and transferee are corporations, and the assets of the transferor are transferred, is set forth herein. This form may be adapted to fit specific cases and may be used as a guide in preparing similar agreements for use in other situations.

AGREEMENT

This Agreement, entered into as of (date upon which the transfer of assets became effective pursuant to applicable State law) 19___ by and between the ABC Corporation, a corporation duly organized and existing under the laws of the State of _____ with its principal office in the City of _____ (hereinafter referred to as the "Transferor"); the XYZ Corporation add if appropriate (formerly known as the LMN Corporation), a corporation duly organized and existing under the laws of the State of _____ with its principal office in the City of _____ (hereinafter referred to as the "Transferee"); and the United States of America (hereinafter referred to as the "Government").

WITNESSETH

1. Whereas, the Government, represented by various Contracting Officers of the National Aeronautics and Space Administration has entered into certain contracts and purchase orders with the Transferor, [namely: _____] or as set forth in the attached list marked "Exhibit A" to this Agreement and herein incorporated by reference; and the term "the contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, heretofore made between the Government, represented by various Contracting Officers of the National Aeronautics and Space Administration, and the Transferor (whether or not performance and payment have been completed and releases executed, if the Government or the Transferor has any remaining rights, duties or obligations thereunder), and including modifications thereto hereafter made in accordance with the terms and conditions of such contracts and purchase orders between the Government and the Transferee;

2. Whereas, as of _____, 19___, the Transferor assigned, conveyed, and transferred to the Transferee all the assets of the Transferor by virtue of a [term descriptive of the legal transaction involved] between the Transferor and the Transferee;

3. Whereas, the Transferee, by virtue of said assignment, conveyance and transfer, has acquired all the assets of the Transferor;

4. Whereas, by virtue of said assignment, conveyance and transfer, the Transferee has assumed all the duties, obligations and liabilities of the Transferor under the Contracts;

5. Whereas, the Transferee is in a position fully to perform the Contracts, and such duties and obligations as may exist under the Contracts;

6. Whereas, it is consistent with the Government's interest to recognize the Transferee as the successor party to the Contracts;

7. Whereas, there has been filed with the Government evidence of said assignment, conveyance or transfer, as required by NASA Procurement Regulation 26 402(b);

[Where a change of name is also involved, such as prior or concurrent change of name of the transferee, an appropriate recital shall be used; for example:

8. Whereas, there has been filed with the Government a certificate dated _____, 19___, signed by the Secretary of State of _____ to the effect that the corporate name of LMN Corporation was changed to XYZ Corporation on _____, 19___];

Now, therefore, in consideration of the premises, the parties hereto agree as follows:

9. The Transferor hereby confirms said assignment, conveyance and transfer to the Transferee, and does hereby release and discharge the Government from, and does hereby waive, any and all claims, demands, and rights against the Government which it now has or may hereafter have in connection with the Contracts.

10. The Transferee hereby assumes, agrees to be bound by, and undertakes to perform each and every one of the terms, covenants, and conditions contained in the Contracts. The Transferee further assumes all obligations and liabilities of, and all claims and demands against, the Transferor under the Contracts, in all respects as if the Transferee were the original party to the Contracts.

11. The Transferee hereby ratifies and confirms all actions heretofore taken by the Transferor with respect to the Contracts with the same force and effect as if the action had been taken by the Transferee.

12. The Government hereby recognizes the Transferee as the Transferor's successor in interest in and to the Contracts. The Transferee hereby becomes entitled to all right, title, and interest of the Transferor in and to the Contracts in all respects as if the Transferee were the original party to the Contracts. The term "Contractor" as used in the Contracts shall be deemed to refer to the Transferee rather than to the Transferor.

13. Except as expressly provided herein, nothing in this Agreement shall be construed as a waiver of any rights of the Government against the Transferor.

14. Notwithstanding the foregoing provisions, all payments and reimbursements heretofore made by the Government to the Transferor and all other action heretofore taken by the Government, pursuant to its obligations under any of the Contracts, shall be deemed to have discharged pro tanto the Government's obligations under the Contracts. All payments and reimbursements made by the Government after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to said Transferee and shall constitute a complete discharge of the Government's obligations under the Contracts, to the extent of the amounts so paid or reimbursed.

15. The Transferor and the Transferee hereby agree that the Government shall not be obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes or other expenses, or any increases therein, directly or indirectly arising out of or resulting from (i) said assignment, conveyance and transfer, or (ii) this Agreement, other than those which the Government, in the absence of said assignment, conveyance and transfer, or this Agreement, would have been obligated to pay or reimburse under the terms of the Contracts.

16. The Transferor hereby guarantees payment of all liabilities and the performance of all obligations which the Transferee (i) assumes under this Agreement, or (ii) may hereafter undertake under the Contracts as they may hereafter be amended or modified; and the Transferor hereby waives notice of and consents to any such amendment or modification.

17. Except as herein modified, the Contracts shall remain in full force and effect.

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

United States of America
By _____
Title _____

(Corporate Seal) ABC corporation
By _____
Title _____

(Corporate Seal) XYZ corporation
By _____
Title _____

CERTIFICATE

I, _____, certify that I am the Secretary of ABC Corporation, named above; that _____, who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this _____ day of _____, 19____.

(Corporate Seal) By_____

CERTIFICATE

I, _____, certify that I am the Secretary of XYZ Corporation, named above; that _____, who signed this Agreement on behalf of said corporation, was

then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and within the scope of its corporate powers.

Witness my hand and seal of said corporation this _____ day of _____, 19_____.

19_____.

By_____

(Corporate Seal)

[End of Agreement]

§ 18–26.403 Agreement to recognize change of name of contractor.

(a) Except as provided in paragraph (c) of this section where only a change of name is involved, so that the rights and obligations of the parties remain unaffected, an agreement between the designated installation (see § 18–26.404) and the contractor shall be executed effecting the amendment of all existing contracts between the contractor and NASA so as to reflect the contractor's change of name. Prior to the execution of such agreement, one copy of each of the following shall be deposited by the contractor with the installation designated:

(1) A copy of the instrument by which the change of name was effected, authenticated by a proper official of the State having jurisdiction;

(2) Opinion of counsel for the contractor as to the effective date of the change of name and that it was properly effected in accordance with applicable law; and

(3) A list of all contracts and purchase orders which have not been finally settled between the National Aeronautics and Space Administration and the transferor, showing the contract number, the name and address of the installation involved, the total dollar value of each contract as amended and the balance remaining unpaid.

(b) All agreements, prior to execution, shall be reviewed by Government counsel for legal sufficiency. A format for such an agreement which shall be adapted for specific cases is set forth below.

AGREEMENT

This Agreement, entered into as of _____, 19____ by and between the ABC Corporation (formerly the XYZ Corporation and hereinafter sometimes referred to as the "Contractor"), a corporation duly organized and existing under the laws of the State of _____, and the United States of America, represented by the National Aeronautics and Space Administration (hereinafter referred to as the "Government").

WITNESSETH

1. Whereas, the Government, represented by various Contracting Officers of the National Aeronautics and Space Administration has entered into certain contracts and purchase orders with the XYZ Corporation, [namely: _____] or [as set forth in the attached list marked "Exhibit A" to this agreement and herein incorporated by reference;] and the term "the Contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, entered into between the Government, represented by various Contracting Officers of the National Aeronautics and Space Administration, and the Contractor (whether or not performance and payment have been completed and releases executed, if the Government or the Contractor has any remaining rights, duties, or obligations thereunder);

2. Whereas, the XYZ Corporation, by an amendment to its certificate or incorporation, dated _____, 19____ has changed its corporate name to ABC Corporation;

3. Whereas, a change of corporate name only is accomplished by said amendment, so that rights and obligations of the Government and of the Contractor under the Contracts are unaffected by said change; and

4. Whereas, there has been filed with the Government documentary evidence of said change in corporate name;

Now Therefore, in consideration of the premises, the parties hereto agree that the Contracts covered by this agreement are hereby amended by deleting therefrom the name "XYZ Corporation" wherever it appears in the Contracts and substituting therefor the name "ABC Corporation."

In Witness Whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

United States of America
By _____
Title _____

(Corporate Seal)

ABC Corporation
By _____
Title _____

CERTIFICATE

I, _____, certify that I am the Secretary of ABC Corporation, named above; that _____ who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this _____ day of _____, 19_____.

By_____

(Corporate Seal)

[End of Agreement]

(c) Agreements to recognize a change of name of a contractor will be entered into by DOD on behalf of NASA if the contractor also has an affected DOD contract (see § 18–26.451). Contractors shall be advised to contact the cognizant DOD ACO when both NASA and DOD contracts will be affected.

§ 18–26.404 Processing novation agreements and change of name agreements.

(a) Any NASA installation, upon being notified of a successor in interest to, or change in name of, one of its contractors, shall promptly communicate with the contractor in writing. Except in those instances where there is an existent contract between the contractor and any element of the DOD (see §§ 18–26.402(b), 18–26.403(c) and 18–26.451) the contractor shall be requested to furnish the pertinent documentation enumerated in § 18–26.402(b) or § 18–26.403(a) as required, to the NASA installation with which it has the largest amount of unliquidated obligations. This installation shall be the "designated installation" for the purpose of processing and executing novation agreements and change of name agreements with the contractor. The installation shall immediately notify the Procurement Office, NASA Headquarters (Code KDP–3) of the request to execute a successor in interest or change in name agreement. The notification shall include (1) the names of the firms involved, (2) the name of the installation which will execute the agreement, and (3) the type of agreement contemplated.

(b) To avoid duplication of effort on the part of NASA installations in preparing and executing agreements to recognize a change of name or successor in interest, only one supplemental agreement will be prepared to effect necessary changes for all contracts between NASA and the contractor involved. The designated installation shall take all necessary and appropriate action with respect to either recognizing or not recognizing the successor in interest, or recognizing a change of name, including without limitation the following:

(1) Drafting and executing a supplemental agreement to one of the contracts affected but covering all applicable outstanding and incomplete contracts affected by the transfer of assets or change of name, and

(2) Instituting and monitoring procedures for security clearance. A supplemental agreement number need not be obtained for contracts other than for the one under which the supplemental agreement is written. Each supplemental agreement will contain a list of the contracts affected and, for distribution purposes, the names and addresses of the installations having contracts subjects to the supplemental agreement.

(c) Prior to execution, the agreement and supporting documents shall be reviewed for legal sufficiency by the legal office at the designated installation.

(d) After execution of the supplemental agreement, the designated installation shall:

(1) Forward three authenticated copies of the supplemental agreement to the Procurement Office, NASA Headquarters (Code KDP–3), and

(2) Advise each of the affected installations, by letter (see § 18–26.451), of the consummation of the supplemental agreement and request that an administrative change (see § 18–26.452) be issued for each affected contract. A copy of the supplemental agreement should be enclosed.

(e) For each such affected contract, the contracting officer shall prepare an administrative change (see § 18–26.452) acknowledging the change in name or successor in interest. The administrative change will receive the same distribution as the affected contract. It will indicate the nature of the transaction, the result attained, and will cite the number of the contract with which the original relevant documents and supplemental agreement are filed.

121. Sections 18–26.450 and 18–26.451 are revised to read as follows:

§ 18–26.450 Processing novation agreements and change of name agreements by the Department of Defense on behalf of NASA.

(a) The agreement between the National Aeronautics and Space Adminis-

tration and the Department of Defense for the performance of contract administration services and contract audit services has been amended by the addition of Appendix E concerning the accomplishment of novation agreements and change of name agreements by DOD on behalf of NASA. (See Ch. 1 to Attachment A, NMI 1052.12A.)

(b) Installations shall be notified by the Procurement Office, NASA Headquarters (Code KDP-3) when DOD is processing a proposed novation agreement on behalf of NASA. Within 20 days after receipt of such notice the installation shall submit comments to the Procurement Office, NASA Headquarters for transmittal to DOD. If an installation indicates a desire to consummate a separate agreement with the contractor, and the Procurement Office, NASA Headquarters concurs in the rationale presented, DOD shall be so notified. The Procurement Office, NASA Headquarters (Code KDP-3) will notify the designated NASA installation and a separate agreement shall be processed in accordance with § 18-26.404.

(c) After execution and distribution of an agreement three copies of an administrative change (Standard Form 30) for each contract will be prepared (Blocks 7, 8, 11 & 12) by the DOD ACO and transmitted to the cognizant NASA Procurement Office. Upon receipt of the administrative changes the contracting officer will complete and execute the Standard Form 30 and distribute in accordance with existing procedures.

(d) Copies of agreements entered into by DOD on behalf of NASA will be maintained in the Procurement Office, NASA Headquarters (Code KDP-3).

§ 18-26.451 Sample letter requesting issuance of administrative change.

The following sample letter format is appropriate to give notice of execution of a novation agreement and to request issuance of an administrative change in accordance with § 18-26.404(d)(2):

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

GODDARD SPACE FLIGHT CENTER

Greenbelt, Maryland

March 15, 1970.

Subject: Novation Agreement.

To: Procurement Officer, Langley Research Center.

1. Your attention is invited to the attached supplemental agreement wherein a transfer of the business of ABC Corp. to XYZ Corp. is recognized.

2. In accordance with NASA Procurement Regulation 26.404 contracting officer(s) presently responsible for affected contracts placed by your installation, which are listed in the supplemental agreement, should immediately issue an Administrative change to each such contract to reflect the change.

JOHN J. JONES,
PROCUREMENT OFFICER,
GODDARD SPACE FLIGHT CENTER.

122. Section 18-26.452 is added:

§ 18-26.452 Sample administrative change format.

National Aeronautics and Space Administration

Administrative Change

Contract No:

Change No:

Date:

Contractor:

Subject:

(Insert type of transaction—merger, etc.)

Pursuant to the provisions of the clause of Modification No. ---------- of Contract No. ---------- (This reference will be to the Modification actually recognizing the transfer.)

It is hereby acknowledged that said Contract Modification (insert, as appropriate, "effecting recognition of XYZ Corporation as a successor in interest applies in accordance with all of its terms and conditions to this contract," or "effecting recognition of a change of the contractor's name from ABC Corporation to XYZ Corporation applies in accordance with all of its terms and conditions to this contract").

Except as hereby modified, all the terms, covenants, and conditions of said contract as heretofore modified or amended shall remain in full force and effect.

The United States of America

By ----------
(Signature)

(Contracting Officer)

PART 18-50—ADMINISTRATIVE POLICIES AND PROCEDURES

123. Section 18-50.104 and 18-50.105 are revised to read as follows:

§ 18-50.104 Advance Information.

The procedures set forth below in this paragraph shall be followed by procurement offices in connection with procurements expected to exceed $10,000. (The information required is used primarily for the purpose of carrying out the policies described in Subpart 18-1.10, of this chapter.)

(a) A copy of each unclassified pre-invitation notice, invitation for bids (IFB), request for proposals (RFP), or request for quotations (RFQ), including specifications but not drawings, shall be forwarded to the Procurement Office, NASA Headquarters (Code KD-4) and the Defense Contract Administration Services Region, Los Angeles, 11099 South La Cienega Boulevard, Los Angeles, CA 90045 (Attn: DCRL-BS), at the time the notice is issued or bids, proposals or quotations are solicited. If the proposed procurement is classified, only a copy of the notice or solicitation of bids, proposals or quotations shall be forwarded to NASA Headquarters.

(b) The preinvitation notice will contain the information prescribed by § 18-2.205-4(c). Each copy of the IFB, RFP, or RFQ shall be accompanied by a statement of the estimated cost of the proposed procurement and a complete list of firms or persons solicited or invited to submit bids or proposals. This information is for internal NASA use only.

(c) Changes in, or amendments to, the original preinvitation notice, IFB, RFP, or RFQ will be distributed in the same manner as the original documents.

§ 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 area-wide 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 § 18.302(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. 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 below 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 below 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 below 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 below for the installation making the award.

(iii) (*a*) $500,000:

Flight Research Center.
Wallops Station.

(*b*) $1,000,000:

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 paragraph, shall contain the clause set forth in § 18–7.104–51.

124. Section 18–50.302–3 is revised to read as follows:

§ 18–50.302–3 Assigned contract or agreement prefixes.

Approved prefixes for NASA contract or agreement numbers are as follows:

Headquarters	*Prefix*
Headquarters Administration Office:	
All contracts, *except* those with universities	NASW
University contracts	NSR
Procurement Office (Basic Agreements)	NASP
Space Nuclear Systems Offices:	
SNSO, Germantown	SNS
SNSO, Cleveland Extension	SNSC
SNSO, Nevada Extension	SNSN
Field Installations and Offices	
Langley Research Center	NAS1
Ames Research Center	NAS2
Lewis Research Center	NAS3
Flight Research Center	NAS4
Goddard Space Flight Center	NAS5
Wallops Station	NAS6
NASA Pasadena Office	NAS7
George C. Marshall Space Flight Center	NAS8
Manned Spacecraft Center	NAS9
John F. Kennedy Space Center	NAS10

125. Section 18–50.303–2 is revised to read as follows:

§ 18–50.303–2 Assigned purchase order or request prefixes.

Approved letter prefixes for NASA purchase orders (including blanket purchase agreements) or requests to other Government agencies are as follows:

(a) *Headquarters.*	*Prefix*
Headquarters Administration Office	W
Space Nuclear Systems Office:	
SNSO, Germantown	SN
SNSO, Cleveland Extension	SNC
SNSO, Nevada Extension	SNN
(b) *Field installations and offices.*	
Ames Research Center	A
Flight Research Center	E
George C. Marshall Space Flight Center	H
Goddard Space Flight Center	S
John F. Kennedy Space Center	CC
Langley Research Center	L
Lewis Research Center	C
Manned Spacecraft Center	T
NASA Pasadena Office	WO
Wallops Station	P

PART 18–51—CONTRACT MANAGEMENT PROCEDURES

126. Subpart 18–51.3 is revised in its entirety as follows:

Subpart 18–51.3—Contract Management and Delegation of Contract Administration Services and Related Field Support Functions.

Sec.

AUTHORITY: This Subpart 18–51.3 issued under 42 U.S.C. 2473(b)(1).

Subpart 18–51.3—Contract Management and Delegation of Contract Administration Services and Related Field Support Functions

§ 18–51.300 Scope.

This subpart prescribes policies and procedures to be followed by NASA installations (including resident offices located in contractors' plants) in delegating and redelegating contract administration and audit functions to the Department of Defense (DOD), to other Government agencies, and to other NASA installations. The provisions of this subpart apply to both prime contracts and subcontracts, except for architect-engineer contracts and construction of facilities contracts.

§ 18–51.301 Definitions.

The terms used in this subpart have the meanings as set forth below.

(a) *Contract administration.* "Contract administration" is the process by which the Government, acting through a contracting officer, assures contractor and Government performance of contractual obligations.

(b) *Contract administration office.* A "contract administration office" is an office of NASA, the Defense Supply Agency, the military departments of DOD or of other Government agencies performing contract administration function on Government contracts. A contract administration office may also perform related services, such as preaward survey and price analyses.

(c) *Contract administration functions.* "Contract administration functions" are those actions accomplished by the Government at or near a contractor's plant, at test and launch sites

or other prescribed places of contract performance, to assure that the contractor's total performance is in accordance with the contract requirements and that the obligations of the Government are fulfilled.

(d) *Delegation of contract administration functions.* "Delegation of contract administration functions" is the process whereby a contract administration office is given the authority and responsibility by a contracting officer within the authorized scope of his authority to perform identified function necessary to assure effective performance of specific contract requirements.

(e) *Redelegation of contract administration functions.* "Redelegation of contract administration functions" is the process whereby a contract administration office is given the authority and responsibility by another contract administration office to perform identified functions necessary to assure effective performance of the requirements of a specific contract or subcontract.

§ 18–51.302 Policy.

It is NASA policy to make optimum use of the contract administration and related support functions available from the DOD and other Government agencies. The contract administration functions that are available from DOD, and that will be accomplished by DOD for NASA when requested, are listed in §§ 18–51.304(c) and 18–51.304(d).

§ 18–51.303 General.

(a) NASA agreements with Government agencies which relate to the delegation and performance of contract administration and related field support functions are published in the 1050 series of the NASA Management Instructions.

(b) Contractors are responsible for managing their subcontracts; therefore, contract administration functions shall be performed by the Government for subcontracts only as necessary to meet specific NASA requirements. Delegations for contract administration at subcontractors' plants normally shall be made by or through contract administration offices that are responsible for the prime contractors. Where a direct delegation is made for performance of contract administration functions at a subcontractor's plant (such as for quality assurance), advance coordination with the contract administration office that is responsible for the prime contractor shall be accomplished and copies of the delegation shall subsequently be provided to that office.

(c) Delegations of contract administration functions to be performed at another NASA installation shall be in compliance with §§ 18–51.305 and 18–51.306.

(d) DOD contract administration and audit offices will accomplish the delegated functions in accordance with DOD regulations and procedures, except that the following shall take precedence over DOD regulations and procedures:

(1) NASA letters of delegation, including any special instructions attached thereto;

(2) Applicable requirements of NASA Quality Publication NHB 5300.4 "Quality Assurance Provisions for Government Agencies"; and

(3) Any special procedures contained in written agency agreements between NASA and DOD.

(e) NASA shall retain technical direction of all NASA contracts on which the DOD is performing contract administration services. NASA may also assign technical personnel (such as quality assurance, reliability, or engineering representatives) to contractors' plants or laboratories for the purpose of providing direct liaison with NASA, and technical assistance and guidance to the contractor and DOD. The duties and responsibilities of the technical representatives assigned shall be clearly defined and shall not conflict, duplicate or overlap functions delegated to DOD personnel. All DOD and contractor organizations shall be advised of duties and responsibilities of NASA technical personnel with whom they will be concerned. Where such NASA technical personnel are performing any of the contract administration functions listed in § 18–51.304(d), the provisions of § 18–51.307 apply.

§ 18–51.304 Implementation.

(a) The delegation of contract administration functions is optional for the contracts and situations listed below.

(1) Research and development study contracts not involving deliverable hardware or Government property in the hands of contractors;

(2) All contracts with delivery schedules of 90 days or less;

(3) Purchase orders having no Government source inspection requirements;

(4) Contract work performed on the installation awarding the contract; and

(5) Contract work performed in the vicinity of the installation awarding the contract and for which DOD contract administration services are not reasonably available.

(b) The functions listed below are the responsibility of the NASA contracting officer and shall not be delegated to DOD or to another Government agency.

(1) Execution of supplemental agreements involving new procurements, terminations, or spare parts;

(2) Issuance of decisions subject to the provisions of the "Disputes" clause;

(3) Termination for default or for convenience of the Government;

(4) Issuance of change orders under the contract;

(5) Countersigning NASA Form 456, "Notice of Contract Costs Suspended and/or Disapproved";

(6) Approval of the completion voucher; and

(7) Contract payment.

(c) The functions listed below may be delegated to DOD or to another Government agency at the option of the NASA contracting officer. When delegation of the functions or any part of the functions listed below is desired, the work requested of DOD or of another Government agency shall be set forth in written special instructions accompanying the letter of delegation:

(1) Negotiate supplemental agreements resulting from change orders issued under the "Changes" clause and forward for the signature of the NASA Contracting Officer. (Prior to completion of negotiations, any delivery schedule change shall be approved by the NASA contracting officer);

(2) Negotiate prices and execute priced exhibits for unpriced orders issued by the NASA contracting officer under basic ordering agreements;

(3) Negotiate settlement agreements involving partial and complete contract terminations for convenience, upon request of the NASA contracting officer, and forward for the signature of the NASA contracting officer;

(4) Negotiate supplemental agreements for spare parts and other items selected through provisioning procedures, and forward for the signature of the NASA contracting officer;

(5) Issue work request under maintenance, overhaul and modification contracts insofar as such work requests do not constitute obligation of funds which are not available under the contract;

(6) In connection with classified contracts, administer those portions of the Industrial Security Program designated as administrative contracting officer responsibilities in Appendix C, Industrial Security Regulation, DOD 5220.22R;

(7) Assure compliance with the "New Technology" clause of the contracts;

(8) Consent to placement of subcontracts;

(9) Perform transportation and packaging functions;

(10) Perform reliability and quality assurance functions including reliability and quality assurance engineering functions;

(11) Perform systems support engineering functions (as differentiated from production and reliability, and quality assurance engineering); and

(12) Maintain surveillance of aircraft flight operations.

(d) Except where approved by the Procurement Officer in accordance with paragraph (e) of this section, when a delegation is made to DOD or to another Government agency, the NASA contracting officer shall delegate all of the functions set forth below, even though one or more of the functions may not be applicable to the performance of the contract:

(1) Review of contractor's compensation structure;

(2) Review of contractor's insurance plans;

(3) Review and approve or disapprove contractor's requests for payments under the progress payments clause;

(4) Negotiate provisional overhead rates, or determine billing rates. Negotiate final overhead rates when the contract contains a negotiated overhead rate clause and when the contractor is not under the negotiation overhead rate procedure pursuant to § 18–3.705.

(5) Negotiate advance understandings on particular cost items for the signature of the NASA contracting officer, except when responsibility is placed elsewhere;

(6) Review and evaluate contractor's proposals for contract changes and furnish comments and recommendations to the NASA contracting officer. Negotiate with the contractor when requested by the NASA contracting officer;

(7) Manage special bank accounts;

(8) Assure timely notification by the contractor of any anticipated overrun or underrun of the estimated cost under cost-type contracts;

(9) Review, approve or disapprove, and maintain surveillance of the contractor's procurement system when consent to the placement of subcontracts has been delegated;

(10) Monitor contractor's financial condition and advise the NASA contracting officer when contract performance is jeopardized thereby;

(11) Issue tax exemption certificates when applicable, and assure that the contractor advises NASA of changes in contract price, if any;

(12) Assist in the conduct of postaward orientation conferences;

(13) Prepare findings of fact under the "Disputes" clause and forward with recommendations to the NASA contracting officer;

(14) Assure processing of duty-free entry certificates for execution by the NASA contracting officer;

(15) Assure contractor compliance with small business and labor surplus area subcontracting and set-aside requirements, and provide advice on small business and labor surplus area matters as required;

(16) Issue cure and show cause letters after approval of the NASA contracting officer;

(17) Monitor the contractor's system for control of overtime;

(18) Assure that overtime compensation is in accordance with the terms of the contract, or in the absence of contractual coverage, any expected overtime charged is reasonable and properly allocable;

(19) Perform property administration;

(20) Perform plant clearance officer functions, assuring screening of contractor inventory by NASA prior to additional screening, redistribution and disposal;

(21) Evaluate contractor's requests for facilities and changes to existing facilities, and provide the NASA contracting officer with appropriate recommendations;

(22) Assure required screening of facility items before acquisition by contractor;

(23) Evaluate contractor's request for approval to use facilities in accordance with the "Use and Charges" clause and provide the NASA contracting officer with appropriate recommendations;

(24) Assure collection of any rental due for use of facilities;

(25) Assure reporting of NASA facilities no longer needed by the contractor;

(26) Perform production support and surveillance (including production engineering), and status reporting of potential and actual slippages in contract schedules;

(27) Monitor compliance with labor and industrial relations matters under the contract, apprising the NASA contracting officer of actual or potential labor disputes, and remove material from strikebound contractors' plants upon instructions from the NASA contracting officer;

(28) Assure contractor compliance with applicable safety requirements of the contract, including the handling of hazardous and dangerous materials and processes;

(29) Make appropriate comments to the NASA contracting officer on any inadequacies noted in specifications; and

(30) Assure timely submission of required reports.

(e) When the performance of any of the functions in paragraph (d) of this section is necessary to the administration of a contract and that function is retained for administration or modified by the NASA contracting officer, the NASA contracting officer shall: (1) justify, in writing, the retention or modification of that function, (2) obtain written approval of the justification from the Procurement Officer of the installation making the delegation, or from his designee, and (3) assure that the approved justification becomes a permanent part of the contract file. The NASA contracting officer shall then advise the contract administration office of the retention or modification of the function by means of written special instructions on NASA Form 1430A (see § 18–16.868) accompanying the letter of delegation. No notice of the retention of a function shall be issued to the contract administration office for any function listed in paragraph (d) of this section that is not necessary to the administration of the contract. The provisions of this paragraph do not apply to contracts and situations described in §§ 18–51.304(a), 18–51.305 and 18–51.306.

(f) NASA contracting officers shall request contract administration, audit or other services from other NASA installations and cognizant DOD offices through the use of the NASA Forms set forth in § 18–16.868.

(g) NASA Form 1430 shall be used by NASA installations for the delegation and redelegation of contract administration functions and for amending existing delegations. NASA Form 1430A, "Letter of Contract Administration Delegation, Special Instructions," shall be used to supplement NASA Form 1430 under any or all of the following circumstances:

(1) To delegate functions other than those listed in paragraph (d) of this section;

(2) To modify functions listed in paragraph (d) of this section;

(3) To retain the administration of functions listed in paragraph (d) of this section;

(4) To provide additional or peculiar information concerning the contract that may assist the contract administration office to more effectively perform the delegated contract administration responsibilities (except see paragraph (h) of this section).

Prior to making a delegation which involves additional or modified functions, the NASA contracting officer shall assure that sufficient resources to perform such functions are available at the contract administration office receiving the delegation.

(h) Letters of delegation and special instructions shall not be used in lieu of, or to repeat, provisions and requirements that are or should be contained in the contract, and shall not:

(1) Repeat the functions covered in paragraph (d) of this section;

(2) Repeat or cite administrative procedures, restrictions on administrative contracting officers, or other information covered in DOD issuances (when known);

(3) Include references to NASA issuances, unless specific written NASA/DOD agreements exist which include references to such issuances, or unless the NASA issuances are a requirement of the contract.

Where it is appropriate to cite DOD issuances in a letter of delegation, the NASA contracting officer shall assure that the issuances are applicable to the contract administration office concerned (i.e., that Air Force issuances are not cited in delegations made to Navy or DCAS contract administration offices).

§ 18–51.305 Contractor performance on a NASA installation.

When a NASA contract requires contractor performance on another NASA installation or NASA-controlled launch site, a delegation shall be made to the procurement office of the NASA installation on which performance will take place. Normally, delegations shall include the functions listed in § 18–51.304(d), and shall include the contracting officer security functions (when required in the performance of the contract on the installation or site), and the administration of any NASA support to be provided to the contractor. Retention by the delegating contracting officer of any of the functions listed in § 18–51.304(d) is authorized, provided the functions retained are made known to the contracting officer receiving the delegation.

§ 18–51.306 Contract administration by DOD personnel on a NASA installation.

When it is contemplated that the presence of DOD personnel will be required on a NASA installation for the purposes of performing contract administration functions, the NASA contracting officer of the NASA installation on which contract performance will take place shall obtain prior approval for the use of such personnel from the Head of his Installation and shall obtain the concurrence of the Director of Procurement,

NASA Headquarters (Code KDP-3). Such approvals will normally be governed by the following criteria:

(a) The delegation of any functional area (i.e., production, property administration, quality assurance, etc.) shall include all of the administrative responsibilities pertaining to that functional area that are listed in § 18-51.304(d), that the DOD contract administration office is capable of performing; and

(b) The functions so delegated are to be accomplished under the direction of the contract administration office to which the delegation will be made.

§ 18-51.307 Assignment of NASA personnel at contractor plants.

(a) NASA personnel normally shall not be assigned at or near a contractor's facility for the purpose of performing any contract administration functions listed in § 18-51.304(d). Prior to making such an assignment, a written request shall be forwarded to the cognizant Institutional Director for his approval and the concurrence of the Director of Procurement. The following supporting information shall be forwarded with the request to make the assignment:

(1) A statement of the special circumstances which necessitate the assignment;

(2) The contract administration services to be performed;

(3) A summary of any discussions held with the cognizant contract administration organization; and

(4) A staffing plan for a 3-year period or such shorter period as may be appropriate.

The provisions of this paragraph do not apply to NASA audit personnel assigned to the field installations, to NASA technical personnel covered by § 18-51.303(e), unless they are performing any of the contract administration functions listed in § 18-51.304(d), or to personnel assigned to contractors' plants that are located on either NASA or other Government agency installations.

(b) Personnel assignments made at or near a contractor's facility for the purpose of performing the contract administration functions listed in § 18-51.304(d) shall be reviewed annually by the cognizant NASA installation, and a justification for the proposed continuance of such assignments shall be furnished to the Director of Procurement and the appropriate Institutional Director by October 1 of each year, except that annual justification is not required for those offices located on NASA or other Government agency installations.

(c) When a NASA resident office and a DOD contract administration office are performing contract administration functions on NASA contracts at the same contractor's facility, a written agreement between the two offices shall be entered into which will clearly delineate the interface of the two organizations with each other and with the contractor. The agreement should eliminate duplication in the performance of contract administration functions, and should minimize procedural misunderstandings between the two organizations. Such agreements shall be consistent with existing delegations to the contract administration offices concerned, and shall include the relationship of NASA nonprocurement resident personnel with their DOD and contractor counterparts when such personnel are, or intend to be, involved in any aspect of contract administration such as surveillance of the safety requirements of the contract, contractor use of NASA facilities, or contractor schedule performance.

§ 18-51.308 Delegations to contract administration offices.

The procedures set forth below shall apply when delegations to contract administration offices are contemplated and subsequently accomplished. (For delegations to audit offices, see § 18-51.309.)

(a) NASA contracting officers shall review contract performance requirements as early as possible in the procurement cycle to determine the nature and extent of contract administration functions to be performed. This review shall be coordinated with appropriate installation activities, including program managers, to insure that all essential requirements are incorporated in the delegation. A similar review shall be made prior to the issuance of amendments to letters of delegation pursuant to paragraph (e) of this section.

(b) A planning conference shall be held with representatives of the contract administration office, when any of the following circumstances exist:

(1) A contract is expected to exceed $5 million;

(2) When contract performance is required at or near another NASA installation or NASA-controlled launchsite;

(3) When it is evident that the delegation will impose an abnormal demand on the resources of the contract administration office receiving the delegation;

(4) When the circumstances indicate that complex contract management problems are anticipated; or

(5) At any other time the NASA contracting officer considers such a conference advisable.

(c) Letters of delegation shall be prepared and issued as soon as practicable, but not later than 15 days after award of the contract.

(d) Delegations and amendments thereto should be accompanied by documentation and supporting information which will ensure a complete understanding of the contract administration services to be performed. Contract administration offices shall be kept fully informed of all actions which may affect the performance of the delegated functions. Copies of all significant documents should be furnished to the contract administration office throughout the period of performance of the contract. Significant documents include but are not limited to:

(1) All contractual documents such as the contract, specifications and drawings, change orders, supplemental agreements, and contractor proposals when referenced in the contract;

(2) Negotiation memoranda covering negotiations of contracts or contract changes in excess of $100,000;

(3) Copies of any delegation and amendments thereto sent to other contract administration offices which have a bearing on the contract, including those issued pursuant to § 18-51.303(b); and

(4) Any other correspondence affecting contract performance under the contract.

(e) Amendments to letters of delegation shall be issued when amendments to the contract are of a nature that will change the scope of functions previously delegated, when additional functions are required to be delegated, or when previously delegated functions are to be terminated in whole or part. However, when a contract administration office has retired the original letter of delegation with the records of a physically completed but administratively open contract, a new letter of delegation shall be issued to support any additional reimbursable services required under the delegation. In order to minimize the need for a duplicate delegation to be issued at a later date on a contract that is nearing closeout, the NASA contracting officer shall advise the contract administration office to hold the contract in open status, when conditions exist or are anticipated, that justify extension of the contract period of performance. Appropriate NASA Forms listed in § 18-16.868 shall be used in the amendment process. The forms shall be clearly annotated as an amendment to the original delegation.

(f) NASA Form 1431, "Letter of Acceptance of Contract Administration Delegation," shall be forwarded with each NASA form 1430 and amendment thereto. The form, when returned, shall be used by the NASA contracting officer as evidence that the delegation has been received and accepted by the contract administration office, and as a reference for points of contact for each of the functional areas delegated.

(g) Delegations shall be sent to DOD contract administration offices in accordance with the instructions contained in the DOD Directory of Contract Administration Services Components (DOD 4105.59H).

(h) The distribution of copies of the contract and letters of delegation for contract administration (including amendments thereto) shall be as follows:

(1) Contract Administration Office when two or more functional areas are delegated: six copies of the contract; six NASA forms 1430; six NASA forms 1430A (when applicable); three NASA forms 1431.

(2) Contract Administration Office when a single functional area is delegated: two copies of the contract; two NASA Forms 1430; two NASA Forms 1430A (when applicable); three NASA Forms 1431.

(3) Contractor: one NASA form 1430; one NASA Form 1430A (when applicable).

§ 18–51.309 Delegations to audit offices.

The procedures set forth in this section and in § 18–51.308(a) 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 Number A–88 and those accomplished by NASA. To ensure 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 NSA 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.

§ 18–51.310 Reliability and quality assurance.

When special instructions for reliability or quality assurance are necessary, the requirements shall be clearly identified by the NASA installation personnel responsible for the reliability and quality assurance function and shall be furnished to the contracting officer on NASA Form 1430A, "Letter of Contract Administration Delegation, Special Instructions," for inclusion in the letter of delegation. The procedures for arranging, preparing, and finalizing such delegations and the requirements for NASA direction and management of these functions are contained in NHB 5330.7, "Management of Government Quality Assurance Functions for Supplier Operations."

§ 18–51.311 Production surveillance and reporting.

(a) *Production surveillance.* To assist the DOD contract administration office in accomplishing the production surveillance function when delegated, NASA contracting officers shall specify the degree of surveillance desired in accordance with the criteria set forth below. The surveillance category number selected shall be inserted in the space provided on NASA Form 1430. This paragraph does not apply to delegations made to Government agencies other than DOD, nor to delegations made to other NASA installations.

Surveillance category No.	*Criteria*
1	Surveillance at a technical level sufficient to provide continuous knowledge of problems which may cause a delinquency.
2	Verification and inquiry by technical or clerical personnel, at least monthly, sufficient to detect a delinquency in advance of scheduled delivery or completion date.
3	Verification and inquiry as necessary to detect a delinquency, but in no event less than once in advance of the scheduled delivery or completion date.
4	Verification and inquiry limited to fact finding, at a technical or clerical level, after a failure to meet the contract delivery or performance schedule has occurred.

(b) *Production progress reporting.* When a NASA contracting officer determines that a need exists for a contractor to initiate production progress reports, the requirement shall be set forth in the contract schedule. If it is desired that a contract administration office initiate production progress reports, the requirement shall be set forth in the special instructions to the letter of delegation, NASA form 1430A. Nonrecurring reports, such as advice of shipment and status of delivery, may be requested as required, and by any means of communication commensurate with the urgency of the situation.

§ 18–51.312 Transportation and packaging.

(a) Transportation and packaging functions may be delegated at the option of the NASA installation personnel responsible for the transportation and packaging function. When such delegations are contemplated on a particular contract, special instructions will be furnished to the NASA contracting officer on NASA form 1430A. The form shall also specify the limit of the value of Government bills-of-lading that may be issued without further consent of the NASA contracting officer and shall provide appropriate funding information.

§ 18–51.313 Industrial security.

NASA industrial security policies and procedures are set forth in NASA Management Instruction 1650.1, "Industrial Security Policy and Procedures" which stipulates that the industrial security function on NASA contracts will be performed automatically by DOD. The basis for DOD performance of this function is the NASA–DOD Agreement, NASA Management Instruction 1052.12A. Noninductrial security functions, which are the responsibility of the NASA contracting officer, may be delegated to DOD at the option of the NASA contracting officer, and shall be delegated when contract performance is to be accomplished at another NASA installation (see § 18–51.305). These contracting officer security functions, when delegated to DOD or to another NASA installation, shall be specifically identified on NASA Form 1430A, "Letter of Contract Administration Delegation, Special Instructions."

§ 18–51.314 Services not requiring letters of delegation.

(a) When it is desired that a contract administration or audit office perform services which precede the award of a contract such as cost, price, or technical evaluations (but exclusive of preaward surveys), NASA Form 1434, "Letter of Request for Pricing-Audit-Technical Evaluation Services," shall be used. Preaward surveys shall be requested on DD Form 1524, "Preaward Survey of Prospective Contractors" (see § 18–1.905). Oral requests made to contract administration offices to expedite these services are authorized but shall be confirmed in writing immediately through the use of NASA form 1434 or DD form 1524 as appropriate.

(b) Preaward and post award services such as verification of labor and overhead rates, and similar information which is readily available within contract administration and audit offices and which is not normally subject to reimbursement by NASA, may be obtained either orally without written confirmation or through the use of NASA form 1434, as appropriate.

§ 18–51.315 Reimbursement for contract administration service.

The basis for reimbursement to DOD for contract administration and related support services is the NASA–DOD agreement, NASA Management Instruction 1052.12A. Budgeting, funding, and payment for these services will be accomplished in accordance with NASA Management Instruction 7410.1, "Budgeting, Funding and Payment for Contract Administration and Related Field Services

Performed by Others." Budgeting, funding, and payment of carrier bills of lading for transportation performed as a result of a traffic management delegation are the responsibility of the NASA installation issuing the delegation.

§ 18–51.316 Contract correspondence.

Generally correspondence to a contractor relating to contract administration functions which have been delegated under a contract should be forwarded through the cognizant contract administration or audit office. When correspondence is forwarded directly to the contractor, a copy shall be furnished concurrently to the appropriate contract administration or audit office. All contract correspondence shall identify the contractor and the contract number to which the correspondence applies.

§ 18–51.317 Visits to contractors' plants.

Prior to visits by NASA personnel to a contractor's facility to discuss or review matters previously delegated to DOD, the DOD contract administration office shall be provided the following information:

(a) Name, official position, and activity represented by the visitor;

(b) Date of intended visit;

(c) Name and address of contractor and personnel to be contacted;

(d) Contract number, the program involved, the purpose of the visit, and whether or not access to classified information is involved;

(e) Security clearance; and

(f) If desired, a request that a representative of the contract administration office accompany the visitor.

§ 18–51.318 Reporting requirements.

(a) NASA installations semiannually shall assess their delegation activity in relation to DOD, to determine changes in delegation patterns that could result in significant increases or decreases in future DOD manpower requirements, or that could have other important impacts on DOD contract administration activities. Events such as major program cutbacks or expansions, changes in locations of major programs, and sizeable new procurements should be considered in the assessment. The results of these semiannual surveys, whether or not a significant change in the delegation pattern is detected or anticipated, shall be submitted to the Procurement Office, NASA Headquarters (Code KDP–3) not later than February 1 and August 1 of each year.

(b) When a significant change in a delegation pattern as described in paragraph (a) of this section is detected or anticipated, the results of the semiannual survey shall include at least the following:

(1) A description of the change in work requirements or delegation pattern;

(2) An estimate of the period of time that the impact will be felt; and

(3) An estimate of the magnitude of the impact on DOD in terms of changes in manpower requirements or other costs.

The anticipated impact on the DOD shall be discussed with the DOD contract administration offices concerned and the results of these discussions, such as DOD agreement or disagreement with the estimated impact, shall be included in the report.

§ 18–51.319 Functional management responsibility.

NASA contracting officers shall retain functional management responsibility for their contracts. Utilization of the contract administration services of another Government agency or NASA installation in no way relieves the NASA contracting officer of his ultimate responsibility for the proper and effective management of the contract. Therefore, the NASA contracting officer must ensure that complete understanding has been achieved with the contract administration office as to the respective duties and responsibilities of each office in connection with each NASA contract. NASA contracting officers shall also keep themselves fully informed on contractor performance and progress by the establishment and maintenance of effective communications with contract administration offices.

PART 18–52—PRIORITIES AND ALLOCATIONS

127. Section 18–52.502 is revised to read as follows:

§ 18–52.502 Reporting responsibility.

(a) *Scope of report.* Field installations shall submit periodic estimates of requirements for materials listed in § 18–52.508 for all programs under their cognizance, including in-house and contractor requirements. Headquarters Program Offices shall submit periodic estimates of requirements for any existing or potential programs which may not be known to, or not under the cognizance of, a field installation. Reports shall be submitted in duplicate on NASA Form 558, Materials Requirements Report.

(b) *Report due dates—NASA Headquarters.* (1) The reports required by § 18–52.502 shall be forwarded so as to reach the Procurement Office, NASA Headquarters (Code KDP–3) no later than June 1 and December 1. Supplemental reports which advise of additions to or significant changes in previous reports shall be submitted at any time.

(2) The reports, covering all materials listed in § 18–52.508 due in June and December shall begin with requirements as of the following July 1 and January 1, respectively, and shall cover a 3-year period. Requirements shall be shown by month for the first 6 months, and by quarters for the remaining two and one-half year period.

(c) *Report due dates—Air Force.* (1) The reports required by § 18–52.502 shall be forwarded so as to reach Headquarters San Antonio Air Materiel Area, Kelly Air Force Base, Tex., Attention: SAOS, no later than February 28, June 1, August 28, and December 1. Supplemental reports which advise of additions to or significant changes in previous reports shall be submitted at any time.

(2) The reports covering all materials (listed in § 18–52.508) which are obtained pursuant to § 18–5.701 that are due in June and December shall begin with requirements as of the following July 1 and January 1 respectively, and shall cover a 3-year period. Requirements shall be shown by month for the first 6 months, and by quarters for the remaining two and one-half year period.

(3) The reports due in February and August shall begin with the following April 1 and October 1, respectively and cover a 6-months period by month. These reports shall be limited to requirements for liquid oxygen, liquid nitrogen, hydrazine, UDMH, MMH, UDMH/hydrazine mix, and nitrogen tetroxide that are obtained pursuant to § 18–5.701.

128. Appendix I, Subpart 3 is revised in its entirety as follows:

SUBPART 3—PREPARATION OF THE DD FORM 250 AND DD FORM 250c

I.301 Preparation Instructions. DD Form 250 (MIRR) and DD Form 250c (Continuation Sheet) shall be prepared as follows:

(a) General.

(i) The date, where required, shall utilize seven spaces consisting of the last two digits of the year, three alphabtic month abbreviation, and two digits for the day. For example, 67 AUG 07, 67 SEP 24;

(ii) The address, where required, shall consist of the name, street address/P.O. Box, city, state and ZIP code;

(iii) When the DD Form 250c is used, the data entered in the blocks at the top of the form shall be identical to the comparable entries as shown in Blocks 1, 2, 3 and 6 of the DD Form 250;

(iv) Overflow data of the DD Form 250 shall be entered in Block 16 or in the body of the DD Form 250c with appropriate block cross reference. Additional DD Form 250c sheets, solely for continuation of Block 23 data, shall not be numbered or distributed as part of the MIRR.

(b) *Classified information.* Classified information shall not be included in or appear on the MIRR, nor shall the MIRR be classified.

Block 1—Contract number.

(a) Enter the contract number as contained in the contractual document, including the applicable call/order number if any.

(b) Enter the name of the procurement office immediately below the contract number. This requirement may be satisfied by inclusion of the approved prefix used in the contract number to identify the procurement office.

Block 2—Shipment no.

(a) The shipment number is composed of a three alpha character prefix and a four numeric or alpha-numeric serial number.

(1) The shipment number prefix shall be controlled and assigned by the prime contractor and shall consist of three alphabetic characters for each "Shipped From" address (Block 11).

(2) The first shipment under a prime contract from each "Shipped From" address shall be numbered 0001; all subsequent shipments under that prime contract shall be consecutively numbered.

a. Alpha-numeric serial numbers shall be used when more than 9,999 numbers are required. Alpha-numeric numbers shall be serially assigned with the alpha in the first

position followed by the three position numeric serial number. The following alphanumeric sequence shall be used (the letters I and O shall not be used):

A001 through A999 (10,001 through 10,999), B001 through B999 (11,001 through 11,999) through Z001 through Z999 (34,001 through 34,999).

b. When this series is completely used, numbering shall revert to 0001.

(b) The shipment number of the initial shipment shall be reassigned where a "Replacement Shipment" is involved (Block 16 (b) (4)).

(c) The prime contractor shall control deliveries and on the last shipment of the contract shall suffix the shipment number with a "Z" in addition to that required for line items (see Block 17). Where the contract final shipment is from other than the prime contractor's plant, the prime contractor may elect either to direct the subcontractor to suffix the "Z", or, on receipt of the subcontractor final shipment information, to correct the DD Form 250 (see I.305) covering the last shipment from the prime contractor's plant by addition of a "Z" to that shipment number.

Block 3—Date shipped. Enter the date the shipment is released to the carrier or the date of completion of services. If the shipment will be released after the date of PQA and/or Acceptance, enter the estimated date of release. When the date is estimated, enter an "E" after the date. Distribution of the MIRR shall not be delayed for entry of the actual shipping date. Reissuance of the MIRR is not required to show the actual shipping date.

Block 4—B/L TCN. When applicable enter:

(a) The commercial or Government bill of lading number after "B/L"; and

(b) The Transportation Control Number after "TCN".

Block 5—Discount terms. The discount, in terms of percentages and corresponding days allowed, shall be entered as described below:

(a) The contractor may, as his option, enter the discount terms on all copies of the MIRR.

(b) When the MIRR is used as an invoice, see I.306.

Block 6—Invoice No./Date. Enter the invoice number and date as described below:

(a) The contractor may, at his option, enter the invoice number and date on all copies of the MIRR.

(b) When the MIRR is used as an invoice, see I.306.

Block 7—Page/of. Consecutively number the pages comprising the MIRR. On each page enter the total number of pages of the MIRR.

Block 8—Acceptance point. Enter an "S" for Origin or "D" for Destination as specified in the contract as the point of acceptance. Enter an alphabetic "O" for Other if the point of acceptance is not specified in the contract.

Block 9—Prime contractor. Enter the address.

Block 10—Administered by. Enter the address of the Procurement Office cited in the contract.

Block 11—Shipped from/f.o.b.

(a) Enter the code and address of the "Shipped From" location. If identical to Block 9, enter "See Block 9."

(b) Enter on the same line and to the right of "FOB" and "S" for Origin or "D" for Destination as specified in the contract. Enter an alphabetic "O" if the "FOB" point cited in the contract is other than origin or destination.

Block 12—Payment will be made by. Enter the address of the payment office cited in the contract.

Block 13—Shipped to. Enter the address of the consignee as contained in the contract or shipping instructions.

Block 14—Marked for. Enter the "Marked For" address and/or other designation as contained in the contract or shipping instructions.

Block 15—Item number. Enter the contrast line item, subline line, exhibit line or exhibit subline identification as set forth in the contract. If four or less digits are used, they will be positioned to the left of the vertical dashed line. Where a six-digit identification is used, enter the last two digits to the right of the vertical dashed line.

Block 16—Stock/part number/description.

(a) Enter, as applicable, for each line item, using single spacing between each line item:

(1) The Federal Stock Number (FSN) or noncatalog number and, if applicable, prefix or suffix; when a number is not provided or it is necessary to supplement the number, include other identification, e.g., manufacturer's name or Federal Supply Code, as published in Cataloging Handbook H4-1, and part number; additional part numbers may be shown in parentheses; the descriptive noun of the item nomenclature and, if provided, the Government assigned management/material control code.

The following technique may be used in the case of equal kind supply items: the first entry shall be the description without regard to kind. For example: "Resistor," "Vacuum Tube," etc. Below this description, enter the contract line item number in Block 15 and stock/part number followed by the size or type in Block 16.

(2) On the next printing line if required by the contract for control purposes enter: the make, model, serial number, lot, batch, hazard indicator and/or similar description.

(3) On the next printing line; the FEDSTRIP requisition number(s) when provided in the contract or shipping instructions.

(b) In addition to entries required above, enter on the next line the following as appropriate. Where applicable to all line item numbers identified in the MIRR, enter such data only once after the last line item entry. Entries may be extended through Block 20.

(1) Enter in capital letters any special handling instructions/limits for material environmental control, e.g., temperature, humidity, aging, freezing, shock, etc.

(2) When a FSN is required by but not cited in a contract and has not been furnished by the Government, shipment may be made without such FSN at the direction of the contracting officer. Enter the authority for such shipment.

(3) When Government furnished property (GFP) is included with or incorporated into the line item, enter the letters "GFP".

(4) When shipment consists of replacements for supplies previously furnished, enter in capital letters "Replacement Shipment." (See I.301, Block 17 for replacement indicators.)

(5) For items shipped with missing components, enter and complete the following: "Item(s) shipped short of the following component(s): FSN or comparable Identification ------, Quantity ------, Estimated Value ------, Authority ------."

(6) When shipment is made of components which were short on a prior shipment, enter and complete the following: "These components were listed as shortages on shipment number ------, date shipped ------."

(7) When shipments involve drums, cylinders, reels, containers, skids, etc., designated as returnable under contract provisions, enter and complete the following: "Return to ----------, Quantity ------, Item ------, Ownership (Government/contractor)."

(8) Enter shipping container number(s), the type, and the total number of the shipping container(s) included in the shipment.

(9) The MIRR shall be used to record and report the waivers and deviations from contract specifications, including the source and authority for the waiver or deviation. For example, the procuring installation authorizing the waiver or deviation and the identification of the authorizing document.

(10) For shipments involving discount terms, enter "Discount expedite" in at least 1-inch outline type style letters.,

(11) When test/evaluation results are a condition of acceptance and are not available prior to shipment, the following note shall be entered if the shipment is approved by the contracting officer: "NOTE: Acceptance and payment are contingent upon receipt of approved test/evaluation results". The contracting officer shall advise (a) the consignee of the results (approval/disapproval) and (b) the contractor to withhold invoicing pending attachment to his invoice of the approved test/evaluation results.

(12) The copy of the DD Form 250 required to support payment for destination acceptance (top copy of the four with shipment) or ARP origin acceptance (additional copy furnished to the QAR) shall be identified as follows: enter "Payment Copy" in approximately 1½-inch outline type style letters with "Forward To Block 12 Address" in approximately 1¼-inch letters immediately below. Do not obliterate any other entries.

(13) A double line shall be drawn completely across the form following the last entry.

Block 17—Quantity shipped/received.

(a) Enter the quantity shipped, using the unit of measure indicated in the contract for payment. When a second unit of measure is used for purposes other than payment, enter the appropriate quantity directly below in parentheses.

(b) Enter a "Z" below the first digit of the quantity when:

(1) the total quantity of the line item is delivered, including variations within contract terms.

(2) all shortages on items previously shipped short are delivered.

(c) If a replacement shipment is involved, enter below the first digit of the quantity, the letter "A" to designate first replacement, "B" for second replacement, etc. The final shipment indicator "Z" shall not be used when a final line item shipment is replaced.

Block 18—Unit. Enter the abbreviation of the unit of measure as indicated in the contract for payment. Where a second unit of measure is indicated in the contract for purposes other than payment or used for shipping purposes, enter the second unit of measure directly below in parenthesis. Authorized abbreviations are listed in MIL-STD-129 (Marketing and Storage). For example: LB for pound; SH for sheet.

Block 19—Unit price. The contractor may, at his option, enter unit prices on all MIRR copies when the MIRR is used as an invoice.

Block 20—Amount. Enter the extended amount when the unit price is entered in Block 19.

Block 21—Procurement quality assurance. The words "conform to contract" contained in the printed statements in Blocks A and B relate to contract obligations pertaining to quality, and to the quantity of the items on the report. The statements shall not be modified. Notes taking exception shall be entered in Block 16 or on attached supporting documents with appropriate block cross reference.

"A. Origin."

(1) The authorized Government representative shall:

a. Place an "X" when applicable in the appropriate PQA and/or Acceptance box(es) to evidence origin Procurement Quality Assurance and/or Acceptance. When the contract requires PQA at destination in addition to origin PQA, an asterisk will be entered at the end of the statement and an explanatory note entered in Block 16;

b. Enter the date of signature;

c. Sign; and

d. Enter the typed, stamped, or printed name of the signer and office code.

"B. Destination."

(1) When acceptance at origin is indicated in Block 21A, no entries shall be made in Block 21B.

(2) When PQA and Acceptance or Acceptance is at destination, the authorized Government representative shall:

(a) Place an "X" in the appropriate box(es);

(b) Enter the date of signature;

(c) Sign; and

(d) Enter typed, stamped, or printed name and title.

Block 22—Receiver's use. This block shall be used by the receiving activity (Government or contractor) to denote receipt, quantity and condition. The receiving activity shall enter in this block the date the supplies arrived. For example, when off-loading or inchecking occurs subsequent to the day of arrival of the carrier at the installation, the date of the carrier's arrival is the date received for purposes of this block.

Block 23—Contractor use only. This block is provided and reserved for Contractor use.

I.302 [*Reserved*]

I.303 *Consolidated Shipments.* When individual shipments are held at the contractor's plant for authorized transportation consolidation to a single destination on a single bill of lading, the applicable DD Forms 250 may be prepared at the time of Procurement Quality Assurance or Acceptance prior to the time of actual shipment. (See Block 3.)

I.304 [*Reserved*]

I.305 *Correction Instructions.* When, because of errors or omissions, it is necessary to correct the MIRR after distribution has been made, a revised MIRR shall be effected by correcting the original master and distributing the corrected form. The corrections shall be made as follows:

(i) Circle the error and place the corrected information in the same block; if space is limited, enter the corrected information in Block 16 referencing the error page and block.

(ii) The words "Corrections Have Been Verified" shall be entered on page 1. The authorized Government representative shall place the date and sign immediately below the statement.

(iii) MIRRs shall not be corrected for Blocks 19 and 20 entries.

(iv) Pages of the MIRR requiring correction shall be clearly marked "Corrected Copy", avoiding obliteration of any other entries. Where corrections are made only on continuation sheets, page number 1 shall also be marked "Corrected Copy."

(v) Page 1 and only those continuation pages marked "Corrected Copy" shall be distributed to the initial distribution. A complete MIRR with corrections shall be distributed to new addressee(s) created by error corrections.

I.306 *Invoice Instructions.* Contractors are encouraged to use copies of the MIRR as an invoice, in lieu of a commercial form, but are not required to do so. When used as an invoice, four copies shall be prepared and forwarded to the payment office as follows:

(i) Complete Blocks 5, 6, 19, and 20.

(ii) Mark in letters approximately 1 inch high, first copy: "Original Invoice"; three copies: "Invoice Copy".

(iii) Forward the four copies to the payment office (Block 12 address).

I.307 *Packing List Instructions.* Copies of the MIRR may be used as a packing list. When they are used, the packing list copies shall be in addition to the copies of the MIRR required for distribution (I.401) and shall be marked "Packing List".

I.308 *Receiving Instructions.* When the MIRR is used for receiving purposes, procedures shall be as prescribed by local directives. If PQA and Acceptance or Acceptance of supplies is required upon arrival at destination, see Block 21B for instructions.

129. Appendix K is added:

APPENDIX K—PREAWARD SURVEY PROCEDURES

SUBPART 1—INTRODUCTION

K.100 *Scope of Appendix.* This appendix establishes procedures for requesting and accomplishing preaward surveys. It includes preaward surveys conducted by NASA, those conducted by another agency for NASA, and those jointly conducted.

K.101 *Applicability of Appendix.* This appendix is applicable to all activities of the National Aeronautics and Space Administration concerned with preaward surveys.

K.102 *Definitions.* As used in this appendix, the following terms have the meanings set forth below.

K.102-1 *Monitor* means the person designated to administer the preaward survey from the receipt of the request through the issuance of the final report.

K.102-2 *Team Coordinator* means the person designated by the monitor to coordinate the onsite survey, make arrangements for plant visits, and conduct team conferences as necessary before, during, or after the plant visit.

K.102-3 *Preaward Survey Review Board* means a board established to review and approve or disapprove preaward survey reports.

SUBPART 2—GENERAL PROVISIONS

K.200 *Scope of Subpart.* This subpart sets forth the procedure for requesting and conducting a preaward survey, and applicable administrative controls.

K.201 *Procedure for Requesting Preaward Survey.*

(a) A preaward survey shall be requested on "Preaward Survey of Prospective Contractor" (DD Form 1524) indicating in section III thereof, the scope of the survey desired. Factors requiring emphasis not enumerated in section III should be listed under item "14" of that section. A survey may be requested by telegraphic communication containing the data required by sections I, II, and III of the Form. A survey may be requested by telephone but shall be immediately confirmed on DD Form 1524. Unless previously furnished, a copy of the solicitation, and such drawings and specifications as deemed necessary by the procurement office, shall be supplied with the preaward survey request.

(b) Any information indicating previous unsatisfactory contract performance shall be furnished the survey activity with the preaward survey request, except where it is known that the survey activity already has this information.

(c) The request for preaward survey shall be forwarded in an original and three copies to the responsible survey activity. If the survey activity is a DOD agency, the request is to be sent to the appropriate office shown in the DOD Directory of Contract Administration Services Components, DOD 4105.59-H, Attention: Preaward Survey Monitor. (See Part 51, Subpart 3.) The date on which the completed survey report is desired should be indicated; however, the DOD normally allows 7 working days in which to conduct a full survey and submit the report to the requesting agency.

K.202 *Scope of Survey.*

(a) A complete survey encompasses investigation, to the extent applicable to the proposed contract, of the factors listed in section III of DD Form 1524, together with other requirements of special inquiry as requested by the contracting officer, and submission of appropriate findings thereon.

(b) A partial survey encompasses investigation of those factors referenced in (a) above which are specifically requested by the contracting officer and any other factors considered advisable by the activity conducting the survey, and submission of appropriate findings thereon.

K.203 *Procurement Office Procedure.*

K.203-1 *General.*

(a) Preaward surveys will be conducted within the normal time frame of seven working days after receipt of request and in the detail requested by the contracting officer. In unusual procurement situations, reports of such surveys may be requested in a shorter time if the situation so warrants. Qualified specialists responsible for the factors referenced in K.202(a) shall participate as required.

(b) Representatives of the procurement office and other activities will participate in preaward surveys when requested by the contracting officer or as desired by the procurement office.

(c) If the preaward survey cannot be accomplished within the time allowed, the contracting officer shall be so notified. If the date is not extended the preaward survey monitor shall supply a definite recommendation by the date required, based on the material at hand or developed by that time. The basis for the recommendation and the factors for which no data or only partial data could be obtained, shall be indicated.

K.203-2 *Designation of Preaward Survey Monitor.* An individual within each procurement office performing preaward surveys shall be designated as the preaward survey monitor. The monitor shall administer the preaward survey from the receipt of the request through the issuance of the final report to assure appropriate coverage and maximum efficiency. The monitor shall:

(i) Receive all incoming preaward survey requests;

(ii) Ascertain whether the prospective contractor is included on the Consolidated List of Debarred, Ineligible, and Suspended Contractors for any reason, including those attributable to equal employment opportunity practices. (Where the prospective contractor is so listed, the contracting officer shall be promptly advised and the preaward survey shall not be completed, unless specifically requested by the contracting officer.);

(iii) Compare the survey request with the requirements of the solicitation;

(iv) Determine the need for an onsite survey after reviewing the type and quantity of items or services involved; previous experience with the firm; technical and schedule requirements; and the extent of other information currently available. (If an onsite survey has been requested and sufficient data is already available in the procurement or other offices (e.g., DOD Contract Administration Officer), the monitor shall ask the contracting officer whether an onsite survey must nevertheless be conducted, and for the specific elements to be covered);

(v) Determine and advise the organizational segments of the installation (e.g., engineering, production, reliability and quality

assurance, and contract administration), that will furnish team members;

(vi) Provide team members the following information—

(A) the date on which the information is required from each organizational segment;

(B) the portion of the survey for which each organizational segment is responsible;

(C) whether an on-site survey of the prospective contractor's facility is contemplated. (This is subject to later modification based on information supplied by team members.);

(D) any special terms and conditions noted in the solicitation; and

(E) any other information or guidance the particular request may require;

(vii) After discussion with appropriate organizational segments, designate the team coordinator;

(viii) Arrange for required audit and other external assistance. (For example, in those cases where contract award is dependent upon the contractor having an adequate cost accounting system for proper postaward administration of the contract, the cognizant audit agency shall be responsible for the system review, evaluation, and conclusive recommendation. DD Form 1524–4 is provided for this purpose.);

(ix) Coordinate any participation where the preaward survey is being performed for another NASA installation;

(x) Receive and review reports of the individual team members for completeness and adequate substantiation;

(xi) Resolve questions regarding technical details with responsible specialists;

(xii) Report those applicable procedures of the prospective contractor which have been reviewed by Government personnel (e.g., procurement system, estimating system, accounting system, control of Government property, and quality program); and

(xiii) Assemble all necessary survey data into a report and submit it to the Chairman of the Preaward Survey Review Board.

K.203–3 *Designation and Responsibilities of Team Coordinator and Members.*

(a) When an onsite survey by a team is necessary, members should include specialists qualified to evaluate all appropriate phases of the firm's capabilities. The team coordinator shall:

(i) Arrange for the team's visit to the site;

(ii) Conduct team conferences for the purpose of—

(A) Arriving at uniform interpretations prior to holding discussions with the prospective contractor's management;

(B) Briefing team members on their interviews and discussions with officials of the firm prior to making an onsite survey. (Members shall not make reference or comment relative to the possibility that the award will or will not be made to the prospective contractor. This does not preclude discussion with a prospective contractor of questionable areas which in the opinion of the team member require clarification. Information obtained during the survey will be treated in strict confidence and divulged only to those Government representatives having a need to know.); and

(C) Arranging for discussions among members during and after the on-site survey to assure that evaluations by individual specialists are integrated, coordinated, and complete; and

(iii) Otherwise direct the efforts of the team.

(b) When an on-site survey is required for only one aspect of the prospective contractor's capability, a qualified specialist will be designated to conduct the on-site portion of the survey. One specialist may be designated to investigate more than one aspect when it is within his capability.

K.203–4 *Preaward Survey Review Board.*

(a) A Preaward Survey Review Board shall be formally established to review and approve survey reports prior to transmittal to the contracting officer.

(b) The Board shall be composed of senior specialists from each of the major functions normally concerned with preaward surveys, one of whom shall be designated Chairman. Flexibility of membership shall be provided by designating alternates for membership and by establishing the criteria or conditions governing the need for occasional special technical representation. Membership on the Board shall be in addition to the members' regular duties.

SUBPART 3—SURVEY

K.300 *Steps for survey performance.* The three steps in performing a preaward survey are the:

(i) Preliminary analysis;

(ii) Development and evaluation of information; and

(iii) Preparation and review of the preaward survey report.

K.301 *Preliminary Analysis.* The request (DD Form 1524, sections I, II, and III) shall be reviewed to establish basic administrative information and the factors to be investigated. The solicitation shall then be reviewed to ascertain those general and special requirements which have a significant bearing on determining contractor responsibility. Examples are the nature of the product or services, applicable specifications, delivery schedule, documentation requirements, property contract requirements and financing aspects.

K.302 *Development of Information.*

(a) *Review of Available Data.* The information already available in the procurement office pertaining to the prospective contractor and his past performance shall be reviewed. Prior preaward survey reports and contractor performance records shall be examined and considered in support of preaward survey recommendations. If the prospective contractor has current or contemplated Government contracts, the files should be checked for information regarding similarity of product, current status of contracts, quality control experience, and financial status.

(b) *Development of additional data.*

(1) When appropriate, the procurement office shall supplement the data on hand with any additional information required from other Government sources and from commercial sources, such as banks, business associates, and credit rating and reporting agencies.

(2) An onsite survey shall be performed when required by § 18–1.905–4(a), or when sufficient information is not developed as a result of (a) and (b) (1) above.

(3) In each case where review of available data discloses previous unsatisfactory contractor performance in any regard, the preaward survey shall specifically cover the extent to which action has been taken or planned by the contractor to avoid repetition. A narrative discussion shall be referenced in Section III of DD Form 1524 and appended to the form covering each deficiency area and furnishing details on the effect of each deficiency area on the contractor's ability to perform the prospective contract involved, together with reasons for all stated conclusions. Lack of evidence that the contractor was responsible for a failure to meet past contractual requirements does not necessarily indicate satisfactory performance. A persistent pattern of the contractor's need for costly and burdensome Governmental assistance (engineering, inspection, testing) that was provided in the Government's interest but not contractually required, shall be treated in the preaward survey as an element for separate narrative discussion to be appended to the Form.

K.303 *Onsite Surveys.*

K.303–1 *Interview, Investigation and Review.*

(a) *General.* An onsite survey will consist of an interview with representatives of the prospective contractor and, normally, an investigation of his resources and procedures.

(b) *Interview with management.* Management officials of the appropriate level authorized to represent the prospective contractor should be interviewed. The prospective contractor's background shall be reviewed and as much history recorded as necessary to reflect the soundness and reputation of the firm's operation.

(1) The organizational structure of the facility is the basis for management's control and must be reviewed. Assignment of definite tasks and responsibilities should be checked.

(2) Lack of understanding or misinterpretation of the solicitation often results in delinquent contracts and leads to default actions. Therefore, the solicitation shall be discussed with the prospective contractor to assure that he understands its requirements, including its technical aspects, such as drawings, specifications, prototype, technical data, testing, and packaging. Any misinterpretations of the requirements of the solicitation which could adversely affect performance, or refusal by the prospective contractor to furnish required data, should be brought to the immediate attention of the monitor by the team coordinator. The monitor shall, in turn, promptly advise the team coordinator. The monitor shall, in turn, promptly advise the contracting officer.

(c) *Investigation of resources and review of procedures.* The resources which the prospective contractor intends to utilize shall be inspected, analyzed, and compared with his overall plans for performing. His procedures relating to performance of the proposed contract shall be reviewed for adequacy.

(d) *Specific factors to be considered.* In the course of developing information, those factors described in K.303–2 through K.303–4 below and all others needed to provide the report and recommendations in the detail and to the extent required by the contracting officer shall be considered.

K.303–2 *Production.*

(a) *General.* The production portion of the onsite survey consists of an evaluation of the prospective contractor's ability to manufacture the product(s) or accomplish the tasks in accordance with the specifications and delivery schedule of the proposed contract. To achieve the objectives of this portion of the onsite survey, the performance plan shall be reviewed, production resources ascertained, and the plan related to such resources.

(b) *Obtaining the performance plan.* The prospective contractor's performance plan for meeting the delivery schedule specified in the proposed contract shall be ascertained. The principal milestones within the plan shall be established, along with target dates for achievement. These target dates must support the delivery schedule of the proposed contract. The controls which will be utilized in order to meet the target dates for the principal milestones shall be analyzed for suitability.

(c) *Ascertaining production resources.* The information necessary to prepare DD Form 1524–1 shall be obtained by discussion with appropriate management personnel of the prospective contractor. This information shall be verified, when necessary, by physical inspection of the manufacturing plant and evaluated in terms of suitability to manufacture the required item(s).

(d) *Relating performance plans to production resources.* When necessary, representatives of the prospective contractor shall be requested to advise how the production resources described in sections III, IV, V, and VI of DD Form 1524–1 will be allocated and utilized in order to achieve the target dates for the principal milestones. This shall include both in-house and subcontractor production resources. Pertinent to this is an analysis of projects and contracts which will compete for utilization of those resources within the same time frame as that specified by the prospective contractor's performance plan. The information developed as a result of equating the performance plan and production resources of the prospective contractor should enable the procurement office to:

(i) Conclude whether the resources which the prospective contractor is planning to use are suitable for the job;

(ii) Determine whether the prospective contractor will be capable of properly controlling, maintaining, protecting and using Government property;

(iii) Determine whether the planning and scheduling of effort will result in timely accomplishment of the principal milestones; and

(iv) Conclude whether achievement of the principal milestones will result in timely delivery.

K.303–3 *Quality assurance.*

(a) The standing of the quality assurance organization in the prospective contractor's overall organization must be evaluated. An inspection or quality control function which reports to some other organizational segment (such as production) instead of top management may be undesirable. The experience of the company inspection or quality control personnel with the same or similar items shall be evaluated.

(b) To evaluate the prospective contractor's ability to comply with quality control or inspection requirements, the following areas shall be reviewed:

(i) Methods currently utilized to control product quality as reflected by a documented or verifiable inspection system or quality program plan;

(ii) Personnel on hand and available (report both trained and untrained);

(iii) Inspection and test equipment on hand and available;

(iv) Quality, identification, and storage of materials;

(v) Physical arrangement of plant;

(vi) Tool and gauge control; and

(vii) Test and inspection records.

K.303–4 *Financial.*

(a) *General.* The normal procedure for determining a prospective contractor's financial capability shall be initial pre-survey planning, followed by verification of financial data as required. The extent of the review and analysis of financial matters shall be governed by the nature of the proposed contract. In certain instances, a sound decision may be possible after a relatively simple review of a company's financial position and production commitments. Under other circumstances, a more comprehensive review and analysis will be required.

(b) *Procedure.* Aspects to be considered in determining the prospective contractor's financial capability (DD Form 1524–3) include the following:

(1) The latest balance sheet and profit and loss statement shall be reviewed. The following are indicative of the soundness of the prospective contractor's financial structure:

(i) Rates and ratios;

(ii) Working capital as represented by current assets over current liabilities; and

(iii) Financial trends such as net worth, sales and profit.

(2) The method of financing the contract shall be evaluated. Where sources of outside financing other than the Government, are indicated, their availability should be verified.

(3) When financial aid from the Government is to be obtained, the necessity should be verified. Review shall be made concerning the applicability of such financing as progress payments or guaranteed loans.

K.304 *Evaluating Data and Preparing the Report.*

(a) *Findings of team members.* When the required information has been gathered, each individual participant shall analyze it and evaluate the prospective contractor's capability to perform with respect to the functions element(s) investigated. Each participant shall then provide his findings to the monitor on the appropriate part(s) of DD Form 1524. Where a negative reply is recorded, or where doubt exists, an explanation must substantiate the entry. If a detailed analysis is needed or additional significant information is pertinent, the Form should be supplemented by a narrative report.

(b) *Monitor's evaluation and recommendation.* Based on all the information received from the team members, the monitor shall thoroughly review and evaluate the findings and recommendations, and forward the report to the Chairman of the Review Board with (i) a summary of his findings, and (ii) his recommendation concerning award. A recommendation for partial or no award shall be supported by a statement of justification and shall, where the prospective contractor is a small business concern, be coordinated with the cognizant small business specialist.

(c) *Review board action.* Upon receipt of each pre-award report, the Chairman of the Review Board shall determine the extent of Review Board action. The requirements of K.203–4 above may be satisfied at the discretion of the Chairman by any of the following:

(i) Action by the Chairman alone;

(ii) Informal contact by the Chairman with one or more of the Board members; or

(iii) Formal action by the entire Board.

(d) *Final actions.* Following the action by the Review Board, the monitor shall forward the report direct to the contracting officer. When advance reports are made by telegraphic communication or telephone, they shall be confirmed by mail without delay. The monitor shall follow up on any requirements for the submission of supplemental reports.

RICHARD J. KEEGAN,
Acting Director of Procurement, National Aeronautics and Space Administration.

[FR Doc. 71–16357 Filed 11–9–71;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 251—GUIDE CONCERNING USE OF THE WORD "FREE" AND SIMILAR REPRESENTATIONS

Miscellaneous Amendments

The following guide has been adopted by the Federal Trade Commission to encourage those who make "Free" and similar offers in connection with the sale of a product or service, to comply voluntarily with the Federal Trade Commission Act. The Act makes illegal unfair methods of competition and unfair or deceptive acts or practices in commerce. Adherence to the guide will insure that the consuming public is not deceived by offers of nonexistent bargains or bargains that will be misunderstood.

While the guide is interpretative of laws administered by the Commission and thus advisory in nature, proceedings, as appropriate, to enforce the requirements of law as explained in the guide may be brought under the Federal Trade Commission Act (15 U.S.C. sections 41–58) or the Robinson-Patman amendment to the Clayton Act (15 U.S.C. section 13).

The provisions of the guide will have application to all "Free" and similar representations however made, including but not limited to, all forms of advertising and any offer of free merchandise (or services) and other offers covered by the provisions of the guide made on any package or on any tag or label affixed thereto or affixed to the goods themselves.

The guide supersedes the trade practice rule on use of the word "Free," released by the Commission on December 3, 1953. In addition, provisions of all existing guides and trade practice rules that include coverage of use of the term "Free" or similar representations will be construed in the light hereof.

The guide becomes effective thirty (30) days after the date of promulgation.

Inquiries and requests for copies of the guide should be directed to the Division of Rules and Guides, Federal Trade Commission, Washington, D.C. 20580.

§ 251.1 **The guide.**

(a) *General.* (1) The offer of "Free" merchandise or service is a promotional device frequently used to attract customers. Providing such merchandise or service with the purchase of some other article or service has often been found to be a useful and valuable marketing tool.

(2) Because the purchasing public continually searches for the best buy, and regards the offer of "Free" merchandise or service to be a special bargain, all such offers must be made with extreme care so as to avoid any possibility that consumers will be misled or deceived. Representative of the language frequently used in such offers are "Free", "Buy 1-Get 1 Free", "2-for-1 Sale", "50% off with purchase of Two", "1¢ Sale", etc. (Related representations that raise many of the same questions include "_____ Cents-Off", "Half-Price Sale", "½ Off", etc. See the Commission's "Fair Packaging and Labeling Regulation Regarding 'Cents-Off' and Guides Against Deceptive Pricing.")

(b) *Meaning of "Free".* (1) The public understands that, except in the case of introductory offers in connection with the sale of a product or service (See paragraph (f) of this section), an offer of "Free" merchandise or service is based upon a regular price for the merchandise or service which must be purchased by consumers in order to avail themselves

of that which is represented to be "Free". In other words, when the purchaser is told that an article is "Free" to him if another article is purchased, the word "Free" indicates that he is paying nothing for that article and no more than the regular price for the other. Thus, a purchaser has a right to believe that the merchant will not directly and immediately recover, in whole or in part, the cost of the free merchandise or service by marking up the price of the article which must be purchased, by the substitution of inferior merchandise or service, or otherwise.

(2) The term "regular" when used with the term "price", means the price, in the same quantity, quality and with the same service, at which the seller or advertiser of the product or service has openly and actively sold the product or service in the geographic market or trade area in which he is making a "Free" or similar offer in the most recent and regular course of business, for a reasonably substantial period of time, i.e., a 30-day period. For consumer products or services which fluctuate in price, the "regular" price shall be the lowest price at which any substantial sales were made during the aforesaid 30-day period. Except in the case of introductory offers, if no substantial sales were made, in fact, at the "regular" price, a "Free" or similar offer would not be proper.

(c) *Disclosure of conditions.* When making "Free" or similar offers all the terms, conditions and obligations upon which receipt and retention of the "Free" item are contingent should be set forth clearly and conspicuously at the outset of the offer so as to leave no reasonable probability that the terms of the offer might be misunderstood. Stated differently, all of the terms, conditions and obligations should appear in close conjunction with the offer of "Free' merchandise or service. For example, disclosure of the terms of the offer set forth in a footnote of an advertisement to which reference is made by an asterisk or other symbol placed next to the offer, is not regarded as making disclosure at the outset. However, mere notice of the existence of a "Free" offer on the main display panel of a label or package is not precluded provided that (1) the notice does not constitute an offer or identify the item being offered "Free", (2) the notice informs the customer of the location, elsewhere on the package or label, where the disclosures required by this section may be found, (3) no purchase or other such material affirmative act is required in order to discover the terms and conditions of the offer, and (4) the notice and the offer are not otherwise deceptive.

(d) *Supplier's responsibilities.* Nothing in this section should be construed as authorizing or condoning the illegal setting or policing of retail prices by a supplier. However, if the supplier knows, or should know, that a "Free" offer he is promoting is not being passed on by a reseller, or otherwise is being used by a reseller as an instrumentality for deception, it is improper for the supplier to continue to offer the product as promoted to such reseller. He should take appropriate steps to bring an end to the deception, including the withdrawal of the "Free" offer.

(e) *Resellers' participation in supplier's offers.* Prior to advertising a "Free" promotion, a supplier should offer the product as promoted to all competing resellers as provided for in the Commission's "Guides for Advertising Allowances and Other Merchandising Payments and Services." In advertising the "Free" promotion, the supplier should identify those areas in which the offer is not available if the advertising is likely to be seen in such areas, and should clearly state that it is available only through participating resellers, indicating the extent of participation by the use of such terms as "some", "all", "a majority", or "a few", as the case may be.

(f) *Introductory offers.* (1) No "Free" offer should be made in connection with the introduction of a new product or service offered for sale at a specified price unless the offeror expects, in good faith, to discontinue the offer after a limited time and to commence selling the product or service promoted, separately, at the same price at which is was promoted with a "Free" offer.

(2) In such offers, no representation may be made that the price is for one item and that the other is "Free" unless the offeror expects, in good faith, to discontinue the offer after a limited time and to commence selling the product or service promoted, separately, at the same price at which is was promoted with a "Free" offer.

(g) *Negotiated sales.* If a product or service usually is sold at a price arrived at through bargaining, rather than at a regular price, it is improper to represent that another product or service is being offered "Free" with the sale. The same representation is also improper where there may be a regular price, but where other material factors such as quantity, quality, or size are arrived at through bargaining.

(h) *Frequency of offers.* So that a "Free" offer will be special and meaningful, a single size of a product or a single kind of service should not be advertised with a "Free" offer in a trade area for more than 6 months in any 12-month period. At least 30 days should elapse before another such offer is promoted in the same trade area. No more than three such offers should be made in the same area in any 12-month period. In such period, the offeror's sale in that area of the product in the size promoted with a "Free" offer should not exceed 50 percent of the total volume of his sales of the product, in the same size, in the area.

(i) *Similar terms.* Offers of "Free" merchandise or services which may be deceptive for failure to meet the provisions of this section may not be corrected by the substitution of such similar words and terms as "gift", "given without charge", "bonus", or other words or terms which tend to convey the impression to the consuming public that an article of merchandise or service is "Free".

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

Promulgated by the Federal Trade Commission, November 16, 1971.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-16400 Filed 11-9-71;8:49 am]

PART 410—DECEPTIVE ADVERTISING AS TO SIZES OF VIEWABLE PICTURES SHOWN BY TELEVISION RECEIVING SETS

The Federal Trade Commission pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., and the provisions of Part I, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.11, et seq., has conducted a proceeding for the amendment of the Trade Regulation Rule relating to the advertising of television picture sizes (31 F.R. 3342), which rule became effective on January 1, 1967.

Notice of the amendment proceeding was published in the FEDERAL REGISTER on April 21, 1971 (36 F.R. 7536). Interested parties were thereafter afforded opportunity to participate in the proceeding through the submission of written data, views, and arguments as to the proposed amendment and to express their approval or disapproval of the proposed amendment or to recommend revisions thereof.

The Commission has now considered all matters of fact, law, policy and discretion, including the data, views, and arguments submitted for the record by interested parties in response to the notice, as prescribed by law, and has determined that the amended Trade Regulation Rule and the statement of its basis and purpose as set forth herein is in the public interest and should be adopted.

In connection with the sale of television receiving sets, in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair method of competition and an unfair and deceptive act or practice to use any figure or size designation to refer to the size of the picture shown by a television receiving set or the picture tube contained therein unless such indicated size is the actual size of the viewable picture area measured on a single plane basis. If the indicated size is other than the horizontal dimension of the actual viewable picture area such size designation shall be accompanied by a statement, in close connection and conjunction therewith, clearly and conspicuously showing the manner of measurement.

NOTE 1: For the purposes of this part, measurement of the picture area on a single plane basis refers to a measurement of the distance between the outer extremities (sides) of the picture area which does not take into account the curvature of the tube.

NOTE 2: Any referenced or footnote disclosure of the manner of measurement by means of the asterisk or some similar symbol does not satisfy the "close connection and conjunction" requirement of this part.

Examples of proper size descriptions when a television receiving set shows a 20-inch picture measured diagonally, a 19-inch picture measured horizontally, a 15-inch picture measured vertically, and a picture area of 262 square inches include:

"20 inch picture measured diagonally" or
"19 inch x 15 inch picture" or
"19 inch picture" or
"19 inch" or
"262 square inch picture."

Examples of improper size descriptions of a television set showing a picture of the size described above include:

"21 inch set" or
"21 inch diagonal set" or
"21 inch over-all diagonal—262 square inch picture" or
"Brand Name 21."

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Effective date. This rule, as amended, becomes effective December 10, 1971.

Promulgated: November 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

STATEMENT OF BASIS AND PURPOSE

I. *Background of proceeding to amend Rule.* During the compliance program for subject rule, with effective date of January 1, 1967, the need for further clarification of two aspects thereof became apparent. First, the term "single plane" as applied to picture size measurements lacked a precise definition. Secondly, use of the asterisk in effecting the disclosures required by the rule, while consistently held by staff interpretation to be inadequate under the "close connection and conjunction" disclosure requirement of the rule, was not specifically mentioned anywhere in the rule.

The Commission announced its affirmative interest in an industrywide proceeding for amendment of the Trade Regulation Rule relating to the advertising of television picture sizes by publishing in the FEDERAL REGISTER on April 21, 1971, a notice of rule amendment (36 F.R. 7536).

II. *Views regarding the proceeding to amend.* The City of New York, Department of Consumer Affairs, proposed that the amendment be expanded to include provisions to prevent alleged questionable advertising tactics, such as failure to designate picture size, in the case of some less expensive television sets, together with no mention of the manufacturer and other identifying features such as model number, etc.

It was further suggested that the sizes of television pictures should be expressed only in horizontal linear measurements. The Record, which is meager, also contains a letter from a consumer supporting this view.

Although one consumer argued that it is deceptive to specify picture area as the primary indication of size rather than linear picture height, another consumer fully supported the rule as fair not only to the consumer but to the retailer

III. *Summary and conclusions.* The Commission has considered the above arguments and finds that such arguments are not directed to the proposed amendments as such but rather are arguments for revision of the rule proper.

Accordingly, the Commission concludes that such objections fall without the scope of this proceeding and that there is no basis for reconsideration or for a reopening of the initial rule since the arguments advanced were considered in the initial rulemaking proceeding.

IV. *The effective date of the amendment.* The effective date of the amendment will be thirty (30) days after the date of promulgation. The rule, as amended, supercedes the Trade Regulation Rule relating to the deceptive advertising as to sizes of viewable pictures shown by television receiving sets adopted Februray 24, 1966.

[FR Doc.71-16161 Filed 11-9-71;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 713—NAVAL RESERVE AND MARINE CORPS RESERVE

Subpart A—Naval Reserve

PROMOTION POLICY

1. The table of contents for Part 713 is amended to delete the current entries for §§ 713.372, 713.373, 713.374, 713.375, and 713.376, and to insert the following new entries:

Sec.
713.372 Selection Boards; Naval Examining Boards.
713.373 Eligibility for consideration by selection boards.
713.374 Promotion.
713.375 Physical standards for promotion.
713.376 Promotion of ensigns.

and to delete the following:

Sec.
713.377 Duties of selection boards.
713.378 Promotion lists.
713.379 Professional and physical qualifications.
713.379a Appointment of selectees.
713.379b Temporary and permanent appointments.
713.379c Failure of selection and promotion.
713.379d Promotion of ensigns to lieutenant (junior grade).

2. Section 713.371 is amended to read as follows:

§ 713.371 General promotion policy.

(a) Chapter 549 of title 10, United States Code, governs the promotion of eligible Reserve officers not on extended active duty and of those Reserve officers serving on extended active duty for the purpose of administering and training the Naval Reserve.

(b) Notwithstanding paragraph (a) of this section, the promotion of Reserve officers to grades above lieutenant (junior grade) under regulations prescribed by the Secretary of the Navy is authorized by section 5910 of title 10, United States Code, wherever any part of the law governing the promotion of a Reserve officer's running mate is suspended. Further, the cited statute also authorizes promotions to the grade of lieutenant (junior grade) under regulations prescribed by the Secretary of the Navy whenever ensigns of the Regular Navy on the active list are promoted with less than 3 years of service in grade.

(c) On January 5, 1970, the Secretary of the Navy approved regulations to govern the temporary promotions of officers of the Naval Reserve as well as regulations to govern attrition of such officers when required by sections 6389 and 6403 of title 10, United States Code.

3. Section 713.372 is amended to read as follows:

§ 713.372 Selection boards; naval examining boards.

Promotions above the grade of lieutenant (junior grade) will be upon recommendation of selection boards convened by the Secretary of the Navy or such other official as the Secretary may direct. From among those officers who are eligible for consideration for promotion, each selection board shall recommend those officers whom it considers best fitted, fitted, or qualified for promotion in accordance with the applicable criteria prescribed in 10 U.S.C. 5896. Each board shall also report the names of officers, among those eligible for consideration, whose reports and records in its opinion indicate their unsatisfactory performance of duty in their present grades and in its opinion indicate that they would not satisfactorily perform duties of a higher grade. Upon completion of its selections for promotion, each board shall constitute itself as a naval examining board and may recommend for promotion to the next higher grade those selected officers who, in the opinion of the board, are morally and professionally qualified. Each board shall serve until its recommendations have received presidential approval or disapproval.

4. Section 713.373 is amended to read as follows:

§ 713.373 Eligibility for consideration by selection boards.

Eligibility for consideration for promotion of Reserve officers of the Navy whose names are not on a lineal list will be as prescribed in 10 U.S.C. 5891 and 5899, except that captains in an active status who are members of the Standby Reserve are not eligible for consideration for promotion to the grade of rear admiral. Eligibility for consideration for promotion and appointment of Reserve officers of the Navy whose names are on a lineal list will be governed by the applicable sections of title 10, United States Code.

5. Section 713.374 is amended to read as follows:

§ 713.374 Promotion.

Officers whose names are placed on a promotion list following selection will have been determined by a naval examining board to be morally qualified. Subject to earning, during the year preceding their appointments, the number of retirement points (computed in accordance with 10 U.S.C. 1332) required to maintain an active status; they will also have been determined to be professionally qualified. Upon confirmation of their physical qualifications, and at such time as their running mates become eligible for promotion, these officers will be appointed. All such appointments will be considered as accepted upon their issuance, unless expressly declined.

6. Section 713.375 is amended to read as follows:

§ 713.375 Physical standards for promotion.

The physical standards for promotion of Reserve officers of the Navy shall be the same as those which are at that time prescribed for retention in the Naval Reserve. Such physical standards are promulgated in the Bureau of Naval Personnel Manual and the Manual of the Medical Department. The procedures governing physical examinations and certification of physical qualification will be as prescribed by the Chief of the Bureau of Medicine and Surgery.

7. Section 713.376 is amended to read as follows:

§ 713.376 Promotion of ensigns.

Ensigns of the Naval Reserve on inactive duty are eligible for temporary promotion to the grade of lieutenant (junior grade) upon completion of service-in-grade in an active status, computed from date of rank, equal to the service-in-grade requirement that may be prescribed for ensigns of the Regular Navy for eligibility for temporary promotion to the grade of lieutenant (junior grade).

§§ 713.377–713.379d [Deleted]

8. Part 713 is amended by deleting the following sections: §§ 713.377 *Duties of selection boards*, 713.378 *Promotion lists*, 713.379 *Professional and physical qualifications*, 713.379a *Appointment of selectees*, 713.379b *Temporary and permanent appointments*, 713.379c *Failure of selection and promotion*, and 713.379d *Promotion of ensigns to lieutenant (junior grade)*.

9. In § 713.411 paragraph (f) is amended and new paragraphs (f–1), (f–2), and (f–3) are added so that the amended and added material reads as follows:

§ 713.411 Separation of officers on inactive duty.

* * * * *

(f) In the implementation of 10 U.S.C. 6389(a) and 10 U.S.C. 6389(b), an officer in an active status in the Naval Reserve in the permanent grade of lieutenant or lieutenant (junior grade) who is considered, in accordance with 10 U.S.C. 5903, as having twice failed of selection for promotion shall be afforded an opportunity to transfer to the Retired Reserve, if qualified, and, if not so transferred, he may:

(1) If he accepted, prior to 19 January 1961, his original appointment in a grade above chief warrant officer, W–4, in the Navy or Naval Reserve, be retained in an active status until he completes 20 years of total commissioned service, computed in accordance with 10 U.S.C. 6389 (d), at which time he shall be retired or discharged unless he is otherwise qualified for retention in an active status by reason of some provision of law; or,

(2) If he accepted, on or after 19 January 1961, his original appointment in a grade above chief warrant officer, W–4, in the Navy or Naval Reserve, be retained in an active status until he has actually served 6 years in a commissioned grade above chief warrant officer, W–4, at which time he shall, if originally appointed from warrant officer or enlisted grade, be afforded an opportunity for appointment or enlistment—as applicable—in such former grade or be retired or discharged unless he is otherwise qualified for retention in an active status by reason of some provision of law.

(f–1) In the implementation of 10 U.S.C. 6403, women Naval Reserve officers in an active status in the line and staff corps, other than those appointed under 10 U.S.C. 5581 or Nurse Corps officers, and who are not on active duty, and not serving on an extension, or eligible in that fiscal year to be extended under 10 U.S.C. 1006, will be considered by a board to be convened as directed for elimination from an active status in the fiscal year in which the following will occur:

Captains—Permanent in grade and will complete at least 30 years' commissioned service.

Commanders—Name not on a promotion list, permanent in grade, and will complete at least 26 years' commissioned service.

Lieutenant Commanders—Name not on a promotion list, permanent in grade, and will complete at least 20 years' commissioned service.

Lieutenants—Name not on a promotion list, permanent in grade, and will complete at least 13 years' commissioned service.

Lieutenants (junior grade)—Name not on a promotion list, permanent in grade, and will complete at least 7 years' commissioned service.

(f–2) The number of women officers in the Naval Reserve not on active duty, to be eliminated will be as the Secretary of the Navy directs and will be those officers who, in the board's opinion, are considered to be "least fitted" for continuation in the Naval Reserve.

(f–3) Boards convened for the purpose of recommending women Naval Reserve officers not on active duty for elimination from an active status shall be composed of at least five members, the majority of whom will be Reserve officers senior in permanent grade to those officers being considered. Women officers will be represented on the board where practicable. Whenever staff corps officers are being considered, the board will contain appropriate staff corps membership where practicable.

[SEAL] MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

NOVEMBER 3, 1971.

[FR Doc.71-16364 Filed 11-9-71;8:47 am]

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 213—PRACTICE AND PROCEDURE FOR HEARINGS TO STATES ON CONFORMITY OF PUBLIC ASSISTANCE PLANS TO FEDERAL REQUIREMENTS

Decisions Following Hearing; Correction

The document revising Part 213 of Chapter II of Title 45 of the Code of Federal Regulations, published in the FEDERAL REGISTER on January 29, 1971, at 36 F.R. 1454, is corrected by changing the reference in § 213.32(d) from "§ 213.7" to "§ 201.7 of this chapter."

Approved: November 3, 1971.

R. H. BRADY,
Assistant Secretary for
Administration and Management.

[FR Doc.71-16383 Filed 11-9-71;8:47 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Upper Souris National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11–10–71).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

UPPER SOURIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Upper Souris National Wildlife Refuge, N. Dak., is permitted only on the areas designated by signs as open to fishing. These open areas comprise 7,000 acres and are delineated on maps available at refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with

all applicable State laws and regulations subject to the following special conditions:

(1) Refuge areas shall be open and closed to the taking of fish during calendar year 1972 in accordance with North Dakota State laws and regulations governing sport fishing. Boat fishing shall be permitted only from the opening day of the summer fishing season through September 30, 1972.

(2) The use of once frozen smelt, perch eyes and commercially pickled minnows is permitted.

(3) One outboard motor of not more than 10 horsepower may be attached to any boat or floating craft and is to be used for fishing purposes only. Speed limit on the Souris River above the Mouse River Park not to exceed 5 miles per hour.

(4) Legal hook and line equipment for each fisherman shall consist of one pole equipped with one line to which is attached one hook or lure.

(5) Fish houses and vehicles will not be permitted on river areas below the Lake Darling dam.

(6) Snowmobiles may be used on ice surfaces of Lake Darling from the Lake Darling dam to the Grano Road crossing only. Snowmobiles prohibited on all other parts of the refuge.

(7) Refuge is open to public use between the hours of 5 a.m. to 10 p.m. daily.

(8) All owners of watercraft stored on refuge public use areas must secure a special use permit for this purpose. Special use permits are available at the refuge headquarters office. All watercraft must be removed from refuge areas within three (3) days after the close of the boating season on September 30, 1972.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through December 31, 1972.

DON R. PERKUCHIN,
Refuge Manager, Upper Souris National Wildlife Refuge, Foxholm, N. Dak.

NOVEMBER 3, 1971.

[FR Doc.71-16372 Filed 11-9-71;8:46 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 913]

GRAPEFRUIT GROWN IN INTERIOR DISTRICT IN FLORIDA

Proposed Expenses and Rate of Assessment for Fiscal 1971–72

Consideration is being given to the following proposals submitted by the Interior Grapefruit Marketing Committee, established under the marketing agreement, as amended, and Order No. 913, as amended (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida, effective under the applicable provisions of 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 the expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee, during the fiscal period August 1, 1971, through July 31, 1972, will amount to $30,400.

(b) That the rate of assessment for such period, payable by each handler in accordance with § 913.31, be fixed at $0.005 per standard packed box.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall 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: November 5, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16429 Filed 11-9-71;8:51 am]

Rural Electrification Administration

[7 CFR Part 1701]

ACCOUNTING SYSTEM FOR REA ELECTRIC BORROWERS

Prescribed System of Accounts

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue revised REA Bulletin 181–1, Uniform System of Accounts for Rural Electric Borrowers. This REA bulletin prescribes the accounting and records system to be established and maintained by REA electric borrowers. On final issuance of this revised REA bulletin, appendix A to part 1701 will be modified accordingly.

Persons interested in the provisions of revised REA Bulletin 181–1 may submit written data, views, or comments to the Director, Borrowers' Financial Management Division, Room 4307, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from 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 Director, Borrowers' Financial Management Division during regular business hours.

A copy of proposed REA Bulletin 181–1 may be secured in person or by written request from the Director, Borrowers' Financial Management Division.

A summary of the changes proposed in the system of accounts prescribed by REA for its electric borrowers is as follows:

REVISED REA BULLETIN 181–1

REA's current mortgage requires each borrower at all times to keep, and safely preserve proper books, records, and accounts in which full and true entries will be made of all the dealings, business, and affairs of the borrower, in accordance with the methods and principles prescribed by the Uniform System of Accounts.

The REA Uniform System of Accounts has not been revised since it was issued in 1961. Numerous changes and revisions have been effected through the issuance of accounting interpretations. A revision of the system of accounts is needed to incorporate these changes. For many years the REA Uniform System of Accounts and the Uniform System of Accounts prescribed by the Federal Power Commission for class A and B electric utilities have been similar in most respects except for those accounts reflecting loan transactions and the equity section applicable to cooperative-type borrowers. It seems reasonable that wherever practicable all other differences should be eliminated. Therefore, REA has adopted as its Uniform System of Accounts the Federal Power Commission's Uniform System of Accounts for class A and B public utilities, as modified by this bulletin. Some of the modifications arise from the nonprofit nature of the rural electric cooperative, while others result from the manner in which the REA loan program is administered. All questions concerning the interpretation of the system of accounts shall be referred to REA.

Beginning January 1, 1972, all REA borrowers are to follow the FPC System of Accounts prescribed for A and B electric utilities as modified by this bulletin.

Changes from time to time in the FPC System of Accounts will also be considered changes in the REA System of Accounts except in those cases where REA specifically prescribes other accounting. The currently prescribed account numbers and titles are set forth in the appendix to the bulletin.

The following principal accounting changes in the REA System of Accounts are to conform to the Uniform System of Accounts of the Federal Power Commission.

1. Account 180, Retirement Work in Progress, has been changed to a subaccount (108.8) of Account 108, Accumulated Provision for Depreciation of Electric Plant in Service.

2. Account 185, Temporary Facilities, has been added. This will eliminate the need for preparing construction and retirement work orders for temporary facilities as previously required and will, therefore, simplify the accounting.

3. The accounting for current and potential transformers, meter sockets, and other metering equipment, listed in Account 370, Meters, has been changed to provide for capitalization upon purchase.

Also, voltage regulators are to be capitalized on purchase. These changes will bring REA into agreement with FPC Uniform System of Accounts.

4. Account 451, Miscellaneous Service Revenues, has been added. Previously this account was consolidated with Account 456, Other Electric Revenues. This eliminates the difference between REA and FPC System of Accounts.

5. Account 420, Installation Loan Income, has been eliminated. The entries formerly made to this account are to be included in Account 419, Interest and Dividend Income. There is no longer any need for a segregation of installation loan income.

6. Account 419.1, Allowance for Funds Used During Construction, has been added. This account replaces former Account 432, Interest Charged to Construction—Credit, and conforms to the recent accounting change prescribed by FPC.

7. Some account numbers or titles have been changed to conform to the FPC System of Accounts. These include:

(a) All cash accounts are now a subdivision of Account 131, Cash.

(b) All long-term debt accounts are now a subdivision of Account 224, Other Long-Term Debt.

8. Some FPC accounts now prescribed are accounts that are either seldom used or used by few borrowers.

9. Some subaccounts which are not in the FPC System of Accounts are no longer prescribed. This leaves the use of certain subaccounts optional with the borrower.

Other principal accounting changes in the REA System of Accounts are:

1. Account 220, Operations—Clearing, has been deleted. To simplify closing the books at yearend operating revenue and expense accounts are to be closed directly to Account 219.1, Operating Margins.

2. The use of accounts for recording loans available from REA is now optional. It is not necessary to record these amounts until notes are executed, unless it is considered necessary by the borrower for proper control.

3. Account 422, Nonoperating Taxes, has been added to segregate in a separate account all taxes relating to nonoperating margins. This segregation is needed in order to determine operating margins and nonoperating margins.

Dated: November 4, 1971.

JAMES N. MYERS,
Assistant Administrator—Electric.

[FR Doc.71-16392 Filed 11-9-71;8:48 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 199]

[CGFR 71-135]

INTERIM LIFESAVING EQUIPMENT REQUIREMENTS FOR BOATS

Notice of Proposed Rule Making

The Coast Guard is considering issuing new regulations to require the carriage of lifesaving devices on certain boats as defined in the Federal Boat Safety Act of 1971. Any interested person may submit written data, views, comments, suggestions, and arguments to U.S. Coast Guard (CMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590. All communications received within 45 days after the date of publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed regulations. Each person submitting comments should include his name and address, identify this notice (CGFR 71-135) and give reasons and supporting data for his recommendations. All comments will be available for examination in Room 8234.

On Thursday, December 16, 1971, at 2 p.m., a public hearing to receive the views of interested persons on the proposed regulations will be held in Room 2230, 400 Seventh Street SW., Washington, DC. Each person who wishes to make an oral statement is requested to notify the U.S. Coast Guard (CMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590, before December 16, 1971, and indicate the amount of time required for initial statement. The hearing will be an informal hearing conducted by a designated representative of the U.S. Coast Guard. It will not be a judicial or evidentiary type hearing, so there will be no cross-examinations of persons presenting statements. After all initial statements have been completed, those persons who wish to make rebuttal statements will be given an opportunity to do so in the same order in which they made their initial statements.

Part 25 of Title 46 of the Code of Federal Regulations presently prescribes lifesaving equipment requirements for motorboats and certain motor vessels and barges carrying passengers when towed by motorboats or motor vessels. "Motorboat" as used in Part 25, means vessels propelled by machinery. Present Federal regulations do not require lifesaving equipment for such kinds of boats as canoes, sailboats, and rowboats when they are not propelled by machinery.

In 1970, 364 drownings resulted from the use of boats which were not required by Federal regulations to be equipped with life preservers or other lifesaving devices. In 42 percent of these cases, no lifesaving equipment was available for use.

The effect of this proposed amendment would be to extend the requirements for boats propelled by machinery to boats propelled or controlled by oars, paddles, sails, poles, or by another vessel. The regulations in Part 46 and all other Coast Guard regulations pertaining to lifesaving equipment remain in effect. Under the proposed amendment, for example, a 16-foot boat propelled by an outboard motor would be covered by 46 CFR 25.25-10(b) and that boat, when equipped only with oars, would be covered by these proposed regulations. The lifesaving equipment requirements would be identical. These regulations are proposed under the authority of section 5 of the Federal Boat Safety Act of 1971 (85 Stat. 213), which was delegated to the Commandant of the Coast Guard on October 5, 1971 (36 F.R. 19593). These regulations are interim in nature pending an overall revision of lifesaving equipment requirements.

Section 5(b) of the Act requires, among other things, that a regulation specify an effective date which is not earlier than 180 days from the date of issuance, unless there exists a boating safety hazard so critical as to require an earlier effective date. The Coast Guard considers these lifesaving equipment requirements to be so critical as to require an earlier effective date. The effective date is subject to final determination after considering comments received. However, it is anticipated that the rule can be made effective before April 1, 1972.

Section 6 of the Federal Boat Safety Act of 1971 requires that the Boating Safety Advisory Council be consulted in prescribing regulations and standards under the authority of section 5 of the Act. The Boating Safety Advisory Council is now being formed and will be consulted during the comment period of this proposal.

In consideration of the foregoing, the Coast Guard proposes to amend Chapter I of Title 33 of the Code of Federal Regulations by adding a new Subchapter X and a new Part 199 to read as follows:

SUBCHAPTER X—INTERIM REGULATIONS

PART 199—INTERIM REGULATIONS FOR BOATS

Subpart A—General

AUTHORITY: The provisions of this Part 199 issued under the Act of August 10, 1971, Public Law 92-75, section 5, 85 Stat. 213, 215; 49 CFR 1.46(o)(1) (36 F.R. 19593).

Subpart A—General

§ 199.1 Applicability.

This part prescribes rules governing the use of boats on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for boats owned in the United States, except—

(a) Foreign boats temporarily using waters subject to United States jurisdiction;

(b) Military or public boats of the United States, except recreational-type public vessels;

(c) A boat whose owner is a State or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such; and

(d) Ship's lifeboats.

§ 199.3 Purpose.

The purpose of this part is to prescribe boating regulations and standards that are so critical as to require an early effective date during the interim before comprehensive boating safety regulations can be promulgated under the Federal Boating Safety Act of 1971.

§ 199.5 Definitions.

As used in this part:

(a) "Boat" means any vessel—

(1) Manufactured or used primarily for noncommercial use.

(b) "Vessel" includes every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

(c) "Use" means operate, navigate, or employ.

Subpart B—Lifesaving Equipment

§ 199.11 Applicability of subpart.

This subpart applies to boats that are propelled or controlled by oars, paddles, poles, or sails or by another vessel.

§ 199.13 Lifesaving equipment required.

(a) No person may use a boat less than 40 feet long unless there is at least one of the following on board for each person:

(1) Life preserver.

(2) Ring life buoy.

(3) Buoyant vest.

(4) Special purpose water safety buoyant device.

(5) Buoyant cushion.

(b) No person may use a boat 40 feet long and less than 65 feet long unless there is at least one of the following on board for each person:

(1) Life preserver.

(2) Ring life buoy.

(c) No person may use a boat 65 feet long or longer unless there is at least one life preserver on board for each person.

§ 199.15 Stowage.

No person may use a boat unless each item of lifesaving equipment required by § 199.13 is readily accessible.

§ 199.17 Condition; approval; marking.

No person may use a boat unless each item of lifesaving equipment required by § 199.13 is—

(a) Approved by the Commandant under 46 CFR 160.

(b) In good and serviceable condition; and

(c) Is legibly marked with the markings specified in 46 CFR Part 160 for that item.

Dated: November 4, 1971.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.71-16476 Filed 11-9-71;8:50 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 542]

[Docket No. 71-84]

FINANCIAL RESPONSIBILITY FOR OIL POLLUTION CLEANUP

Clarifying Language in Certificate of Insurance Form

On September 30, 1970, the Federal Maritime Commission published in the FEDERAL REGISTER (35 F.R. 15216) regulations to implement the financial responsibility provisions of section 11(p)(1) of the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970 (84 Stat. 97). These regulations (Commission General Order 27), including subsequent amendments, set forth the procedures whereby the owner or operator of every vessel over 300 gross tons, including certain barges of equivalent size, using any port or place in the United States or the navigable waters of the United States must evidence financial responsibility to meet the liability to the United States to which such vessel could be subjected for the discharge of oil into or upon the waters of the United States. The regulations set forth the qualifications required by the Commission for issuance of certificates, including master certificates, evidencing such financial responsibility.

Section 11(p)(1) of the Federal Water Pollution Control Act, as amended, provides that every subject vessel shall establish and maintain, under regulations to be prescribed from time to time by the President, evidence of financial responsibility of $100 per gross ton, or $14 million, whichever is the lesser, to meet the liability to the United States to which such vessel could be subjected under this section. Such evidence of financial responsibility may be established by insurance among other means.

As provided in the regulations, a master certificate will be issued by the Commission only for vessels held solely for purposes of construction, scrapping or sale. The term "construction" includes the repair and/or conversion of vessels. Section 542.5(a)(5) of General Order 27 (36 F.R. 5703; issue of March 26, 1971) permits the filing of Certificate of Insurance Form FMC-225A as evidence of insurance coverage for vessels held solely for purposes of construction, scrapping or sale. Forms FMC-225A, therefore, are executed by underwriters only on behalf of those vessel owners and operators who apply to the Commission for master certificates.

Certain underwriters consider that the currently worded Form FMC-225A may be subjected to some misinterpretation regarding the maximum amount of liability being underwritten. They request that the current provisions of the form be clarified to make it absolutely clear that the amount of insurance granted to owners and operators will not in any event exceed $100 per gross ton of a given vessel or a maximum amount to be stated on the form, whichever is the lesser.

While the Commission is of the view that the present language of Form FMC-225A is sufficiently clear in this regard, it is willing to accept and include clarifying modifications to the present language. Since no substantive change is involved, the Commission would continue to view as valid any Form FMC-225A currently on file with the Commission until such documents are terminated in the normal course of events or are substituted by new Forms FMC-225A containing the herein proposed clarifications.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 552), and sections 11(p)(1) and 11(p)(2) of the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970 (84 Stat. 97), notice is hereby given that the Federal Maritime Commission is considering amending Part 542 of Title 46 CFR as follows:

It is proposed that the following language be substituted for the current language of Certificate of Insurance Form FMC-225A:

---------- (hereinafter called "the
(Name of Insurer)
Insurer"), in accordance with the provisions of section 11(p)(1) of the Federal Water Pollution Control Act, as amended (hereinafter called "the Act"), hereby certifies that ----------
---------- (hereinafter called "the Assured"), with respect to any vessel which the Assured may from time to time hold, as owner or operator, during the life of this Certificate of Insurance, for purposes of construction, scrapping or sale (hereinafter called "the Vessel"), is insured by the Insurer in the amount of $100 per gross ton of the Vessel or $----------, whichever is the lesser, against liability to the United States Government arising under section 11(f) of the Act.

The Insurer consents to be sued directly by the U.S. Government in respect of any claim against the Assured, arising with respect to the Vessel under section 11(f) of the Act; provided, however, that in any such direct action (a) its liability shall not exceed $100 per gross ton of the tonnage of the Vessel in respect of which the claim is made or the amount stipulated above, whichever is the lesser, and (b) it shall be entitled to invoke all rights and defenses as set forth in section 11(f)(1) of the Act which would have been available to the Assured if the action had been brought against the Assured by the U.S. Government, and shall also be entitled to invoke all rights and defenses which would have been available to the Insurer if the action had been brought against the said Insurer by the Assured.

---------- with offices at
---------- is hereby designated as the legal agent of the Insurer for service of process in any direct action.

This Certificate of Insurance shall be applicable only in relation to events giving rise to a claim by the U.S. Government against the said Assured under section 11(f) of the Act in respect of the Vessel, occurring on or after the below specified effective date of this Certificate of Insurance and before the expiration date of this Certificate of Insurance, which shall be the earlier of the following:

(a) The date whereon Federal Maritime Commission (FMC) withdraws its master Certificate of Financial Responsibility (Oil Pollution) covering the Vessel.

(b) A date 30 days after the date of receipt by FMC of notice in writing that the Insurer has elected to terminate the insurance evidenced by this Certificate of Insurance and has so notified the Assured.

(c) The date substitute evidence of financial responsibility has been accepted by FMC.

Interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days of the publication of this notice in the FEDERAL REGISTER, an original and 15 copies of their views or arguments pertaining to the proposed clarification. All suggestions for changes in the proposed text should be accompanied by drafts of the language thought necessary to accomplish the desired clarification.

By order of the Federal Maritime Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16401 Filed 11-9-71;8:49 am]

[46 CFR Part 546]

[Docket No. 71-74]

QUARTERLY REPORT OF FREIGHT LOSS AND DAMAGE CLAIMS

Further Enlargement of Time To File Replies

Upon request of Hearing Counsel and good cause appearing, time within which they shall file replies to comments in this proceeding is enlarged to and including December 3, 1971. Answers to Hearing Counsel's replies shall be submitted on or before December 20, 1971.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16402 Filed 11-9-71;8:49 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[No. MC-C-1 (Sub-No. 11); Ex Parte No. MC MC-37]

ST. LOUIS, MO.-EAST ST. LOUIS, ILL., COMMERCIAL ZONE

Proposed Reinstatement of Exemption

NOVEMBER 5, 1971.

Notice of proposed rule making, namely reinstatement of the commercial zone exemption as to Belleville, Ill., a point

within the limits of the St. Louis, Mo.-East St. Louis, Ill., commercial zone heretofore defined in No. MC-C-1 (Sub-No. 9) St. Louis, Mo.-East St. Louis, Ill., commercial zone, 111 M.C.C. 325. Petitioner: Belle Valley Industrial Village, Inc. Petitioner's representative: Jim D. Keehner, 111 West Washington Street, Belleville, IL 62220.

By petition filed October 26, 1971, the above-named petitioner requests the Commission to reopen the above proceedings for the purpose of restoring the partial exemption under section 203(b)(8) of the Interstate Commerce Act at Belleville, Ill., a point within the St. Louis, Mo.-East St. Louis, Ill., commercial zone.

No oral hearing is contemplated at this time, but anyone wishing to make representations in favor of, or against the above-proposed specific redefinition of the limits of the St. Louis, Mo.-East St. Louis, Ill., commercial zone, may do so by the submission of written data, views, or arguments. An original and 15 copies of such data, views, or arguments shall be filed with the Commission on or before January 5, 1972. A copy of each should be served upon petitioner's representative. Written material or suggestions submitted will be available for public inspection at the Offices of The Interstate Commerce Commission, 12th and Constitution, Washington, DC, during regular business hours.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16415 Filed 11-9-71;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-9380]

ESTABLISHMENT AND OPERATION OF FACILITIES FOR CLEARING AND SETTLING TRANSACTIONS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to adopt Rule 15Aj-3 (17 CFR 240.15Aj-3) under the Securities Exchange Act of 1934 (the Act). Proposed Rule 15Aj-3 prescribes certain requirements applicable to a national securities association which establishes and operates facilities for clearing and settling securities transactions, including the requirement that the applicable rules of the Association incorporate as guides to interpretation and application certain public interest standards set forth in the Act and also that such rules of the Association provide fair procedures for consideration of requests for or refusals of access to such system by customers, issuers, brokers, and dealers. The proposed rule would also provide for Commission review of adverse action by the Association with respect to such requests for or refusals of access.

While the proposed rule is applicable to action that may be taken by any securities association registered under section 15A of the Act, it has been formulated in light of the National Association of Securities Dealers, Inc.'s (NASD) establishment of the National Clearing Corporation (NCC) as a wholly owned subsidiary to provide a nationwide system to clear and settle over-the-counter transactions in securities and the NCC's and NASD's proposals to adopt rules governing the operation of and access to such a system.

The NASD has submitted to the Commission amendments to its by-laws and a proposed new schedule thereunder which, among other things, would provide complaint and hearing procedures for aggrieved persons who may be adversely affected by NCC action. The NASD has also submitted to the Commission proposed rules which, among other things, provide standards regarding who may obtain access to the system and the applicable rates to be charged those who clear through the system; standards for the inclusion or exclusion of securities from the system; standards for suspending or deleting securities from the list of cleared securities (i.e., those securities qualified for clearance through the system), and for suspension or exclusion of those who clear through the system for failure to comply with applicable regulatory standards.

THE PROPOSED RULE AND ITS STATUTORY BASIS

Rule 15Aj-3 would be adopted pursuant to various provisions of the Act, including the power conferred by section 23(a) to adopt "such rules and regulations as may be necessary for the execution of the functions vested" in the Commission by the Act.[1] The rule relates specifically to the Commission's function to make sure that rules of a national securities association, among other things, "are designed to * * * remove impediments to and perfect the mechanism of a free and open market; and are not designed to permit unfair discrimination between customers or issuers, or brokers or dealers".

Discharge of this function in the context of reviewing rules of an association (or its subsidiary) governing the operation of and access to a system of clearing and settling securities transactions is a novel problem in the administration of section 15A. The Commission, however, dealt with a similar problem when the Association proposed to establish the NASDAQ system, its system for providing automated quotations to members and the investing public. See Securities Exchange Act Release No. 8470 of December 16, 1968, and the FEDERAL REGISTER for December 24, 1968 at 33 F.R. 19167 announcing the adoption of Rule 15Aj-2 (17 CFR 240.15Aj-2). As the Commission indicated at that time, existing rules of the NASD (other than those of an organizational or procedural character) relate primarily to standards of business conduct or to conditions of membership. Apart from the possibility that the Commission may disapprove rules of this type which are on their face unlawful and/or in violation of the standards of the Act, the statute spells out a procedure whereby persons aggrieved as a result of the application of rules of conduct or rules limiting membership may have appropriate consideration of their grievance within the association and on review by the Commission. Rule 15Aj-3 would provide a similar procedure where application of a rule of a national securities association or its subsidiary denies access to a facility for clearing and settling transactions which is maintained by the collective action of the association. The requirement of a fair and orderly procedure for consideration of specific access requests and grievances appears to the Commission essential to assure that such rules conform, in their actual operation, to the statutory requirements.

The text of proposed § 240.15Aj-3 of Chapter II of Title 17 of the Code of Federal Regulations is as follows:

§ 240.15Aj-3 Rules for a national securities association relating to a facility for clearing and/or settling securities transactions.

(a) Any national securities association which directly or indirectly adopts, or proposes to adopt, any rules providing for or regulating a system for the clearance and/or settlement of securities transactions shall incorporate in such rules a provision to the effect that insofar as such rules prescribe the conditions of access to such system, such rules shall be applied and interpreted in accordance wih the standards of paragraph (b)(8) and paragraph (h)(2) of section 15A of the Act, including the requirement that rules of such an association shall be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and not to permit unfair discrimination between customers or issuers, or brokers or dealers, and to assure that any disciplinary action pursuant to such rules shall not be excessive or oppressive, having due regard to the public interest.

(b) Such rules shall also provide a fair and orderly procedure with respect to the determination of whether any customer or issuer or broker or dealer may be excluded or limited in respect of requested access to such system including provisions:

(1) For notice of and opportunity to be heard upon the specific grounds for exclusion or limitation which are under consideration;

(2) That a record shall be kept; and

(3) That the determination shall set forth the specific grounds upon which the exclusion or limitation is based.

[1] Other pertinent provisions are in section 15A.

(c) In the event of any such exclusion or limitation, such action shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within 30 days after such action has been taken or within such longer period as the Commission may determine. In any proceeding for such review, if the Commission, after appropriate notice and opportunity for hearing, and upon consideration of the record before the association and such other evidence as it may deem relevant, determines that the specific grounds on which such action is based exist in fact and are in accord with the applicable rules of the association (including the provisions thereof required to be included by paragraph (a) of this section), the Commission shall by order dismiss the proceeding. Otherwise, the Commission shall by order set aside the action of the association and require the association to accord the aggrieved person access to such system or to take such other action as may be appropriate, subject to such terms and conditions as the Commission determines to be in accordance with the public interest and consistent with the rules of such association.

All interested persons may submit their views and comments on the above proposal in writing to the Securities and Exchange Commission, Washington, D.C. 20549 on or before December 14, 1971. All such communications will be considered available for public inspection.

(Secs. 15A(j), 23(a), 52 Stat. 1070, 48 Stat. 901, as amended, 49 Stat. 1379, Sec. 8, 15 USC 78o-3(j), 78w)

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16375 Filed 11-9-71;8:48 am]

Notices

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

SCHEDULES OF CONTROLLED SUBSTANCES

Petition To Transfer Pentazocine to Schedule III Accepted for Filing

On October 5, 1971, the Bureau of Narcotics and Dangerous Drugs received a petition for the initiation of proceedings to transfer any injectable liquid which contains any quantity of Pentazocine, including its salts, isomers and salts of its isomers to Schedule III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513). The petitioners are Joseph L. Fink III, R. Ph., a student at Georgetown University Law Center and six other persons.

By letter dated October 28, 1971, the Bureau notified the petitioners that their petition had been accepted for filing in accordance with 21 CFR 308.44(c). The Bureau is presently reviewing and evaluating the petition in order to determine whether the grounds upon which the petitioners rely are sufficient to justify the initiation of the requested proceedings.

If and when the Director determines that proceedings should be initiated, a general notice of any proposed rule making will be published in the FEDERAL REGISTER.

Dated: October 28, 1971.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.71–16389 Filed 11–9–71;8:48 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 2, 1971.

The Department of the Navy has filed an application, Serial Number Riverside 06454, for the withdrawal of the lands described below from all forms of appropriation under the public land laws, including the mining laws, subject to valid existing rights. The lands have previously been withdrawn by Executive Orders Nos. 8790 and 8791 of June 14, 1941 for use of the Department of the Navy in connection with a Marine Corps combat and training area. The lands were transferred to the jurisdiction of the Department of the Air Force by Public Land Order No. 2748 of August 8, 1962, and to the jurisdiction of the National Aeronautics and Space Administration by Public Land Order No. 3749. The applicant agency desires the land for use in connection with the Miramar Naval Air Station, San Diego, Calif.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, objections in connection with the proposed withdrawal may present their view in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, 1414 University Avenue, Post Office Box 723, Riverside, CA 92502.

The Department's regulations (43 CFR 2351.4(c)) provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's need, to provide for the maximum utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SAN BERNARDINO MERIDIAN, CALIF.

T. 14 S., R. 1 W.,
Sec. 31, N½NE¼;
Sec. 32, NW¼NW¼, N½SW¼, SE¼SW¼, and S½SE¼;
Sec. 33, W½W½.
T. 15 S., R. 1 W.,
Sec. 4, lots 4, 5, and 10;
Sec. 5, lots 1, 2, 3, 5, S½NE¼, SE¼NW¼, E½SW¼, SW¼SE¼, and N½SE¼;
Sec. 6, lots 1, 6, 7, E½SW¼, and W½SE¼;
Sec. 7, lot 1, NW¼NE¼, and SE¼NE¼.
T. 15 S., R. 2 W.,
Sec. 11, lot 1;
Sec. 12, N½NE¼ and NE¼NW¼.

The areas described aggregate 1,674.86 acres in San Diego County, Calif.

WALTER F. HOLMES,
Assistant Land Office Manager.

[FR Doc.71–16373 Filed 11–9–71;8:46 am]

OREGON DISTRICT MANAGERS, ET AL.

Delegation of Authority Regarding Procurement

NOVEMBER 3, 1971.

State Director, Oregon Supplement to Bureau of Land Management Manual 1510.

Redelegation of authority. Pursuant to the delegation of authority contained in Bureau Manual 1510.03C, the purchasing authorities delegated to the Oregon State Director in BLM 1510.03B2d are redelegated as follows:

2. *Open market purchasing.* The following classes of employees may enter into contracts pursuant to section 302(c)(3) of the FPAS Act, as amended, for supplies and services, excluding capitalized property, not to exceed $2,500; and contracts for construction not to exceed $2,000; *Provided*, That the requirement is not available from established sources of supply. The same classes of employees may procure necessary supplies and services, except capitalized property, available from established sources of supply regardless of amount. The classes of employees who may make such procurements are:

District Managers.
Chief, Division of Management Services, State Office.
Chief, Branch of Administrative Management, State Office.
Chief, Division of Administration, District Offices.
Area Manager, Tillamook Resource Area Headquarters, Salem District.

This publication amends the Delegation of Authority published in the FEDERAL REGISTER on February 27, 1971, F.R. Doc. 71–2688.

ARCHIE D. CRAFT,
State Director.

[FR Doc.71–16421 Filed 11–9–71;8:50 am]

[Power Site Classification 463]

TAZIMINA RIVER AND LAKES, ALASKA

Classification of Power Site

Correction

In F.R. Doc. 71–15915 appearing on page 20994 in the issue of Tuesday, November 2, 1971, the fourth land description under T. 2 S., R. 30 W., reading "Sec. 9, S½NE¼, SE¼NW¼, and S½;" should read "Sec. 9, S½NE¼, SE¼NW¼, and S½;".

Bureau of Reclamation

[Int Fes 71–20]

COLORADO RIVER STORAGE PROJECT, COLORADO

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for an addition to the authorized Colorado River Storage Project (Proposed Archer-Weld 230–KV Transmission Line and Weld Substation). The

environmental statement concerns a proposed transmission line for the purpose of furnishing electrical energy to power market centers. The line also will provide a strong interconnection between hydro and thermal generation systems, enhancing reliability of service. Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone: (202) 343-4991

Office of the Regional Director, Bureau of Reclamation, Denver, Colo., Building 20, Denver Federal Center, telephone: (303) 233-6719

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation and the Regional Director. In addition copies are available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151 for $3 each. Please refer to the statement number above.

Dated: November 2, 1971.

JOHN W. LARSON,
Assistant Secretary of the Interior.

[FR Doc.71-16374 Filed 11-9-71;8:47 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

ACREAGE ALLOCATIONS FOR NEW CONTINENTAL CANE SUGAR AREAS

Notice of Hearing

Notice is hereby given that the Secretary of Agriculture, acting pursuant to the Sugar Act of 1948, as amended by Public Law 92-138, is preparing to consider the allocation of sugarcane acreage which he determines is necessary to enable any new cane sugar producing area or areas to fill the quota of 100,000 short tons, raw value, that is to be established for 1973 or as soon thereafter as it can be used. The statutory language and pertinent legislative history is quoted herein. An informal public hearing on the matter will be held in Room GE 086, James Forrestal Building, 1000 Independence Avenue SW., Washington, DC, beginning at 10 a.m., on December 2, 1971.

(1) *Submittal of requests for acreage.* Requests for acreage shall be addressed to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, and shall be submitted in triplicate at the hearing. Interested persons will be given the opportunity at the hearing to submit data, views, and arguments in regard to such requests. Provisions for submitting written arguments and briefs after the hearing will be announced at the hearing.

(2) *Specifications to be covered in requests.* Requests for acreage should include all relevant information, including the following:

(a) The location of the processing facility and concise delineation of the area wherein the cane for the new facility will be grown;

(b) The acreage desired and its sugar equivalent, including the bases for estimating the sugar equivalent; also the crop year when the new facility would commence processing sugarcane;

(c) The daily grinding capacity and the contemplated grinding period together with a description of the proposed facilities;

(d) A complete description of the arrangements made for capital financing. The firmness of the capital commitment is an important consideration in evaluating the requests. Whenever possible, the applicant should establish that financing for the project has been irrevocably committed contingent only upon the commitment of an acreage by the Secretary;

(e) The suitability of the area for growing sugarcane, as evidenced by any commercial production records, results of plantings on test plots which were performed and supervised by competent authorities, a showing of the availability of irrigation water or of adequate rainfall, availability of suitable land, and other evidence relating to the economic feasibility of growing the required quantity of sugarcane in the locality, including proof of interest of farmers in entering into sugarcane production.

SUGAR MARKETING ALLOTMENTS

The submission of views, data, or evidence with respect to sugar marketing allotments under section 205(a) of the Sugar Act of 1948, as amended, should be made at such hearings as will be held for establishing marketing allotments. Public notice of such hearings will be given by publication in the FEDERAL REGISTER.

Provisions of the Sugar Act and legislative history. Section 202(a) of such Act was amended to include the following:

* * * (4) Beginning with 1973 or as soon thereafter as the quota or quotas can be used, there shall be established for any new continental cane sugar producing area or areas a quota or quotas of not to exceed a total for all such areas of 100,000 short tons, raw value, subject to the requirements of section 302 of this Act.

Section 302 was amended to include the following:

* * * (c) In order to enable any new cane sugar producing area to fill the quota to be established for such area under section 202 (a) (4), the Secretary shall allocate an acreage which he determines is necessary to enable the area to meet its quota and provide a normal carryover inventory. Such acreage shall be fairly and equitably distributed to farms on the basis of land, labor, and equipment available for the production of sugarcane, and the soil and other physical factors affecting the production of sugarcane. The acreage allocation for any year shall be made as far in advance of such year as practicable, and the commitment of such acreage to the area shall be irrevocable upon issuance of such determination by publication thereof in the FEDERAL REGISTER, except that, if the Secretary finds in any case that construction of sugarcane facilities and the contracting for processing of sugarcane has not proceeded in substantial accordance with the representation made to him as a basis for his determination of distribution of acreage, he shall revoke such determination in accordance with and upon publication in the FEDERAL REGISTER of such findings. In making his determination for the establishment of a quota and the allocation of the acreage required in connection with such quota, the Secretary shall base such determination upon the firmness of capital commitment and the suitability of the area for growing sugarcane and, where two or more areas are involved, the relative qualifications of such areas under such criteria. If proportionate shares are in effect in such area in the 2 years immediately following the year for which the sugarcane acreage allocation is committed for any area, the total acreage of proportionate shares established for farms in such areas in each such 2 years, shall not be less than the larger of the acreage committed to such area or the acreage which the Secretary determines to be required to enable the area to fill its quota and provide for a normal carryover inventory.

The following contains information relating to the legislative history of this provision of the Act. H.R. Report No. 92-245, 92d Congress, first sess., on page 16 states: "The Secretary is authorized to allocate an acreage to any new continental cane sugar producing area in an amount necessary to enable the area to meet its quota to be established under subsection 202(a)(4) of the amended Act. The acreage would be allocated as far as possible in advance of the year when production is scheduled to begin. Selection of the locality for new production would be based upon the firmness of capital commitment and suitability for growing sugarcane. The total acreage of proportionate shares established for farms in the new area would be guaranteed for 3 years at not less than the acreage originally committed to the area and not more than that needed to enable the area to fill its quota and provide a normal carryover. The acreage for localities would be distributed to farms fairly and equitably on the basis of land, labor, and equipment available for the production of sugarcane, the soil and other physical factors affecting sugarcane production."

Senate Report No. 92-302, 92d Congress, first sess., on page 4 states: "An additional quota of as much as 100,000 tons would be provided for a new continental cane sugar area or areas beginning in 1973 or as soon thereafter as it can be used. When established, the quotas for foreign countries other than the Philippines and Ireland would be reduced by an equivalent amount.

This new cane quota would be in addition to the mainland cane quota reserved for Louisiana and Florida. The language of the bill is specifically designed to permit the Secretary to administratively commit prior to 1973 a new quota to an area that so qualifies even though the actual quota allocation would not be in effect until 1973 or later. Thus, any time after enactment of H.R. 8866 the Secretary could commit the new quota to a specific area such as, for example, the Lower Rio Grande

Valley of Texas (Cameron, Willacy, Hidalgo, and Starr Counties) if the appropriate criteria were met."

Signed at Washington, D.C., on November 3, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-16391 Filed 11-9-71;8:48 am]

Commodity Credit Corporation

[Amdt. 7]

SALES OF CERTAIN COMMODITIES

Monthly Sales List

The CCC Monthly Sales List for the fiscal year ending June 30, 1972, published in 36 F.R. 13044, is amended as follows:

1. The first sentence of section 44 entitled "Linseed Oil (Raw)—Unrestricted Use Sales" is revised to read as follows: "Market price but not less than $0.09 per pound, basis in tanks, Minneapolis."

Effective date: 2:30 p.m., (e.d.t.), October 29, 1971.

Signed at Washington, D.C., on November 3, 1971.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.71-16390 Filed 11-9-71;8:48 am]

Office of the Secretary

ORGANIZATION AND DELEGATIONS

Statement Regarding Redelegations on Temporary Basis

Notice is hereby given that all delegations of authority to Department agencies and staff offices which report to the Secretary through an Assistant Secretary or Director are withdrawn and redelegated to the respective Assistant Secretaries and Directors, who are authorized to further delegate authorities back to the agencies on a temporary basis. Delegations of authority to those agencies and offices reporting directly to the Secretary or Under Secretary are hereby reconfirmed on a temporary basis for a 90 day period.

Effective date: October 20, 1971.

J. PHIL CAMPBELL,
Acting Secretary of Agriculture.

NOVEMBER 5, 1971.

[FR Doc.71-16428 Filed 11-9-71;8:51 am]

DIRECTOR, OFFICE OF BUDGET AND FINANCE, ET AL.

Delegation of Authority

Pursuant to the authority delegated to me by the Secretary in 36 F.R. 21529, I hereby delegate on a temporary basis, to the Director, Office of Budget and Finance, the Director, Office of Information, the Director, Office of Management Services, the Director, Office of Management Improvement, the Director, Office of Personnel, the Director, Office of Plant and Operations, and the Chief, Office of Hearing Examiners all authorities relating to their respective offices so delegated to me by the Secretary. The Directors and Chief shall carry out such functions and responsibilities in accordance with and subject to sections 1 through 40 of the Secretary's "Statement of Organization and Delegations," 29 F.R. 16210, as amended in 32 F.R. 11895, and any other applicable directives of the Secretary of Agriculture or the Assistant Secretary for Administration. All prior delegations of authority from the Directors and Chief shall continue in force until superseded or revoked.

Effective date: October 20, 1971.

FRANK B. ELLIOTT,
Assistant Secretary for Administration.

NOVEMBER 5, 1971.

[FR Doc.71-16422 Filed 11-9-71;8:50 am]

ADMINISTRATOR, AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE, ET AL.

Delegation of Authority

Pursuant to the authority delegated to me by the Secretary in 36 F.R. 21529, I hereby delegate on a temporary basis, to the Administrator, Agricultural Stabilization and Conservation Service, the General Sales Manager, Export Marketing Service, the Manager, Federal Crop Insurance Corporation, the Administrator, Foreign Agricultural Service, and the Director, International Organization Staff all authorities relating to their respective agencies so delegated to me by the Secretary. The Administrators, General Sales Manager, Manager and Director shall carry out such functions and responsibilities in accordance with and subject to sections 1 through 40 of Secretary's "Statement of Organization and Delegations," 29 F.R. 16210, as amended in 32 F.R. 11895, and any other applicable directives of the Secretary of Agriculture or the Assistant Secretary for International Affairs and Commodity Programs. All prior delegations of authority from the Administrators, General Sales Manager, Manager and the Director shall continue in force until superseded or revoked.

Effective date: October 20, 1971.

CLARENCE D. PALMBY,
Assistant Secretary for International Affairs and Commodity Programs.

NOVEMBER 5, 1971.

[FR Doc.71-16423 Filed 11-9-71;8:51 am]

ADMINISTRATOR, COOPERATIVE EXCHANGE AUTHORITY, ET AL.

Delegation of Authority

Pursuant to the authority delegated to me by the Secretary in 36 F.R. 21529, I hereby delegate on a temporary basis, to the Administrator, Cooperative Exchange Authority, the Administrator, Consumer and Marketing Service, the Administrator, Food and Nutrition Service, and the Administrator, Packers and Stockyards Administration all authorities relating to their respective agencies so delegated to me by the Secretary. The Administrators shall carry out such functions and responsibilities in accordance with and subject to sections 1 through 40 of the Secretary's "Statement of Organization and Delegations," 29 F.R. 16210, as amended in 32 F.R. 11895, and any other applicable directives of the Secretary of Agriculture or the Assistant Secretary for Marketing and Consumer Services. All prior delegations of authority from the Administrators shall continue in force until superseded or revoked.

Effective date: October 20, 1971.

RICHARD E. LYNG,
Assistant Secretary for Marketing and Consumer Services.

NOVEMBER 5, 1971.

[FR Doc.71-16424 Filed 11-9-71;8:51 am]

ADMINISTRATOR, FARMER COOPERATIVE SERVICE ET AL.

Delegation of Authority

Pursuant to the authority delegated to me by the Secretary in 36 F.R. 21529, I hereby delegate on a temporary basis, to the Administrator, Farmer Cooperative Service, Administrator, Farmers Home Administration, the Chief, Forest Service, the Administrator, Rural Electrification Administration, and the Administrator, Soil Conservation Service all authorities relating to their respective agencies so delegated to me by the Secretary. The Administrators and Chief shall carry out such functions and responsibilities in accordance with and subject to sections 1 through 40 of the Secretary's "Statement of Organization and Delegations," 29 F.R. 16210, as amended in 32 F.R. 11895, and any other applicable directives of the Secretary of Agriculture or the Assistant Secretary for Rural Development and Conservation. All prior delegations of authority from the Administrators and Chief shall continue in force until superseded or revoked.

Effective date: October 20, 1971.

T. K. COWDEN,
Assistant Secretary for Rural Development and Conservation.

NOVEMBER 5, 1971.

[FR Doc.71-16425 Filed 11-9-71;8:51 am]

ADMINISTRATOR, ECONOMIC RESEARCH SERVICE ET AL.

Delegation of Authority

Pursuant to the authority delegated to me by the Secretary in 36 F.R. 21529, I hereby delegate on a temporary basis,

to the Administrator, Economic Research Service, the Administrator, Foreign Economic Development Service, the Administrator, Statistical Reporting Service, and the Director, Staff Economists Group all authorities relating to their respective agencies so delegated to me by the Secretary. The Administrators and the Director shall carry out such functions and responsibilities in accordance with and subject to sections 1 through 40 of the Secretary's "Statement of Organization and Delegations," 29 F.R. 16210, as amended in 32 F.R. 11895, and any other applicable directives of the Secretary of Agriculture or the Director of Agricultural Economics. All prior delegations of authority from the Administrators or Director, Staff Economists Group shall continue in force until superseded or revoked.

Effective date: October 20, 1971.

DON PAARLBERG,
Director of Agricultural Economics.

NOVEMBER 5, 1971.

[FR Doc.71-16426 Filed 11-9-71;8:51 am]

ADMINISTRATOR, AGRICULTURAL RESEARCH SERVICE ET AL.

Delegation of Authority

Pursuant to the authority delegated to me by the Secretary in 36 F.R. 21529, I hereby delegate on a temporary basis, to the Administrator, Agricultural Research Service, the Administrator, Cooperative State Research Service, the Administrator, Extension Service, the Director, National Agricultural Library, and the Director, Science and Education Staff all authorities relating to their respective agencies so delegated to me by the Secretary. The Administrators and the Directors shall carry out such functions and responsibilities in accordance with and subject to sections 1 through 40 of the Secretary's "Statement of Organization and Delegations," 29 F.R. 16210, as amended in 32 F.R. 11895, and any other applicable directives of the Secretary of Agriculture or the Director of Science and Education. All prior delegations of authority from the Administrators and Directors shall continue in force until superseded or revoked.

Effective date: October 20, 1971.

NED D. BAYLEY,
Director of Science and Education.

NOVEMBER 5, 1971.

[FR Doc.71-16427 Filed 11-9-71;8:51 am]

DEPARTMENT OF COMMERCE

Maritime Administration

CONSTRUCTION OF LIQUEFIED NATURAL GAS (LNG) VESSELS

Computation of Foreign Cost; Notice of Intent

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign costs of the construction of (a) 125,000 cubic meter liquefied natural gas (LNG) vessels of either the gas transport or Moss-Rosenberg design, and (b) any other LNG vessels whose estimated foreign construction costs may be relevant to or helpful in computing the estimated foreign construction costs of the LNG vessels described in (a).

Any person, firm, or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on November 30, 1971, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

This notice supersedes the one contained in F.R. Doc. 71-16221 appearing in the FEDERAL REGISTER issue of November 5, 1971 (36 F.R. 21296).

Dated: November 8, 1971.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-16508 Filed 11-9-71;8:50 am]

National Oceanic and Atmospheric Administration

YELLOWFIN TUNA

Increase in Incidental Catch Rate

Notice of an increase in the incidental catch rate is hereby given pursuant to the proviso to § 280.6(c), Title 50, Code of Federal Regulations as follows:

Upon publication of this notice in the FEDERAL REGISTER, the 50 percent (50%) incidental catch rate of yellowfin tuna for all purse seine vessels of 300 short tons carrying capacity or less set forth in Title 50 CFR 280.6(c)(3) is hereby increased to 65 percent (65%), due to the fact that the catch of yellowfin tuna during the closed season by such purse seine vessels has been well below the expected catch rate and the allotment provided in said title has not been utilized.

Issued at Washington, D.C., and dated November 5, 1971.

T. P. GLEITER,
Assistant Administrator for Administration.

[FR Doc.71-16399 Filed 11-9-71;8:49 am]

Office of Import Programs

ATOMIC ENERGY COMMISSION ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 71-00617-75-40600. Applicant: U.S. Atomic Energy Commission, Los Alamos, N. Mex. 87544. Article: Mass separator. Manufacturer: Nucletec S. A., Switzerland. Intended use of article: The article will be used for the investigations of nuclear cross sections needed for the development of breeder reactors to meet the Nation's future power requirements. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00618-90-46040. Applicant: University of Washington, Department of Genetics, Seattle, Wash. 98105. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used in structural analysis of ribosome crystals from chick embryos, and the chromosomes of mitotic and meiotic yeasts and molds. The article will also be used in the development of high-resolutioin electron-dense markers for the specific localization of macromolecular species. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00619-33-46040. Applicant: V.A. Hospital No. 614, 1030 Jefferson Avenue, Memphis, TN 38104. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in an intensive research program underway to identify an enzyme produced by basal cell epithelioma important to the cure of this the most common skin cancer; investigation of various keratinizing tissues of the skin such as hair and nail; and train residents in electron microscopy. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00620-33-90000. Applicant: Purdue University, Lafayette, Ind. 47907. Article: Anode X-ray diffraction system, Model GX-6. Manufacturer: Elliott Automatic Radar Systems, Ltd., United Kingdom. Intended use of article: The article will be used in research analyzing the detailed molecular structures of nucleic acid, polysaccharides, globular proteins and viruses. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00621-33-46040. Applicant: Emory University, Anatomy Department, Atlanta, Ga. 30322. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for the teaching and training of graduate students, medical students, and postdoctoral fellows as well as for research on the structure and function of normal and dystrophic developing skeletal muscles; studies on the structure of normal and myopathic cardiac (heart) muscle; and studies on the autoimmune destruction of sperm. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00622-01-77030. Applicant: University of Vermont, Burlington, Vt. 05401. Article: NMR spectrometer, Model JNM-C-60HL. Manufacturer: JEOLCO, Ltd., Japan. Intended use of article: The article will be used in the following research studies:

1. Phosphorous-nitrogen chemistry; structure and bonding from ^{19}F and ^{31}P nmr data.

2. Structural chemistry via ^{13}C nmr with proton noise decoupling.

3. Bonding studies involving phenylphosphorus bonding studied by ^{13}C nmr;

4. 60 MHz proton nmr experiments;

5. Organic stereochemistry by ^{19}F nmr of induced $-CF_3$ groups; and

6. Stereochemistry of six-coordinate tin complexes with fluorinated ligands. The article will also be used for Education in Chemistry courses for graduate and undergraduate students. Application received by Commissioner of Customs: June 30, 1971.

Docket No. 71-00623-01-77030. Applicant: University of Vermont, Burlington, Vt. 05401. Article: NMR spectrometer, Model JNM-MH-100. Manufacturer: JEOLCO, Ltd., Japan. Intended use of article: The article will be used in a variety of research projects such as:

1. Elucidation of the structure of natural products;

2. Conformational studies based on splitting patterns of ring systems at low temperatures;

3. Variable temperature, kinetic and structural studies of organo sulfur reaction mechanisms.

4. Structural and kinetic studies of molecular complexes and aniomic sigma complexes; and

5. Pmr studies of molecules with protons near the fact of cyclopropane rings. The article will be used primarily by students in graduate and undergraduate courses in chemistry as a part of masters and doctoral programs. Application received by Commissioner of Customs: June 30, 1971.

Docket No. 71-00624-40-30600. Applicant: Southern Illinois University, Carbondale, Ill. 62901. Article: Fluid mechanics apparatus. Manufacturer: Armfield Engineering Ltd., United Kingdom. Intended use of article: The article will be used in the course Intermediate Mechanics of Fluids (Engr 413 A&B (3,3)) to expand and add to the subject matter presented at the elementary level in the core program (Engr 313 A&B) and thus bring the student's level of understanding of the fundamentals to a degree which would enable him to approach with confidence diverse problems involving fluid mechanics. Application received by Commissioner of Customs: June 30, 1971.

Docket No. 72-00001-01-46040. Applicant: Cornell University, Ithaca, N.Y. 14850. Article: Electron microscope, Model EM 802. Manufacturer: Associated Electrical Industries, United Kingdom. Intended use of article: The article will be used in research concerning (a) chemical analysis of microstructure; (b) energy loss studies of solids on a small scale and at high angular resolution; and (c) contrast studies of defects using elastically scattered radiation. Application received by Commissioner of Customs: July 1, 1971.

Docket No. 72-00002-58-46070. Applicant: University of South Carolina, Columbia, S.C. 29208. Article: Scanning electron microscope, Model JSM-U3. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used as a research program which includes the following projects:

1. Mechanisms of calcification in aquatic invertebrates, and the effects of environmental factors on calcification and physiology of the organisms.

2. Study of history of sedimentation over the past million years of the Antarctica Convergence area.

3. Rock mechanics research.

4. In addition the instrument will be used in the graduate course of electron microscopy given to train students in ultrastructural studies of a selected organism. Application received by Commissioner of Customs: July 1, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-16362 Filed 11-9-71;8:46 am]

BLUEFIELD STATE COLLEGE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 72-00044-20-37450. Applicant: Bluefield State College, Bluefield, W. Va. 24701. Article: Glass sided tilting flume and accessories. Manufacturer: Armfield Engineering Ltd., United Kingdom. Intended use of article: The article will be used in teaching and research studies of typical open channel experiments such as Weir sluice experiments; studies of syphon spillway and design; and studies of critical depth and wave trains. Application received by Commissioner of Customs: July 20, 1971.

Docket No. 72-00045-33-07700. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Streak camera. Manufacturer: John Hadland Ltd., United Kingdom. Intended use of article: The article will be used to photograph the motion of the high temperature plasma column in the Scyllac theta-pinch device. Application received by Commissioner of Customs: July 20, 1971.

Docket No. 72-00046-33-46500. Applicant: West Virginia University Medical Center, Morgantown, W. Va. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in experiments on the changes in the behavior of cultured cells and tissues, primarily neural elements as a result of prolonged exposure to high O_3 concentrations and anesthetic gases and vapors. Application received by Commissioner of Customs: July 20, 1971.

Docket No. 72-00047-33-46040. Applicant: Georgetown University School of Medicine, Microbiology Department, 3900 Reservoir Road NW., Washington, DC 20007. Article: Electron microscope, Model EM 300. Manufacture: Philip Electronic Instruments, The Netherlands. Intended use of article: The article will be used for high resolution studies of bacteria, viruses, biological macromolecules such as DNA and RNA, isolated components of viruses and bacterial cells, virus-infected cells, and isolated cell components. The article will also be used to teach the ultrastructure of cells and viruses to medical students, graduate students and other personnel involved in medical research. Application received by Commissioner of Customs: July 23, 1971.

Docket No. 72-00048-33-46040. Applicant: Medical University of South Carolina, Department of Pathology, 80 Barre Street, Charleston, SC 29401. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in research projects which include:

(a) A study of central nervous system fine structure in healthy rat brain and in experimental animals subjected to varying hyperbaric pressures and varying oxygen tensions;

(b) Electron microscopic enumeration of fibrous particles in human and experimental lung tissue;

(c) Comparison of polychlor-biphenol-treated animals with DDT-treated animals and combination of the two compared with normal tissue.

The educational purposes include training of graduate and undergraduate students in electron microscopy. Application received by Commissioner of Customs: July 23, 1971.

Docket No. 72-00049-00-46040. Applicant: University of California, Scripps Institution of Oceanography, Post Office Box 109, La Jolla, CA 92037. Article: Anticontamination device. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is an accessory for an existing electron microscope. Application received by Commissioner of Customs: July 23, 1971.

Docket No. 72-00050-33-77040. Applicant: The Salk Institute, Post Office 1809, San Diego, CA 92112. Article: Mass spectrometer, Model CH-5. Manufacturer: Varian Mat GmbH, West Germany. Intended use of article: The article will be used for research in population control, specifically in structural studies of peptides, particularly those derived from the hypothalamus. Pursuant to the structural studies of peptides, the mass spectrometer will be used for qualitative identification of the synthetic as well as natural peptides. Application received by Commissioner of Customs: July 23, 1971.

Docket No. 72-00051-56-17500. Applicant: University of Washington, Department of Oceanography, Seattle, Wash. 98195. Article: Recording current meter, Model 4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article will be used in studies on the vertical and horizontal water structure off the Washington coast, estuarine circulation in Puget Sound and flow in the Columbia River and adjacent areas. In addition the instrument will be used for educational purposes in an oceanographic course to familiarize students with methods of measuring oceanographic environmental parameters. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00052-65-90000. Applicant: Northwestern University, 619 Clark Street, Evanston, IL 60201. Article: Rotating anode X-ray generator, GX-6. Manufacturer: Elliott Automatic Radar Systems, Ltd., United Kingdom. Intended use of article: The article will be used for topographical studies of dislocation arrangements and contents in deformed metals; effects of high pressure in structure; and atomic arrangements in crystalline polymers DNA. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00053-99-46040. Applicant: State University of New York at Stony Brook, Stony Brook, N.Y. 11790. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for (a) the training of graduate students and postdoctorates in the techniques and application of electron microscopy and (b) M.D.'s and Ph. D.'s whose major interest is to obtain results as rapidly and as simply as possible without the need to become an experienced microscopist. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00054-99-46040. Applicant: State University of New York at Stony Brook, Stony Brook, N.Y. 11790. Article: Electron microscope, HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to instruct students, residents and fellows in the principles of electron microscopy. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00055-33-46500. Applicant: Georgetown University School of Medicine, 3900 Reservoir Road NW., Washington, DC 20007. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in studies of materials of a diverse biological nature; mainly mammalian tissues derived from human biopsy specimens and various experimental laboratory animals in the various research projects to be performed. In addition, the article will be used to instruct beginning graduate students in the principles of ultramicrotomy and electron microscopy and to provide an opportunity to gain essential laboratory experience. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00056-33-46500. Applicant: West Virginia University, Department of Anatomy, Room 4052 BSB, Medical Center, Morgantown, W. Va. 26506. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in the preparation of tissues for a variety of projects which include:

1. An ultrastructural comparison of human basal cell carcinomas of different etiologies;

2. An electron microscopic study of developing mechanotransducers in certain insects;

3. An electron microscopic study of developing teeth in frogs;

4. An electron microscopic study of coal dust deposition in the lungs of mice;

5. An electron miscroscopic study of microtubule development in a variety of tissues; and

6. An ultrastructural study of calcification in developing Amphibia. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00057-33-20700. Applicant: University of Iowa, Iowa City, Iowa 52240. Article: Distansense, proximity probe. Manufacturer: Beta Engineering Co., Israel. Intended use of article: The article will be used in research studies of patients with disease of the right hemisphere who show a specific deficit in controlling movements under a condition in which they have to depend on "muscle sense" rather than vision for guidance. This research will be replication and extension of a study of impaired utilization of kinesthetic feedback in the right hemispheric lesion done by an Israeli neurologist. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00058-01-46070. Applicant: The Institute of Paper Chemistry, 1043 East South River Street, Appleton, WI 54911. Article: Scanning electron microscope, Model JSM-U3 and accessories. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used to determine internal and/or external structure of materials involved in the processing of pulp and paper; including size and shape; natural variation and any alternations in natural morphology as a result of chemical and/or physical treatments directly related to the papermaking process. The article will also be used in teaching a course, Wood Anatomy and Properties, and in special and thesis studies. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00059-00-46040. Applicant: Northeastern University, 360 Huntington Avenue, Boston, MA 02115. Article: Charge neutralizer and control box. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The articles are accessories for an existing electron microscope. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00060-99-46040. Applicant: Mankato State College, Mankato, Minn. 56001. Article: Electron microscope, HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used investigating mammalian sperm surfaces and surface reactions using ruthenium red staining techniques, in investigating the effect of various hormones in the fine structure of the caput epidiymus, and in investigating centrifugally prepared cell fractions employed in metabolism studies of selected insecticides. The article will also be used to train students in the operation and use of the electron microscope as a part of courses of zoology, botany, and microbiology. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00061-33-43780. Applicant: County of Sacramento Medical Center, 2315 Stockton Boulevard, Sacramento, CA 95816. Article: Isotron stand, Model C6011-2. Manufacturer: Conuclear, Ltd., Canada. Intended use of article: The article is intended to be used to study effective myocardial capillary blood flow, total coronary blood flow, and cardiac output in patients with heart disease. The article will also be used to train medical students and fellowship trainees in cardiology. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00062-75-44500. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Metallograph, Model MM-5RT. Manufacturer: Ernst Leitz GMBH, West Germany. Intended use of article: The article will be used in the study of radiation effects, mechanical stress, the microstructural properties and parameters of materials, and their relationship to temperature and other factors. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00063-01-77030. Applicant: University of Florida, Gainesville, Fla. 32601. Article: NMR spectrometer, Model JNM-C60-HL. Manufacturer:

Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for the study of biological materials such as lipid proteins, hormones, vitamins, and membranes as well as engineering materials such as asphalt, crude oils, surfactants, pigments, and various colloids by means of nuclear magnetic resonance spectroscopy. The article will also be used for demonstration and training purposes in various chemical engineering courses. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00064-75-40600. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Isotope separator. Manufacturer: Nucletec SA, Sweden. Intended use of article: The article will be used to separate the radioisotopes of selected elements for the study of neutron reactions phenomena, as part of a nuclear weapons program. The article will also provide isotopically pure sources of neutron-deficient radioisotopes produced by the proton spallation process with the Los Alamos Meson Physics Facility accelerator. Application received by Commissioner of Customs: July 29, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-16359 Filed 11-9-71;8:45 am]

STANFORD RESEARCH INSTITUTE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 71-00602-33-11000. Applicant: Stanford Research Institute, 333 Ravenswood Avenue, Menlo Park, CA 94025. Article: Gas chromatograph mass spectrometer, Model LKB 9000. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in research studies on the biosynthesis of antibiotics, terpenes, and other microbial metabolites by the use of stable isotope-labeled precursors, and for identification of metabolites of drugs administered to experimental animals and humans. Application received by Commissioner of Customs: June 22, 1971.

Docket No. 71-00608-33-46500. Applicant: Eastman Dental Center, 800 East Main Street, Rochester, NY 14603. Article: Ultramicrotome, "OmU2". Manufacturer: C. Reichert Optische Werke A.G., West Germany. Intended use of article: The article will be used in a research directed toward better treatment and prevention of periodontal disease. The article will also be used for training research investigators in the preparation of ultra thin sections. Application received by Commissioner of Customs: June 22, 1971.

Docket No. 71-00609-33-46040. Applicant: University of Hawaii, School of Medicine, 3675 Kilauea Avenue, Honolulu, HI 96816. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for research in a study of guinea pig (tuberculoid analagous) and mouse (lepromatous analagous) peritoneal macrophage response (immunized and unimmunized) to *M. lepraemurium* and to step-wise defatted bacilli fractions to be conducted in tandem with, and as a prototype of, a similar evaluation of tuberculoid and lepromatous macrophage reaction to *M. leprae* in human patients utilizing the Rebuk window technique. The article will also be used in teaching (1) pathology courses, and (2) to train medical students and postdoctoral residents and associates in a research project requiring the use of an electron microscope. Application received by Commissioner of Customs: June 23, 1971.

Docket No. 71-00610-40-30600. Applicant: Monroe Community College, 1000 East Henrietta Road, Rochester, NY 14623. Article: Fluid mechanics apparatus. Manufacturer: Armfield Engineering, Ltd., United Kingdom. Intended use of article: The article will be used to demonstrate flow fluid mechanics principles including cavitation to students. Application received by Commissioner of Customs: June 24, 1971.

Docket No. 71-00611-90-46070. Applicant: University of Kentucky, College of Agriculture, Lexington, Ky. 40506. Article: Scanning electron microscope, Model Mark IIA. Manufacturer: Cambridge Instruments, United Kingdom. Intended use of article: The article will be used as a research tool in a variety of programs which involve bone and muscle strucure, wearing potential of the alloy and tooth enamel; behavior of wood fiber after chemical treatment and relationships of fiber geometry to tensile rupture; morphological and structure/function studies of leafhoppers and acarina; cracks and fractions in ceramics, fracture behavior of titanium alloys, topography of radiation damages in silicon and precipitate effect on aluminum/copper alloys. The educational uses of the article will consist of demonstrations of a variety of phenomena in both Engineering and Biology in undergraduate and graduate courses. Application received by Commissioner of Customs: June 24, 1971.

Docket No. 71-00612-33-46500. Applicant: University of Minnesota, Minneapolis, Minn. 55455. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in experiments designed to study the ultrastructure of globoid cells from cats with globoid leukodystrophy. It is also planned to characterize them from analytical and enzymatic viewpoints to find out if this is another enzymatically authentic animal model of human globoid leukodystrophy. Application received by Commissioner of Customs: June 24, 1971.

Docket No. 71-00613-98-26000. Applicant: Anaheim Union High School, 221 North Illinois Street, Anaheim, CA 92803. Article: Standard construction device for theory of electricity. Manufacturer: Dr. Clemenz, West Germany. Intended use of article: The article will be used to teach the basic theory of electricity to students. Application received by Commissioner of Customs: June 24, 1971.

Docket No. 71-00614-65-72000. Applicant: Michigan State University, East Lansing, Mich. 48823. Article: Single drive unit for Weissenberg rheogoniometer. Manufacturer: Farol Research Engineers, United Kingdom. Intended use of article: The article will be used in a research program related to the rheology of fluids. The research involves systematic cataloging of the complete rheological response of non-Newtonian, viscoelastic fluid system in terms of their molecular parameters as well as the influence which deformation of fluid exerts on molecular structure of fluids; especially solutions of blood and high polymeric substances. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00615-01-16050. Applicant: University of Miami, Post Office Box 8184, Coral Gables, FL 33124. Article: Low level gas counter. Manufacturer: Lars Engstrand, Sweden. Intended use of article: The article will be used to determine radiocarbon and tritium accurately in large numbers of selected samples. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00616-98-34040. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: Millimeter carcinotron, Model CO 40B. Manufacturer: Compagnie Generale de Telegraphie Sans Fil, France. Intended use of article: The article will be used in conjunction with a polarized proton target to perform an experiment which will involve measurement of the resultant asymmetries in the scattering of K+, K− mesons and anti protons upon polarized protons when the direction of

polarization is reversed. Application received by Commissioner of Customs: June 28, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-16360 Filed 11-9-71;8:45 am]

STATE UNIVERSITY COLLEGE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 72-00023-33-46040. Applicant: State University College, Department of Biological Sciences, Brockport, N.Y. 14420. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in research involving anomalous mitosis in mammalian cell lines, ultrastructure of algae, cell membrane dynamics, ultrastructure of antennae of various crustacea, adrenergic innervation of the heart, morphogenetic changes in cells due to growth regulators, enzyme inhibition in chick lens development. The article will also be utilized as a tool to determine causes of desiccation and heat resistance in unicellular algae. In addition the article will be used in teaching programs at several levels. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00024-01-77040. Applicant: University of California, Purchasing Department, 1438 South 10th Street, Richmond, CA 94804. Article: Mass spectrometer, Model MS 1201. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used in direct and collaborative research involving isolation and identification of submicrogram quantities (to 10^{-6}g) of Cannabis drugs and their metabolites and organic air pollutants. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00025-00-11000. Applicant: St. Louis University, 221 North Grand Boulevard, St. Louis, MO 63103. Article: Mass market, Model LKB 9010. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is an accessory for an existing mass spectrometer. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00026-33-46500. Applicant: Veterans Administration Hospital, 300 East Roosevelt Road, Little Rock, AR 72206. Article: Ultramicrotome, model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in the investigation of the alterations of ultrastructural changes in biopsy and experimental materials which have been induced by alterations of metabolic process. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00027-33-46040. Applicant: The Neuropsychiatric Institute at UCLA, Department of Mental Hygiene, 760 Westwood Plaza, Los Angeles, CA 90024. Article: Electron microscope, Model Elmiskop IA. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used to delineate and assess the extent of development and/or variation in synaptic patterns, changes in dendritic arborization, general membrane disruptions and other abnormalities relevant to the study of mental retardation. The article will also be used by post doctoral and predoctoral students for training in neurobiology research. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00028-72-46040. Applicant: University of Maryland, Baltimore County, 5401 Wilkens Avenue, Catonsville, MD 21228. Article: Electron microscope, EM-9S02. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for routine specimen examination and selection of favorable specimens which will then be examined at high resolution in a larger research microscope. The specimens employed will be primarily thin tissue or cell sections with some whole mount microbial and viral preparations, as well. The article will also be used as an educational microscope in a course for advanced undergraduate and graduate students. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00029-33-46040. Applicant: The University of Texas at Arlington, Arlington, Tex. 76010. Article: Electron microscope, Model EM 9S. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in the investigation of spermatogenesis, spermeogenesis, and the fine structure and cytochemistry of the reproductive ducts and androgenic glands of certain crustaceans; the cytopathology of virus-infected drosophila. In addition the article will be used for training students in a course entitled "Biological Electron Microscopy." Application received by Commissioner of Customs: July 15, 1971.

Docket No. 72-00030-00-43780. Applicant: The Johns Hopkins University, Purchasing Department, Charles and 34th Streets, Baltimore, MD 21218. Article: Bronchofiberscope accessories. Manufacturer: Machida Co., Japan. Intended use of article: The articles are replacement parts for an existing bronchofiberscope. Application received by Commissioner of Customs: July 15, 1971.

Docket No. 72-00031-33-46040. Applicant: Veterans Administration Hospital, West Spring Street, West Haven, Conn. 06516. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article is intended to be used to examine three general types of specimens: (1) Cancer cells from human patients and experimental animals, (2) tissue and cell cultures prepared from human patients and experimentally infected laboratory animals, and (3) cell, tissues, and organ cultures experimentally infected with virus agents. The article will allow an intensive research program in the study of virus-cell interaction in vivo and in vitro. In addition, postdoctoral students will be trained on the instrument in a course entitled "Experimental and Diagnostic Methods in Medical Virology." Application received by Commissioner of Customs: July 15, 1971.

Docket No. 72-00032-36-46070. Applicant: University of Maine, Orono, Maine 04473. Article: Scanning electron microscope, Model S4. Manufacturer: Kent Cambridge Scientific, Inc., United Kingdom. Intended use of article: The article will be used to study (1) morphology of wood fibers; (2) phase distribution and fracture characteristics of mixed polymer films formed on solvent removal from a common solution; (3) interface conversion for adhesion and grafting of polymers to surfaces; (4) ultrastructure of Coelenterate Polyps; (5) identifying Streptomyces Spores; and (6) the structure and development of Echinoderms. The educational uses consist of instruction for students in operating and applying scanning electron microscopy in pulp and paper technology, materials engineering, forestry, zoology, botany, entomology, geological sciences, and chemistry. Application received by Commissioner of Customs: July 15, 1971.

Docket No. 72-00033-99-03400. Applicant: The University of Tennessee, Knoxville, Tenn. 37916. Article: Audio training unit, Model SUVA I and II. Manufacturer: Societe Sedi Monsieur Germe, France. Intended use of article: The article will be used to train the residual hearing of deaf children after determining the auditory field of all defective ears including all the congenitally deaf. Application received by Commissioner of Customs: July 15, 1971.

Docket No. 72-00034-33-66700. Applicant: Thomas S. Clarkson Memorial College of Technology, Potsdam, N.Y. 13676. Article: Teleprinter projector, Model 2510T. Manufacturer: I. P. Sharp Associates, Ltd., Canada. Intended use of article: The article will be used to project information from a teleprinter on a screen for teaching students courses in computer science, statistics, and statistical quality control. Application received

by Commissioner of Customs: July 1, 1971.

Docket No. 72-00035-33-46040. Applicant: Duke University Medical Center, Department of Pathology, Post Office Box 3712, Durham, NC 27710. Article: Electron microscope, Model JEM-100B. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used in research to determine the ultrastructure of a number of biological materials notably various cell membranes, especially those of heart muscle; and of viruses, in order to correlate these anatomical observations with functional biological phenomenon. The article will also be used in teaching medical students a course in ultrastructural and molecular pathology and in training residents, postdoctoral fellows and graduate students in electron microscopy. Application received by Commissioner of Customs: July 19, 1971.

Docket No. 72-00036-99-07700. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: 16 mm. camera. Manufacturer: Eclair Corp., France. Intended use of article: The article will be used in the courses, "Workshop in synchronous sound filming" and "Special projects in film," to acquaint students with methods of reporting complex events of news or human value. Application received by Commissioner of Customs: July 19, 1971.

Docket No. 72-00037-33-43780. Applicant: University of Rochester, River Station, Rochestser, N.Y. 14627. Article: Mingograf. Manufacturer: Elema-Schonander, Sweden. Intended use of article: The article will be used in medical research to measure simultaneously the patient's phonocardiogram, electrocardiogram, and carotid pulse tracing with a direct writing record to gain a better understanding of acute myocardial infarction (heart attack). Application received by Commissioner of Customs: July 19, 1971.

Docket No. 72-00038-99-03400. Applicant: The University of Tennessee, Knoxville, Tenn. 37916. Article: Virbrators, Suvag Model 73. Manufacturer: Mecanique Generale, France. Intended use of article: The articles will be used to transmit acoustic energy to preschool deaf children on an experimental project in teaching preschool children. Application received by Commissioner of Customs: July 19, 1971.

Docket No. 72-00039-99-03400. Applicant: The University of Tennessee, Knoxville, Tenn. 37916. Article: Mini Suvag hearing aids. Manufacturer: Societe Sedi, France. Intended use of article: The articles will be used in training preschool deaf children. Application received by Commissioner of Customs: July 19, 1971.

Docket No. 72-00040-63-46500. Applicant: USDA Forest Service, 359 Main Road, Delaware, OH 43015. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to produce ultra-thin sections of woody and fungus tissues for electron microscope in investigations of virus and mycoplasma disease of woody plants and several fungus diseases. The articles will also be used to instruct graduate students in the use of the ultramicrotome. Application received by the Commissioner of Customs: July 19, 1971.

Docket No. 72-00041-33-46040. Applicant: Medical College of Georgia, Procurement Division, Augusta, Ga. 30902. Article: Electron microscope, Model EM-9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in various research projects which include: (a) A study of cultured liver cells treated with various carcinogenic agents, (b) studies of skin biopsies from patients with dermatological diseases, and (c) quantitative studies on the changes in zymogen granules in pancreatic cells in rats treated with pilocarpine. The article will also be used in teaching a course entitled "Anatomy 814, Electron Microscopy and Cell Ultrastructure." Application received by Commissioner of Customs: July 19, 1971.

Docket No. 72-00042-65-46070. Applicant: Drexel University, Department of Metallurgical Engineering, 32d and Chestnut Streets, Philadelphia, PA 19104. Article: Scanning electron microscope, Model JSM-2. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used in studies of the structure-property relationship of metals and alloys, ceramics and polymers. In particular, examination of the initiation and propagation of fracture in processing and service conditions (limits of deformation of powder materials; failure of composite materials; degradation of polymers). Educational uses include training junior and senior students in electron microscopy techniques. Application received by Commissioner of Customs: July 20, 1971.

Docket No. 72-00043-00-46040. Applicant: National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20014. Article: Spare parts kit for electron microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is an accessory for an existing electron microscope. Application received by Commissioner of Customs: July 20, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-16361 Filed 11-9-71;8:46 am]

UNIVERSITY OF TEXAS AT AUSTIN ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 72-00003-33-90000. Applicant: The University of Texas at Austin, Purchasing Office, Box 7306, University Station, Austin, TX 78712. Article: Anode X-ray diffraction generator. Manufacturer: Elliot Automation Radar Systems Ltd., United Kingdom. Intended use of article: The article will be used in research experiments to obtain X-ray diffraction patterns from crystals of and/or solutions of the enzymes, pyruvate dehydrogenase and a-ketoglutarate dehydrogenase, which are large biological molecules having dimensions over 200 Angstroms. Application received by Commissioner of Customs: July 1, 1971.

Docket No. 72-00004-33-46500. Applicant: Veterans Administration Hospital, 150 South Huntington Avenue, Boston, MA 02130. Article: Ultramicrotone, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in research experiments on the normal, physiological behavior of cells and tissues in regard to the development of ataxia, tremor, and seizures. In addition, variations in the behavior of cells and tissues under experimental and genetically induced pathological conditions will be studied. Application received by Commissioner of Customs: July 2, 1971.

Docket No. 72-00005-33-46500. Applicant: Veterans Administration Hospital, 3350 La Jolla Village Drive, San Diego, CA 92161. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to produce serial sections of high quality which will be used in research concerned with the elucidation of the mechanism of demyelination and remyelination by hymen and experimental disease. The article will also be used in teaching electron microscopy of nerve tissue to medical and post graduate students. Application received by Commissioner of Customs: July 2, 1971.

Docket No. 72-00006-33-46500. Applicant: DHEW, PHS, HSMA, Center for Disease Control, 255 East Paces Ferry Road NE., Atlanta, GA 30305. Article: Ultramicrotome, LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The instruments will be used in research for ultrathin sectioning of plastic embedded virologic materials, including infected tissues, tissue cultures, and autopsy specimens.

Application received by Commissioner of Customs: July 2, 1971.

Docket No. 72–00007–33–46500. Applicant: Medical University of South Carolina, 80 Barre Street, Charleston, SC 29401. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to study human and animal intestinal mucosa and liver to determine (a) the cellular pathology in various disease and experimental states, and (b) the distribution of certain cellular enzymes during human and animal nutritional experiments. The article will also be used in a course "Laboratory Research in Gastroenterology" for preclinical and clinical medical students. Application received by Commissioner of Customs: July 2, 1971.

Docket No. 72–00008–37–46500. Applicant: Ohio Agricultural Research and Development Center, Wooster, Ohio 44691. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to prepare ultrathin sections of various tissues in projects ranging from the investigation of plant virus pathology of soybean, corn, and wheat involving local lesion formation mechanisms, virus location within the tissue and general ultrastructural phenomena resulting from the infection, to pathological conditions in animals such as TGE virus in swine. Application received by Commissioner of Customs: July 2, 1971.

Docket No. 72–00009–33–02700. Applicant: University of Miami, Post Office Box 8184, Coral Gables, FL 33124. Article: Arthroscope Set No. 21. Manufacturer: Kamiya Tsusan Kaisha, Japan. Intended use of article: The article will be used to examine the interior of the knee joint to establish a correct diagnosis in the "difficult" knee. Specifically the article will be used for visual diagnosis of suspected internal derangements; synovial biopsy from visually selected sites; and punch biopsy in the research of rheumatoid arthritis. Application received by Commissioner of Customs: July 7, 1971.

Docket No. 72–00010–33–46500. Applicant: University of California, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Ultramicrotome, Model "OmU2". Manufacturer: C. Reichert Optische Werke AG, West Germany. Intended use of article: The article will be used to make ultrathin sections for use in electron microscopy of a variety of biological tissue specimens. In addition to routine methods of sectioning, it will be required to provide serial sections for three-dimensional reconstructions, as well as to provide uniformity of section thickness which is important in the special application of electron microscopic autoradiography methods. Application received by Commissioner of Customs: July 7, 1971.

Docket No. 72–00012–98–20700. Applicant: The Johns Hopkins University, Purchasing Department, Charles and 34th Streets, Baltimore, MD 21218. Article: Glass, 100 pieces Type PEHG4 (SF5) 673321. Manufacturer: Ohara Optical Glass Manufacturing, Ltd., Japan. Intended use of article: The article will be used to construct a detector which will allow measurement of gamma energy by electromagnetic shower production and subsequent observation of that shower via emitted Cerenkov radiation. The gamma rays are manifestations of exotic phenomena such as magnetic monepole formation or parton annihilation. Application received by Commissioner of Customs: July 7, 1971.

Docket No. 72–00013–33–46040. Applicant: Erie Country Laboratory, 100 City Hall, Buffalo, N.Y. 14221. Article: Electron microscope, Model EM–9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used to study the ultrastructure of tumors and diseased organs compared with the findings of light-microscopic examinations. The materials involved in these studies are taken from humans and animals and subject to gross, histologic and electron-microscopic studies in order to get new understanding of disease and the mechanics of disease. Application received by Commissioner of Customs: July 7, 1971.

Docket No. 72–00014–33–46500. Applicant: U.S. Veterans' Administration Hospital, BO Monacillos, Rio Piedras, P.R. 00927. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to cut ultrathin sections of a variety of tissues. Application received by Commissioner of Customs: July 8, 1971.

Docket No. 72–00015–88–23600. Applicant: The University of Tennessee, Department of Geology, Knoxville, Tenn. 37916. Article: Winkie portable rock drill. Manufacturer: J. K. Smit & Sons International, Canada. Intended use of article: The article will be used for teaching and research in subsurface geologic exploration and research methods obtaining fresh rock cores for student research. Application received by Commissioner of Customs: July 8, 1971.

Docket No. 72–00016–33–46040. Applicant: Veterans Administration Hospital, Supply Division, East Orange, N.J. 07019. Article: Electron microscope, Model HU–12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to study enzymes in the healthy human brain and in diseased patients affected by multiple sclerosis and cerebral infarcts. The study is aimed at correlating biochemical alterations in certain cells in the brain preceding the appearance of clinical symptoms and anatomical alterations with these patients. Application received by Commissioner of Customs: July 8, 1971.

Docket No. 72–00017–33–90000. Applicant: Children's Cancer Research Foundation, 35 Binney Street, Boston, MA. 02115. Article: Rotating anode X-ray generator, Model GX–6. Manufacturer: Elliot Automation Radar Systems Ltd., U.K. Intended use of article: The foreign article will be used in medical research on virus structure studies. Application received by Commissioner of Customs: July 8, 1971.

Docket No. 72–00018–33–46500. Applicant: Georgetown University Medical School, Department of Obstetrics-Gynecology, 3800 Reservior Road NW., Washington, DC 20007. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for a study of the physiologic and pathologic changes in the spiral arteries, maternal and festal parts of the placenta in an attempt to clarify the relationship between complicated pregnancy and the placental changes. The article will also be used in the theory and practice of electron microscopy and training of post doctoral fellows and Ph. D. degree candidates on electron microscopic techniques. Application received by Commissioner of Customs: July 8, 1971.

Docket No. 72–00019–56–17500: Applicant: University of Washington, Department of Oceanography WB–10, Seattle, Wash. 98195. Article: Recording current meter, Model 4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article will be used to study the vertical and horizontal water structure off the Washington coast, estuarine circulation in Puget Sound and flow in the Columbia River and adjacent areas. It is necessary to measure the water temperature, salinity, and pressure to calculate density differences and, finally, the horizontal pressure gradients at various levels above some arbitrary datum plane. Application received by Commissioner of Customs: July 9, 1971.

Docket No. 72–00020–33–46040. Applicant: University of Pennsylvania, Biology Department, 27th and Hamilton Walk, Philadelphia, PA 19104. Article: Electron microscope, Model JEM–100B and accessories. Manufacturer: Japan Electron Optics Laboratory, Ltd., Japan. Intended use of article: The article will be used in research studies of the membrane systems in muscle cells and in an educational course teaching the electron microscope. Application received by Commissioner of Customs: July 9, 1971.

Docket No. 72–00021–98–16600. Applicant: New York University, 100 Washington Square East, NY 10003. Article: Air separation column and cryogenic transfer pump. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used to study electron and atom collision phenomena. Experiments to be performed include (1) molecular beam experiments in which individual collisions are induced and observed, and (2) plasma experiments in which bulk collision phenomena are studied. Application received by Commissioner of Customs: July 9, 1971.

Docket No. 72–00022–33–46040. Applicant: University of Kansas, Lawrence, Kans. 66044. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used to study the structure of materials of biological origin in the form of (1) "negatively-stained" components of cells and macromolecules and (2) ultra thin sections of experimentally

treated tissues. Application Received by Commissioner of Customs: July 9, 1971.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.71-16363 Filed 11-9-71;8:46 am]

Office of the Secretary

[Dept. Organization Order 30-2B]

NATIONAL BUREAU OF STANDARDS

Organization and Functions

This material further amends the material appearing at 35 F.R. 18550 of December 5, 1970, 36 F.R. 5809 of March 27, 1971, and 36 F.R. 18428 of September 14, 1971.

Department Organization Order 30-2B, dated November 16, 1970, is hereby further amended as follows:

1. In section 9 *Institute for Basic Standards*, subparagraph .02d. is revised as follows:

d. The administrative divisions reporting to the Deputy Director, Institute for Basic Standards/Boulder include:

Supply Services Division.
Plant Division.
Instrument Shops Division.

2. In section 11 *Institute for Applied Technology:* a. Paragraph .05, the Office of Flammable Fabrics is deleted.

b. A new paragraph .05 is added to read:

.05 The Office of Fire Programs shall (a) conduct data gathering, research, education and demonstration programs on fire, its causes, prevention, and control, and on the flammability of products, fabrics, and materials; (b) develop test methods and standards in flammability; and (c) coordinate all other fire research and safety activities of the National Bureau of Standards.

3. The organization chart of August 22, 1971, attached to Amendment 2, is superseded by the organization chart attached to this amendment. (A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.)

Effective date: October 27, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.71-16358 Filed 11-9-71;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 740; Docket No. FDC-D-327; NDA 740 etc.]

CERTAIN ESTROGENS FOR ORAL OR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. *Preparations containing dienestrol.* a. Restrol tablets; The Central Pharmacal Co., 116-128 East Third Street, Seymour, IN 47274 (NDA 6-428). (Two reports.)

b. Synestrol tablets; White Laboratories, Inc., Kenilworth, N.J. 07033 (NDA 5-991).

2. *Preparations containing diethylstilbestrol.* a. Diethylstilbestrol Enseals; Eli Lilly and Co., Post Office Box 618, Indianapolis, IN 46204 (NDA 4-039 and 4-040). (Two reports.)

b. Diethylstilbestrol tablets; Eli Lilly and Co., (NDA 4-041).

c. Diethylstilbestrol tablets; Vale Chemical Co., Inc., 1201 Liberty Street, Allentown, PA 18102 (NDA 4-638).

d. Diethylstilbestrol (Stilbestrol) tablets; Rexall Drug Co., 3901 North Kingshighway Boulevard, St. Louis, MO 63115 (NDA 6-603).

e. Diethylstilbestrol tablets; S. F. Durst and Co., Inc., 5317 North Third Street, Philadelphia, PA 19120 (NDA 4-297).

f. Stilbestrol tablets; High Chemical Co., 1760 North Howard Street, Philadelphia, PA 19122 (NDA 5-233).

g. Stilbetin tablets and Enteric coated tablets; E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, N.J. 08903 (NDA 4-056).

h. Diethylstilbestrol Perles; The Upjohn Co., 7171 Portage Road, Kalamazoo, MI 49002 (NDA 4-073).

i. Diethylstilbestrol in oil injection; Eli Lilly and Co. (NDA 1-221).

j. Diethylstilbestrol in ethyl oleate injection; Eli Lilly and Co. (NDA 7-844).

3. *Preparations containing other diethylstilbestrol derivatives.* a. D.S.D. tablets and Enteric coated tablets, containing diethylstilbestrol dipropionate; The Blue Line Chemical Co., 302 South Broadway, St. Louis, MO 63102 (NDA 5-159).

b. Stilphostrol ampules and tablets; containing diethylstilbestrol diphosphate; Dome Laboratories, Division of Miles Laboratories, Inc., 400 Morgan Lane, West Haven, CT 06516 (NDA 10-010).

4. *Preparations containing promethestrol dipropionate.* a. Meprane Dipropionate tablets; Reed and Carnrick Pharmaceuticals, 30 Boright Avenue, Kenilworth, NJ 07033 (NDA 6-042).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

The Food and Drug Administration is prepared to approve new drug aplications and supplements to previously approved new drug applications for these drugs under the conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are:

1. Effective or probably effective for the indications described in the labeling conditions which follow. The probably effective indication is "in selected cases of osteoporosis."

2. Possibly effective for disturbances of the menstrual cycle (hypomenorrhea, oligomenorrhea, irregular cycles); suppression of lactation; to minimize blood loss at surgery; to lessen the incidence of postoperative hemorrhage; and to avoid the risk of multiple transfusions; and to reduce capillary hemorrhage; to reduce the oozing following multiple transfusions; and to prevent or arrest delayed hemorrhage.

3. Diethylstilbestrol preparations were classified as possibly effective for the indication "Prevention of accidents of pregnancy" (threatened abortion and habitual abortion, in diabetic women this includes eclampsia, premature delivery, and death of the fetus). However, in view of the fact that a statistically significant association has been demonstrated between the use of diethylstilbestrol in early pregnancy and the occurrence of adenocarcinoma of the vagina in the offspring, this drug, along with all closely related congeners (including hexestrol, dienestrol, benzestrol, and promethestrol), is contraindicated for use in pregnancy.

4. Lacks substantial evidence of effectiveness when labeled for "relief of pregnancy bleeding;" advanced cases of prostatic carcinoma resistant to other estrogens; hemorrhagic emergencies due to spontaneous bleeding; reducing bleeding due to capillary hemorrhage during and after oral surgery and after dental extraction; pulmonary bleeding and use in hyphema during and after ocular surgery.

B. *Conditions for approval and marketing*—1. *Form of drug.* These preparations are in tablet, enteric coated tablet, or capsule form suitable for oral administration; or are sterile preparations in a form suitable for parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" sections are as follows (the possibly effective indications may also be included for 6 months):

INDICATIONS

These drugs are indicated for replacement therapy of estrogen deficiency associated with: Menopausal syndrome, female hypogonadism (hypogenitalism), amenorrhea, female castration, or primary ovarian failure. They are also indicated for the prevention of postpartum breast engorgement; abnormal uterine bleeding due to hormonal imbalance in the absence of organic pathology; and in osteoporosis-depending upon the etiology and then only when used in conjunction with other important therapeutic measures such as diet, calcium, physiotherapy, and good general health promoting measures.

The following indications may be included provided the recommended dosage schedules of these preparations are reevaluated to establish the optimal dosage:

Senile vaginitis; kraurosis vulvae with or without pruritus; inoperable progressing prostatic cancer (for palliation only when castration is not feasible or when castration failures or delayed escape following a response to castration have not occurred); breast cancer (for palliation only in women with progressing inoperable or roentgen resistant disease who are more than 5 years postmenopausal; and in men, in those inoperable cases in which bilateral orchidectomy cannot be performed because of an independent surgical contraindication).

c. The labeling for all diethylstilbestrol preparations, as well as all closely related congeners (including dienestrol, hexestrol, benzestrol, and promethestrol), must contain the following as a Contraindication:

CONTRAINDICATION

A statistically significant association has been reported between maternal ingestion during pregnancy of diethylstilbestrol and the occurrence of vaginal carcinoma in the offspring. The use of diethylstilbestrol or any of its closely related congeners is contraindicated in pregnancy.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a)(1)(i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed as described in paragraph (a)(3)(ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" sections above) and possibly effective (not included in the "Indications" sections above), continued use as described in paragraphs (c), (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking, as described under A. *Effectiveness classification* of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new drug application, offered for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from the labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing together with a well-organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 740, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Request for Hearing (identify with Docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-88, Parklawn Building.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: November 5, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-16446 Filed 11-9-71;8:52 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-131]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority Regarding Housing Management

The redelegation of authority by the Assistant Secretary for Housing Management to Regional Administrators et al., published at 35 F.R. 16105, October 14, 1970, amended at 35 F.R. 17964, November 21, 1970, is amended in the following respects:

1. A new section H is added to read as follows:

SEC. H. *Authority redelegated to Directors, Housing Management Division, Area Offices.* Each Director, Housing Management Division, is authorized to exercise the powers and authorities redelegated to the Directors, Housing Services and Property Management Division, in section E.

2. A new section I is added to read as follows:

SEC. I. *Authority redelegated to Chiefs, Housing Programs Management Branch, Area Offices.* Each Chief, Housing Programs Management Branch, is authorized to exercise the powers and authorities redelegated to the Chiefs, Housing Management and Tenant Services Branch, in section F.

3. The present section H is redesignated as section J.

4. The present section I is redesignated as section K and is revised to read as follows:

SEC. K. *Exercise of redelegated authority.* Redelegations of authority made under sections A through I shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Admniistrator, Area Director, HUD-FHA Insuring Office Director, or any of them, to whom a delegate is responsible.

(Secretary's delegation of authority to redelegate published at 36 F.R. 5005, March 16, 1971)

Effective date. This amendment to redelegation of authority is effective as of July 1, 1971.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.71-16370 Filed 11-9-71;8:46 am]

[Docket No. D-71-130]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority Regarding Loan and Contract Servicing

The redelegation of authority by the Assistant Secretary for Housing Management to Regional Administrators et al., published at 35 F.R. 16104, October 14, 1970, amended at 36 F.R. 1488, January 30, 1971, is amended in the following respects:

1. A new section D is added to read as follows:

SEC. D. *Authority redelegated to Directors, Housing Management Division, Area Offices.* Each Director, Housing Management Division, is authorized to exercise the powers and authorities redelegated in this document to the Directors, Housing Services and Property Management Division.

2. The present section D is redesignated as section E and is revised to read as follows:

SEC. E. *Exercise of redelegated authority.* Redelegations of authority made under sections A through D shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Administrator, Area Director, and HUD-FHA Insuring Office Director, or any of them, to whom a delegate is responsible.

(Secretary's delegation of authority to redelegate published at 36 F.R. 5005, March 16, 1971)

Effective date. This amendment to redelegation of authority is effective as of July 1, 1971.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.71-16369 Filed 11-9-71;8:46 am]

[Docket No. D-71-132]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority Regarding Property Disposition

The redelegation of authority by the Assistant Secretary for Housing Management to Regional Administrators et al., published at 35 F.R. 16106, October 14, 1970, amended at 36 F.R. 13854, July 27, 1971, is amended in the following respects:

1. A new section B is added to read as follows:

SEC. B. *Authority redelegated to Directors, Housing Management Division and to Chiefs, Property Disposition Branch or Chiefs, Loan Management and Property Disposition Branch, Area Offices.* Each Director, Housing Management Division, and each Chief, Property Disposition Branch, or Chief, Loan Management and Property Disposition Branch is authorized to exercise the powers and authorities redelegated in section A.

2. The present section B is redesignated as section C and is revised to read as follows:

SEC. C. *Exercise of redelegated authority.* Redelegations of authority in sections A and B shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Administrator, Area Director, and HUD-FHA Insuring Office Director, or any of them, to whom a delegate is responsible.

(Secretary's delegation of authority to redelegate published at 36 F.R. 5005, March 16, 1971)

Effective date. This amendment to redelegation of authority is effective as of July 1, 1971.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.71-16371 Filed 11-9-71;8:46 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 71-131]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described for the period of May 27, 1971 (List No. 18-71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

TELEPHONE SYSTEMS, SOUND-POWERED

The Tele-Dynamics Division, American Bosch Arma Corp., 5000 Parkside Avenue, Philadelphia, PA 19131, no longer manufactures certain sound powered telephone stations and Approval Nos. 161.005/42/0, 161.005/43/1, 161.005/44/0, 161.005/45/0, 161.005/46/1, 161.005/47/0, 161.005/48/0, 161.005/49/0, and 161.005/50/0 were therefore terminated effective May 27, 1971.

Dated: November 2, 1971.

W. F. REA III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.71-16384 Filed 11-9-71;8:48 am]

[CGFR 71-133]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from April 28, 1971 to May 24, 1971 (List No. 16-71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected my be used as long as it remains in good and serviceable condition.

LIGHTS, WATER: SELF-IGNITING (CALCIUM CARBIDE—CALCIUM PHOSPHIDE TYPE), FOR MERCHANT VESSELS

The Harbak, Inc., 19th Street and Long Island Avenue, Wyandanch, NY 11798, Post Office Box 246, Approval No. 160.012/4/1 expired and was terminated effective May 24, 1971.

WATER, EMERGENCY DRINKING (IN HERMETICALLY SEALED CONTAINERS), FOR MERCHANT VESSELS

The MacDonald-Bernier Co., Inc., 305 Main Street, Charlestown, MA 02129, no longer manufactures certain containers for emergency provisions and Approval Nos. 160.026/28/1 and 160.026/29/1 were therefore terminated effective April 30, 1971.

BUOYANT VESTS, KAPOK, OR FIBROUS GLASS

For Motorboats of Classes A, 1, or 2 Not Carrying Passengers for Hire.

The J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019, Approval Nos. 160.047/572/0 and 160.047/573/0 expired and were terminated effective April 28, 1971.

BUOYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

NOTE: For Motorboats of Classes A, 1, or 2 Not Carrying Passengers for Hire.

The J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019, Approval No. 160.048/233/0 expired and was terminated effective April 28, 1971.

The Martin Industries, Post Office Box 423, Clayton, AL 36016, no longer manufactures certain kapok buoyant cushions and Approval No. 160.048/254/0 was therefore terminated effective May 10, 1971.

BUOYANT CUSHIONS UNICELLULAR PLASTIC FOAM

NOTE: Approved for Use on Motorboats of Classes A, 1, or 2 Not Carrying Passengers for Hire.

The Martin Industries, Post Office Box 423, Clayton, AL 36016, no longer manufactures certain unicellular plastic foam buoyant cushions and Approval Nos. 160.049/70/0, 160.049/74/0, 160.049/75/0, and 160.049/78/0 were therefore terminated effective May 10, 1971.

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

NOTE: For Motorboats of Classes A, 1, or 2 Not Carrying Passengers for Hire.

The Martin Industries, Post Office Box 423, Clayton, AL 36016, no longer manufactures certain unicellular plastic foam buoyant vests and Approval Nos. 160.052/353/0, 160.052/354/0, and 160.052/355/0 were therefore terminated effective May 10, 1971.

TELEPHONE SYSTEMS, SOUND-POWERED

The Hose-McCann Telephone Co., Inc., 25th Street and Third Avenue, Brooklyn, NY 11232, Approval No. 161.005/41/0 expired and was terminated effective May 24, 1971.

BOILERS (HEATING)

The York-Shipley, Inc., York, Pa., Approval No. 162.003/116/1 expired and was therefore terminated effective May 15, 1971.

Dated: November 2, 1971.

W. F. REA III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.71-16385 Filed 11-9-71;8:48 am]

[CGFR 71-134]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from May 18, 1971, to May 26, 1971 (List No. 17-71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

BOUYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

NOTE: For motorboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.048/144/0, group approval for rectangular and trapezoidal kapok bouyant cushions, USCG Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048-4(c)(1)(i), manufactured by Miltco Products Corp., 139 Emerson Place, Brooklyn, NY 11205, effective May 26, 1971. (It supersedes Approval No. 160.048/144/0 dated January 9, 1969.)

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

NOTE: Approved for use on motorboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.049/68/0, special approval for 23" x 13" x 2⅛" rectangular, vinyl-dipped, unicellular plastic foam bouyant cushion, dwg. No. 5335-X, revision 1 dated August 14, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16501, for White Bear Water Ski Co., 440 Lakeview Avenue, St. Paul, MN 55119, effective May 26, 1971. (It is an extension of Approval No. 160.049/68/0 dated June 3, 1966, and change of address of distributor.)

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

NOTE: For motorboats of classes A, 1, or 2, not carrying passengers for hire.

Approval No. 160.052/331/0, Type II, Model LV-A, adult molded vinyl-dipped unicellular plastic foam buoyant vest, Goodenow Dwg. No. 5581-E, Rev. 1 dated December 22, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16502, for White Bear Water Ski Co., 440 Lakeview Avenue, St. Paul, MN 55119, effective May 26, 1971. (It supersedes Approval No. 160.052/331/0 dated May 7, 1971, to show change of address of distributor.)

Approval No. 160.052/332/0, Type II, Model LV-M, child medium molded vinyl-dipped unicellular plastic foam buoyant vest, Goodenow Dwg. No. 5622-C, Rev. 1 dated December 22, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16502, for White Bear Water Ski Co., 440 Lakeview Avenue, St. Paul, MN 55119, effective May 26, 1971. (It supersedes Approval No. 160.052/332/0 dated May 7, 1971, to show change of address of distributor.)

Approval No. 160.052/333/0, Type II, Model LV-S, child small molded vinyl-dipped unicellular plastic foam buoyant vest, Goodenow Dwg. No. 5623-C, Rev. 1 dated December 22, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16502, for White Bear Water Ski Co., 440 Lakeview Avenue, St. Paul, MN 55119, effective May 26, 1971. (It supersedes Approval No. 160.052/333/0 dated May 7, 1971, to show change of address of distributor.)

FLAME ARRESTERS FOR TANK VESSELS

Approval No. 162.016/30/2, Oceco Type E21B flame arrester, cast iron body, fixed bank assembly, aluminum arrester plates, bolted end covers, approved for sizes 3", 4", 6", 8", and 10", formerly with extensible bank assembly, dwg. No. HOC-195-A, manufactured by The Johnston and Jennings Co., 4700 West Division Street, Chicago, IL 60651, effective May 19, 1971. (It supersedes Approval No. 162.016/30/1 dated November 3, 1970, to show elimination of the extensible feature of the aluminum banks.)

BACKFIRE FLAME CONTROL, GASOLINE ENGINES: ENGINE AIR AND FUEL INDUCTION SYSTEMS; FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 162.042/6/0, JLO Model LB600/2, two cycle 25.5 hp. engine with a reed valve fuel induction system provides backfire flame protection equivalent to that of an effective backfire flame arrester, uses Reed Valve Air Induction, manufactured by Air Cushion Vehicles, Inc., Rural Delivery 5, Box 85, Troy, NY 12180, effective May 18, 1971.

Dated: November 2, 1971.

W. F. REA III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.71-16386 Filed 11-9-71;8:48 am]

Federal Aviation Administration

AIR TRAFFIC CONTROL TOWER AT MORGANTOWN MUNICIPAL AIRPORT, MORGANTOWN, W. VA.

Notice of Commissioning

Notice is hereby given that a mobile Air Traffic Control Tower will be commissioned at Morgantown Municipal Airport, Morgantown, W. Va., on or about November 18, 1971. It will improve operational flow of terminal traffic consisting predominantly of general aviation aircraft. Communications to the Air Traffic Control Tower should be addressed as follows:

Air Traffic Control Tower, Department of Transportation, Federal Aviation Administration, Morgantown Municipal Airport, Morgantown, W. Va. 26505.

(Sec. 313(a), 72 Stat. 752; 40 U.S.C. 1354)

Issued in New York, N.Y., on October 14, 1971.

GEORGE M. GARY,
Director, Eastern Region.

[FR Doc.71-16354 Filed 11-9-71;8:45 am]

[OE Docket No. 71-RM-1]

KBMR RADIO, INC.

Notice of Petition for and Grant of Review

On September 6, 1971, the Federal Aviation Administration, Rocky Mountain Region issued a Determination of Hazard to Air Navigation under Aeronautical Study No. 71-RM-16-OE. The determination concerns a proposal by KBMR Radio, Inc., Bismarck, N. Dak., to increase the height of its radio antenna tower near Bismarck, at latitude 46°48'-37" north, longitude 100°44'10" west. The overall height of the structure would be 302 feet above ground level, 1,967 feet above mean sea level.

KBMR Radio, Inc., by its attorney, Mr. George R. Borsari, Jr., petitioned the Administrator for a review of the determination pursuant to § 77.37 of the Federal Aviation Regulations. The petitioner cites the following grounds for a reversal of the determination:

1. The ground elevation approximately three-quarters of a mile northwest of the proposed site is 1,905 feet AMSL.

2. Between the proposed tower site and the Bismarck Airport is a 1,900-foot AMSL water tower.

3. Approximately three-quarters of a mile west northwest of the proposed tower site is a 243-foot AGL, 2,148 feet AMSL television tower.

4. Runway 31 is the main instrument runway at the Bismarck Airport and the only runway stressed for larger aircraft.

5. A new back course approach to Runway 13 has been implemented.

6. Runway 35 of the Bismarck Airport is used only for departures of convair type aircraft and smaller during high wind conditions.

Our examination of the petition and the determination discloses that neither document provides sufficient facts in support of their respective claims. In the absence of this information, we are unable to ascertain the validity of either claim.

Therefore, a review will be conducted. The review will be on the basis of written materials pursuant to FAR, Section 77.37(c)(1). Interested persons may within 30 days of the date of issuance of this notice submit information relevant to the question of whether the proposed construction would have an adverse effect on the safe and efficient use of airspace. Sufficient detail must be provided to establish a clear understanding of the reasons for any claims made. Submissions should be in triplicate and sent to the Chief, Airspace Obstruction and Airports Branch, AT-240, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

Pending final disposition of the petition, the Determination of Hazard to Air Navigation issued by the Rocky Mountain Region under Aeronautical Study No. 71-RM-16-OE is not and will not be a final determination.

Issued in Washington, D.C., on November 1, 1971.

WILLIAM M. FLENER,
Director, Air Traffic Service.

[FR Doc.71-16355 Filed 11-9-71;8:45 am]

[OE Docket No. 71-SW-4]

RADIO STATION KXYZ, INC.

Notice of Petition for and Grant of Review

On September 13, 1971, the Federal Aviation Administration, Southwest Region, issued a Determination of Hazard to Air Navigation under Aeronautical Study No. 70-HOU-480-OE. The Determination concerns a proposal by Radio Station KXYZ, Inc., Houston, Tex., to erect a radio antenna tower near Houston at latitude 29°48'16" north, longitude 95°12'23" west. The overall height of the structure would be 1,014 feet above ground level and 1,049 feet above mean sea level.

On October 13, 1971, Mr. Vernon L. Wilkinson, attorney for Radio Station KXYZ, Inc., petitioned the Administrator for a review of the Determination pursuant to § 77.37 of the Federal Aviation Regulations.

The petition questions the validity of the Determination in the following respects:

1. Insufficient weight was given to the fact that the proposed structure would not be within the geographical area defined as VFR flyways.

2. Inadequate consideration was given to the fact that the procedural adjustments needed to accommodate the structure are not major in character.

With respect to the above, the Determination sets forth the changes in instrument flight rules procedures that would be necessary to accommodate the proposed tower without indicating the extent to which the changes would adversely affect their use. The Determination also states that the proposed tower would be located in airspace subject to a substantial volume of traffic without a showing of the material developed during the study to substantiate the statement.

Examination of this matter disclosed that the petition is inadequate in that it makes no showing as to why aeronautical operations would not be adversely affected. On the other hand, the Determination lacks substantive material on which a review may be denied.

Therefore, a review will be conducted on the basis of written materials in accordance with FAR, § 77.37(c)(1). Interested persons may, within 30 days of the issuance of this notice, submit information in writing to the Chief, Airspace Obstruction and Airports Branch, AT-240, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Submissions must be filed in triplicate and be relevant to the question of whether the proposed construction would have an adverse effect on the safe and efficient use of airspace. Sufficient detail must be provided to establish a clear understanding of the reasons for any claims made.

Pending final disposition of the petition, the Determination of Hazard to Air Navigation issued by the Southwest Region under Aeronautical Study No. 70-HOU-480-OE is not and will not be a final determination.

Issued in Washington, D.C., on November 1, 1971.

WILLIAM M. FLENER,
Director, Air Traffic Service.

[FR Doc.71-16356 Filed 11-9-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 20993; Order 71-11-20]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority, November 3, 1971.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated October 28, 1971, names additional specific commodity rates which reflect significant reductions from the general cargo rates, as set forth in the attachment hereto.

Pursuant to authority duly delegated by the Board in the Board's economic regulations, 14 CFR 385.14, it is not

found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act, provided that tentative approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement CAB 22332, R–47 through R–49, be and hereby is deferred with a view toward eventual approval: *Provided*, That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication; *Provided further*, That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–16430 Filed 11–9–71;8:51 am]

[Docket No. 23486; Order 71–11–19]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Currency Matters

Issued under delegated authority, November 3, 1971.

By Order 71–10–58, dated October 14, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by the Traffic Conferences of the International Air Transport Association (IATA). The agreement, insofar as it affects air transportation, permits the establishment of special Contract Bulk Inclusive Tour (CBIT) fares in Japanese yen, exclusively for travel originating in Japan to U.S. points. Application of the current exchange rate of 360 Japanese yen=1 US$ renders the current level of CBIT fares unchanged.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71–10–58 will herein be made final.

Accordingly, it is ordered, That:

Agreement C.A.B. 22723 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–16431 Filed 11–9–71;8:51 am]

[Docket No. 22628; Order 71–11–9]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Delayed Inaugural Flights

Issued under delegated authority, November 2, 1971.

By Order 71–10–73, dated October 18, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by Joint Conference 1–2 of the International Air Transport Association (IATA). The agreement permits El Al to postpone to a date not later than January 28, 1972, the performance of its inaugural flights for new service on B–747 aircraft between New York and Tel Aviv.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71–10–73 will herein be made final.

Accordingly, it is ordered, That:

Agreement C.A.B. 22733 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–16432 Filed 11–9–71;8:51 am]

FEDERAL HOME LOAN BANK BOARD

[H.C. 113]

FOX VALLEY CORP.

Notice of Receipt of Application for Permission To Acquire Control of First Savings of Downer's Grove

NOVEMBER 5, 1971.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Fox Valley Corp., Batavia, Ill., for approval of acquisition of control of the First Savings of Downer's Grove, Downer's Grove, Ill., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for savings and loan holding companies, said acquisition to be effected by the purchase by cash of the shares of First Savings of Downer's Grove. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.71–16388 Filed 11–9–71;8:47 am]

[H.C. 112]

GULF REPUBLIC FINANCIAL CORP.

Notice of Receipt of Application for Permission To Acquire Control of Certain Savings Associations

NOVEMBER 5, 1971.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Gulf Republic Financial Corp., Houston, Tex., for approval of acquisition of control of the Home Savings Association, Houston, Tex., Temple Savings Association, Temple, Tex., Beaumont Savings and Loan Association, Beaumont, Tex., and Panhandle Savings and Loan Association, Amarillo, Tex., under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for savings and loan holding companies, said acquisitions to be effected by the exchange of cash and/or stock of Gulf Republic Financial Corp. for stock of Home Savings Association, Temple Savings Association, Beaumont Savings and Loan Association, and Panhandle Savings and Loan Association. Comments on the proposed acquisitions should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.71–16387 Filed 11–9–71;8:47 am]

FEDERAL POWER COMMISSION

[Docket No. CS72–319 etc.]

J AND J OPERATING CO. ET AL.

Notice of Applications for "Small Producer" Certificates [1]

NOVEMBER 3, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 22, 1971, file with the Federal Power Commission, Washington, D.C. 20426,

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

petitions to intervene or protests 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS72-319...	10- 7-71	J and J Operating Co., Post Office Box 519, Corpus Christi, TX 78403.
CS72-320...	10- 7-71	Jack Robin Co. et al., Post Office Box 10084, Corpus Christi, TX 78410.
CS72-321...	10-12-71	Zeigler Coal Co., 208 South La Salle St., Chicago, IL 60604.
CS72-322...	10-12-71	P. R. Rutherford, Jr., 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS72-323...	10-12-71	Michael G. Rutherford, 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS72-324...	10-13-71	Norval L. Covington, Northwest 63d and Harvey, Oklahoma City, OK 73114.
CS72-325...	10-13-71	Calvert Drilling & Producing Co. (Operator), Post Office Box 1436, Bismarck, ND 58501.
CS72-326...	10-14-71	E. C. Brown, Post Office Box 301, Henderson, KY 42420.
CS72-327...	10-14-71	D. B. Baxter, Post Office Box 4171, Midland, TX 79701.
CS72-328...	10-14-71	The NBS Corp., Box 1006, Midland, TX 79701.
CS72-329...	10-14-71	John Norris, Box 4023, Midland, TX 79701.
CS72-330...	10-14-71	Stanley N. Staples, Box 1006, Midland, TX 79701.
CS72-331...	10-14-71	Stanley S. Beard, Box 549, Midland, TX 79701.
CS72-332...	10-14-71	Jim R. Sale, Box 4, Midland, TX 79701.
CS72-333...	10-14-71	J. Woodford Sale, Box 4, Midland, TX 79701.
CS72-334...	10-14-71	David Baucom, Box 4, Midland, TX 79701.
CS72-335...	10-14-71	Sale & Baucom Oil Investments, Box 4, Midland, TX 79701.
CS72-336...	10-14-71	D. J. Simmons Estate, 3815 McCart St., Fort Worth, Tex. 76110.
CS72-337...	10-14-71	Robert J. Beams, 2128 Republic National Bank Tower, Dallas, Tex. 75201.
CS72-338...	10-15-71	Bill Forney, 307 Milam Bldg., San Antonio, Tex. 78205.
CS72-339...	10-15-71	Miller & Stanley Operating Co., Box 7586, Amarillo, TX 79109.
CS72-340...	10-13-71	The First National Bank of Shreveport, Trustee for the Gaye Anne, Michael Brian, and Ralph R. Gilster, Jr. Trusts No. 1, Post Office Box 1116, Shreveport, LA 71154.
CS72-341...	10-13-71	Arno R. Dalby, 1603 Broadway, Lubbock, TX 79401.
CS72-342...	10-13-71	Bounty Production Co., 900 Northeast Loop 410, San Antonio, TX 78209.
CS72-343...	10-15-71	Guy R. Campbell, Jr. and Co., 15804 Gulf Blvd., Redington Beach, FL 33708.
CS72-344...	10-15-71	Occidental Petroleum Sales Corp., 1120 Hibernia Bank Bldg., New Orleans, LA 83312.
CS72-345...	10-14-71	D. J. Oil Co., Post Office Box 648, Sterling, CO 80751.
CS72-346...	10-18-71	J. Evans Attwell, 2100 First City National Bank Bldg., Houston, TX 77002.
CS72-347...	10-18-71	Herman Singer d.b.a. Inca Oil Co., Post Office Box 3569, Tulsa, OK 74152.
CS72-348...	10-18-71	Lynco Oil Corp., 4101 East Louisiana Ave., Denver, CO 80222.
CS72-349...	10-18-71	Newport Industries, Inc., d.b.a. Allied Petroleum Co., 4341 Birch St., Suite 206, Newport Beach, CA 92660.
CS72-350...	10-18-71	Plaza Oil of California, 16444 Bolsa Chica, Space 17, Huntington Beach, CA 92649.
CS72-351...	10-18-71	Less Whitaker, Route 3, Box 443-W, Amarillo, TX 79107.
CS72-352...	10-19-71	The Petroleum Corp., 3303 Lee Parkway, Dallas, TX 75219.
CS72-353...	10-19-71	Genmar Oil & Gas, Inc., 203 Carondelet St., New Orleans, LA 70130.
CS72-354...	10-18-71	D. W. Stiles, Box 842, Aztec, NM 87410.
CS72-355...	10-18-71	Harold A. Yaffee, Box 842, Aztec, NM 87410.
CS72-356...	10-18-71	Elvis L. Roberts, Box 842, Aztec, NM 87410.
CS72-357...	10-18-71	B. H. Keyes, Box 842, Aztec, NM 87410.
CS72-358...	10-18-71	Alex N. Campbell, Box 842, Aztec, NM 87410.
CS72-359...	10-18-71	J. R. Abraham, Box 842, Aztec, NM 87410.
CS72-360...	10-18-71	R. N. Usher, Box 842, Aztec, NM 87410.
CS72-361...	10-18-71	A. K. Barbour, Box 842, Aztec, NM 87410.
CS72-362...	10-18-71	John L. Morrison, Box 842, Aztec, NM 87410.
CS72-363...	10-18-71	Frank Yockey, Box 842, Aztec, NM 87410.
CS72-364...	10-18-71	R. N. and Polly Usher, Box 842, Aztec, NM 87410.
CS72-365...	10-18-71	Jerome P. McHugh, 930 Petroleum Club Bldg., Denver, Colo. 80220.

[FR Doc.71-16314 Filed 11-9-71;8:45 am]

FEDERAL RESERVE SYSTEM

CONNECTICUT BANCSHARES CORP.

Formation of One-Bank Holding Company

Connecticut Bancshares Corp., New York, N.Y., 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 action whereby applicant would become a bank holding company through acquisition of 50.9 percent of the voting shares of Northern Connecticut National Bank, Windsor Locks, Conn.

The application may be inspected at the Federal Reserve Bank of Boston.

Section 3(c) of the Act requires that the Board consider the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the bank concerned, and the convenience and needs of the communities to be served.

Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 29, 1971.

Pursuant to § 222.3(b) of Regulation Y, this application shall be deemed to be approved on December 13, 1971, unless the applicant is notified to the contrary before that time, or is granted approval at an earlier date.

Board of Governors of the Federal Reserve System, November 4, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16417 Filed 11-9-71;8:50 am]

MID-AMERICA FIDELITY CORP.

Proposed Acquisition of Ann Arbor Trust Company

Mid-America Fidelity Corp., Ann Arbor, Mich., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(a)(8)) and § 222.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Ann Arbor Trust Co., Ann Arbor, Mich. Notice of the application was published on September 23, 1971, in The Ann Arbor News, a newspaper circulated in Ann Arbor, Mich.

Applicant states that the proposed subsidiary would perform the activities of a trust company. Such activities have been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

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 unsound banking practices." Any request for a hearing on this question 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.

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 December 3, 1971.

Board of Governors of the Federal Reserve System, November 3, 1971.

[SEAL] TYNAN SMITH,
Secretary.

[FR Doc.71-16418 Filed 11-9-71;8:50 am]

MID-AMERICA FIDELITY CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Mid-America Fidelity Corp., Ann Arbor, Mich., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 80 percent or more of the voting shares of Ann Arbor Bank, Ann Arbor, Mich.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, November 3, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16419 Filed 11-9-71;8:50 am]

FEDERAL TRADE COMMISSION

FLAMMABLE FABRICS

Enforcement Policy

I. *Enforcement policy.* As a public safety statute, the Flammable Fabrics Act must be enforced vigorously, effectively and without compromise. Every reasonable means for enforcement must be promptly employed, every alternative must be fully explored, and every available resource must be brought to bear. The efforts of the Federal Trade Commission to enforce the Act must be unyielding, unequivocal, aimed solely to discharge with optimum effectiveness its responsibilities under the Act to protect the public from the threat to health, life, and property that inheres in potentially dangerous flammable products covered by the Act.

II. *Enforcement objectives.* To accomplish the foregoing enforcement policy, resolute and expeditious enforcement of the Act will be premised upon the following objectives:

a. To prevent the entry into the channels of commerce of any products, fabrics, or related material, hereinafter referred to as "flammable fabrics," which fail the applicable flammability standards set pursuant to the Flammable Fabrics Act (15 U.S.C. 1191).

b. Immediately upon discovery of flammable fabrics, to stop, by the most effective means available, the sale and distribution of such fabrics which have reached the channels of commerce;

c. To notify the consuming public and all other parties in the channels of commerce of the potential danger of such fabrics;

d. To cause all flammable fabrics to be taken out of the channels of commerce by any means available by law; and

e. To prevent the reentry of flammable fabrics into the channels of commerce.

III. *Enforcement procedure*—a. *Voluntary procedures.* In effecting immediate removal of flammable fabrics from commerce, and alerting all levels of distribution of the hazard involved in such fabrics, the Commission seeks and encourages the voluntary cooperation and assistance of affected parties in terminating the sale and distribution and obtaining removal of the flammable fabric from commerce.

In specific instances where products have been tested and failed, the staff is directed by the Commission to proceed as follows:

The manufacturer, importer, distributor, or retailer of the flammable fabric, or any combination of such persons, is to be contacted immediately and notified orally of the results of the applicable flammability test. Written confirmation of such notice will also be made. Such person or persons will be asked to voluntarily (1) stop the sale and distribution of the flammable fabric, (2) furnish to the Commission staff a list of customers who have purchased the product, (3) notify those customers of the test results, (4) seek removal and/or recall of the flammable fabric from commerce, and (5) supply inventory data showing the amount of the flammable fabric purchased on hand and in the channels of commerce. Except for good cause shown, these voluntary procedures must be completed within 5 days of notification by the Commission staff.

Such person or persons voluntarily complying with the foregoing procedures will be provided the opportunity to execute a consent order agreement pursuant to § 2.14 of the Commission's rules. This settlement offer, containing an agreed-upon complaint and order incorporating among other things the foregoing procedures, will be forwarded to the Commission for final disposition in accordance with its rules of practice. This is pursuant to the policy of the Commission which is to require issuance of a formal cease and desist order in every case where a violation of the Flammable Fabrics Act is found and not to accept assurances of voluntary compliance in these cases. Such person or persons will be informed that a press release will issue pursuant to this voluntary agreement announcing that advice regarding the distributors, retailers, and other handlers of the product in question can be secured from the Commission by the use of the toll-free number listed in the press release or by writing to the Assistant Director for Textiles and Furs. If the party complies and the Commission accepts the proffered agreement, the press release will be issued immediately.

Such person or persons will be informed that if it fails to comply voluntarily with the procedures set forth above, the staff will proceed immediately to utilize all appropriate compulsory processes available to it to accomplish its enforcement objectives and to protect the public interest. Each person or persons will be informed as to the nature of those compulsory processes.

b. *Compulsory processes.* If any person or persons reject a § 2.14 settlement or refuse to cooperate entirely in each of the above-described voluntary procedures, he will be orally informed, with this information confirmed in a subsequent letter, that the staff intends to recommend to the Commission the issuance of a complaint under part III of the rules, and that the staff will recommend that the Commission commence proceedings in the district court seeking all relevant information or data previously withheld, a court injunction against further distribution of the product, and seizure by Federal marshalls of the product. In such event, a press release shall issue announcing issuance of the Commission's administrative complaint instituting formal proceedings and the commencement of proceedings in the district court. The staff will further advise such person or persons that these enforcement procedures also will be taken, where appropriate, against the distributors or retailers of the product.

c. *Other enforcement procedures.* In-house test results of such person or persons indicating that offending products meet flammability standards will not be sufficient to suspend implementation of the above enforcement procedure so long as the test, relied upon by the Commission, performed in accordance with the applicable flammability standard, shows failure of the product. If reliable tests by independent laboratories ordered by the party show that the product meets flammability standards, the staff will confirm the results of the tests previously relied upon by the Commission before determining whether to pursue the foregoing procedure.

By direction of the Commission dated November 3, 1971.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-16368 Filed 11-9-71;8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5104]

MICHIGAN WISCONSIN PIPE LINE CO., AND AMERICAN NATURAL GAS CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding and Increase in Authorized Shares of Common Stock and Issue and Sale to Holding Company

NOVEMBER 3, 1971.

Notice is hereby given that American Natural Gas Co. (American Natural), 30 Rockefeller Plaza, Suite 4950, New York, NY 10020, a registered holding company, and one of its subsidiary companies, Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 9, 10, and 12(f) of the Act and Rules 43 and 50 thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Michigan Wisconsin proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 under the Act, $40 million principal amount of First Mortgage Pipe Line Bonds, — percent Series due December 15, 1991. The interest rate on the bonds (which shall be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest, to be received by Michigan Wisconsin (which shall be not less than 98½ percent nor more than 101½ percent of the principal amount thereof) are to be determined by the competitive bidding. The bonds are to be issued under Michigan Wisconsin's mortgage and deed of trust dated as of September 1, 1948, between Michigan Wisconsin and First National City Bank, trustee, as heretofore supplemented and as to be further supplemented by a 24th supplemental indenture to be dated as of December 1, 1971, and which includes a prohibition until December 15, 1976, against refunding the issue with the proceeds of funds borrowed at lower interest cost.

Michigan Wisconsin also proposes to increase its authorized shares of common stock, par value $100 per share (all of which are owned by American Natural), from 1,695,000 to 1,795,000 shares. Michigan Wisconsin further proposes to issue and sell, and American Natural proposes to acquire, 100,000 additional shares of common stock of Michigan Wisconsin at a price of $100 per share, or for an aggregate price of $10 million.

Michigan Wisconsin proposes to use the net proceeds from the sale of the bonds and the common stock to retire $50 million of borrowings estimated to be outstanding under lines of credit with banks at the time of the sale of the bonds. Said borrowings were incurred principally for interim financing of 1971 construction, estimated at $56 million.

The fees and expenses to be paid in connection with the proposed transactions are estimated at $2,000 for the common stock, including counsel fees of $500, and $174,000 for the bonds, including counsel fees of $50,000, accounting fee of $11,000, gas consultants' fees of $12,000, and rating agency's fees of $4,000. The fee of counsel for the purchasers of the bonds is estimated at $16,000 and is to be paid by the successful bidders. It is represented that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 23, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. 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.71-16378 Filed 11-9-71;8:47 am]

[812-3032]

CONDREN HOUSING PARTNERS

Notice of Filing of Application for Exemption From All Provisions of the Act

NOVEMBER 3, 1971.

Notice is hereby given that Condren Housing Partners (Applicant), 767 Fifth Avenue, New York, NY 10022, a New York limited partnership, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicant from all sections of the Act and the rules and regulations promulgated thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicant was formed on September 2, 1971, to provide private investors a means to acquire equity interests in governmentally assisted low or moderate income housing projects. The general partners of Applicant are William J. Condren and Condren Mangement Corp. (Management), a corporation all of the capital stock of which is owned by Mr. Condren. Applicant has filed a registration statement (Registration Statement) on Form S-11 with the Commission under the Securities Act of 1933 covering $15 million of its limited partnership interests.

Applicant states that because Federal and State laws limit the cash return which owners may receive from subsidized housing projects, the primary investment incentive which Applicant offers is in the form of tax benefits. Tax losses, resulting primarily from interests expense and the utilization of the accelerated methods of depreciation available with respect to such projects, are available to investors in high tax brackets to offset taxable income from other sources. For this reason, Applicant will sell its limited partnership interests, in minimum amounts of $5,000, only to corporations or to individuals each of whom represents in the subscripton form that he has either a net worth of $200,000 or more, or a net worth of $50,000 or more and taxable income subject to Federal income tax at a rate of 50 percent or more.

Applicant proposes to make investments in housing projects through the acquisition of limited partnership interests in other limited partnerships (Local Partnerships) organized to own all or part of the equity interest in projects meeting Applicant's investment criteria. The projects will be subject to substantial regulation by the Federal Housing Authority (FHA) or other governmental agency granting assistance.

The general partner of each Local Partnership, which will usually be the developer of the project, will operate the project or oversee the activities of an independent management company. Applicant states that Management will make periodic inspections of the project and will review the performance of the

general partner of the Local Partnership. Neither Management nor Mr. Condren will, however, take any action or participate in the operation or affairs of any Local Partnership in a manner which would jeopardize Applicant's status as a limited partner in such Local Partnership.

Applicant will furnish to its limited partners annual financial statements certified by independent accountants, and will distribute at least annually any funds available for distribution. Under the limited partnership agreement, upon the sale or other disposition of Applicant's interest in any Local Partnership or the sale or refinancing or other liquidation of a project, the net proceeds received by Applicant must be distributed to the partners (subject to the payment of any management fees payable to the general partners) and may not be reinvested. The partnership will terminate on or before December 31, 1996.

Limited partners in Applicant may, by vote of the holders of interests representing two-thirds of the total capital then invested, either expel a general partner of Applicant or dissolve Applicant. Moreover, the general partners are required to make investments in accordance with certain fundamental investment criteria, which may not be changed without such a two-thirds vote of the partners.

Applicants state that the general partners have agreed not to invest personally or manage or arrange investments by others in projects that might be suitable for investment by Applicant until all of the available funds of Applicant have been invested or committed. Except as contemplated by the prospectus contained in the Registration Statement, neither of the general partners will transact business for its own account with the Applicant or with any projects in which Applicant invests.

Applicant submits that if the provisions of the Act are made applicable to it, the purposes of the 1968 Housing Act could be frustrated. For example, if Applicant were required to conform to the Act, investors might be required to have voting rights more extensive than those provided for Applicant's limited partners. Such rights might destroy the limited nature of the liability of investors for debts of Applicant and could eliminate the capacity to pass tax benefits on to investors. Either event would seriously hamper the ability to attract investors.

Applicant states that complete and detailed information concerning the activities will be available to its investors. Each investor will initially receive a copy of the prospectus contained in the Registration Statement. Moreover, as a condition to the granting of the exemption sought hereby, Applicant undertakes to comply, for as long as such exemption is in effect, with the reporting and information requirements of the Securities Exchange Act of 1934. Pursuant to the limited partnership agreement, Applicant is required to maintain full and true books of account and make them open to inspection by the limited partners. Audited financial statements must be furnished to all limited partners annually and upon dissolution.

Applicant states that interests in the partnership will not be freely transferable, and there is very little likelihood that a secondary trading market will develop for them, particularly since there are substantial tax disadvantages to be incurred by investor if he resells his interest prior to 10 years after completion of a project.

Applicant further states that since residual proceeds or proceeds from the disposition of Local Partnership interests or from the liquidation of projects may not be reinvested but must be distributed, Applicant is precluded from engaging in any "trading" activity with respect to its investments.

The projects in which the general partners invest funds will be subject to substantial regulation by the FHA or other governmental agency granting assistance. Such regulation includes approval of construction plans and specifications, rules for residency, limitations or rent rates, maintenance and repair requirements, record keeping and reporting requirements, and regulation of fees, wages and other matters relating to the operation of a project and its disposition.

It is submitted that the capital structure of Applicant is not complex. The general partners and the limited partners each share in the profits and losses on the same basis in the respect of their investments. The borrowing authority of the general partners is limited by the limited partnership agreement and in no event can Applicant's interests in Local Partnerships be pledged or mortgaged to secure indebtedness.

Applicant submits that exemption from the provisions of the Act is necessary in the public interest in order to permit the application of substantial private funds to the achievement of important national goals. It is further submitted that in view of the nature of the prospective investors, the structure of Applicant, and the goals of the investors therein, such exemption will be consistent with the protection of investors and the policy and purposes of the Act.

Section 6(c) of the Act provides, as here pertinent, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation 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 November 26, 1971, 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, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should 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 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.71-16377 Filed 11-9-71;8:46 am]

[812-2995]

MINBANC CAPITAL CORP.

Notice of Filing Application for Exemption

NOVEMBER 3, 1971.

Notice is hereby given that Minbanc Capital, Inc. (Applicant), % American Bankers Association, 1120 Connecticut Avenue NW., Washington, DC 20036, registered under the Investment Company Act of 1940 (Act) as a closed-end, nondiversified, management investment company, has filed an application pursuant to section 6(c) of the Act for an order exempting from section 17(d) of the Act certain transactions between banks affiliated with any of Applicant's officers, directors or advisory board members, and minority-owned or managed banks in which Applicant is, or subsequently becomes invested. All interested persons are referred to the application on file with the Commission for a statement of the representation contained therein, which is summarized below.

Applicant, which was incorporated in Delaware on June 18, 1971, was created at the instance of the Urban Affairs Committee of the American Bankers Association for the purpose of making capital funds available by means of direct and indirect investment to eligible minority-owned banks. An eligible minority-owned bank is one at least 50 percent of whose voting securities are owned, or which is managed, by individuals from minority groups in the United States which are underrepresented in its free enterprise system, and which has an operating history of 3 years or more.

To obtain the capital required for the purposes for which it was organized, Applicant proposes to make a public offering exclusively to banks which are members of the American Bankers Association, or in certain circumstances to bank holding companies, of 20,000 shares of its $1 par value common stock (constituting Applicant's entire authorized capital) at $500 per share. No person will be permitted to purchase, pursuant to this public offer, 5 percent or more of the number of shares of Applicant which become outstanding as a result of such offer. The transfer or other disposition of shares of Applicant will be subject to Applicant's assignable right of first refusal. Whenever possible, Applicant intends to assign its right of first refusal to a member bank of the American Bankers Association (or to the parent of such a bank). It is not contemplated that the right of first refusal will be assigned to any person other than a bank or a bank holding company, or that Applicant would itself exercise the right of first refusal unless it is impossible to arrange an assignment to a bank or a bank holding company within 30 days.

Applicant intends to use its ability to make equity investments in eligible minority-owned banks as an inducement to other banks to furnish additional capital to such banks in other forms. It is also contemplated that Applicant may make loans to, or investments in, eligible minority-owned banks in which other banks may be or become invested, through loans or other transactions.

In order to permit such other banks, which may be under the control of, and thus affiliated with, Applicant's officers, directors, or advisory board members, to make loans or other investments in minority-owned banks in which Applicant has become or may become invested, Applicant requests that such transactions be exempted from the provisions of section 17(d) of the Act to the same extent that such class of transactions would be exempt pursuant to Rule 17d–1 if Applicant were a small business investment company (SBIC) licensed under the Small Business Investment Act of 1958.

Pertinent provisions of section 17(d) of the Act and Rule 17d–1 thereunder, provide that persons affiliated with officers, directors, or members of an advisory board of a registered investment company are prohibited from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit-sharing plan in which such registered company is a participant unless the Securities Exchange Commission has, on application, granted a request that such transaction be permitted. Rule 17d–1, further provides, that in passing upon such application, the Commission will consider whether the participation of such registered company in such joint enterprise, joint arrangement or profit-sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Under paragraph (d)(3) of Rule 17d–1 and Rule 17d–2, no such application is required to be filed with respect to loans to or investments in small business concerns by a bank and an SBIC licensed under the Small Business Investment Act of 1958, whether such transactions are contemporaneous or separated in time, where the bank is an affiliated person of either (i) the SBIC, or (ii) an affiliated person of the SBIC. Reports containing pertinent details as to investments and transactions relating thereto are, however, required to be made on Form N–17D–1.

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.

Applicant contends that the exemption requested will permit the effective financing of minority-owned banks and will be consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act since all of the investors in Applicant will be banks (or bank-holding companies) which will have invested in Applicant for the purpose of participating in the provision of capital funds to qualifying minority-owned banks.

As a condition of the exemption requested, Applicant undertakes to file within 30 days of the last day of each 6-month period in which any such transaction shall have occurred, reports in substantially the form prescribed by Rule 17d–2, including all of the information which would be required to be reported on Form N–17D–1 if Applicant were an SBIC. Applicant also consents to such further conditions as the Commission may deem appropriate.

Notice is further given that any interested person may, not later than November 23, 1971, 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 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.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71–16379 Filed 11–9–71;8:47 am]

[812–3006]

SYNERCON CORP.

Notice of Application for Order of Temporary Exemption

NOVEMBER 4, 1971.

Notice is hereby given that Synercon Corp. (Applicant), 318 Murfreesboro Road, Nashville, TN 37210, a Tennessee corporation, has applied pursuant to sections 6(c) and 6(e) of the Investment Company Act of 1940 (Act) for an order of the Commission temporarily exempting it from the provisions of section 7 of the Act. Applicant, in requesting such temporary exemption, has agreed that applicant and other persons in their transactions and relations with it shall be subject to all other provisions of the Act and the respective rules and regulations promulgated under each of such provisions as though applicant were a registered investment company, other than the following: section 8; subsection (a) of section 10; subsection (a)(2) of section 13; subsections (f), (g), and (h) of section 17; section 18; section 23; section 30 (except subsection (f) thereof); and section 31 of the Act and the rules and regulations thereunder. All interested persons are referred to the application which is on file with the Commission for a statement of applicant's representations, which are summarized below:

This request has been made as an amendment to an application filed by applicant pursuant to section 3(b)(2) of the Act for an order of the Commission declaring that it is not an investment company. Section 3(b)(2) provides that the filing of an application thereunder shall exempt the applicant for a period of 60 days from all provisions of the Act applicable to investment companies as such.

The 60-day period of exemption provided in section 3(b)(2) expired in applicant's case on October 17, 1971. Applicant, which has not registered as an investment company under the Act, has asked that it be exempted as requested until the Commission has acted upon the application under section 3(b)(2) of the Act.

Notice is further given that, in respect to the application pursuant to sections 6(c) and 6(e) of the Act for an order of temporary exemption, any interested person may, not later than November 24, 1971, 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 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 should 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 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 for an order of temporary exemption may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon 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.71–16381 Filed 11–9–71;8:47 am]

[811–1723]

TRAVELERS EQUITIES ACCUMULATION PLAN

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

NOVEMBER 3, 1971.

Notice is hereby given that Travelers Equities Accumulation Plan (Applicant), 1 Tower Square, Hartford, CT 06115, registered as a unit investment trust under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant, which was sponsored by Travelers Equity Sales, Inc. (Sponsor), registered under the Act by filing a notification of registration on form N–8A and a registration statement on Form N–8B–2 on August 22, 1968. On the same date a registration statement on Form S–6 was filed with the Commission under the Securities Act of 1933 which has not become effective. Following an amendment reducing the amount of securities registered, applicant requested, and has been granted, withdrawal of the registration statement.

Applicant represents that it was designed as a vehicle for making shares of Travelers Equities Fund, Inc. (Fund), a diversified open-end management investment company registered under the Act, available to employees and agents of the Travelers Insurance Companies (Travelers) without a sales charge. It states further that Sponsor and the Fund ultimately obtained an order of exemption from section 22(d) of the Act pursuant to section 6(c) thereunder (Investment Company Act Release No. 5948) to permit sales of Fund shares without sales charge to certain employees and agents of Travelers without the use of Applicant. Applicant represents further that as a result of the adoption by the Commission of Rule 22d–1(h), and a determination by the Sponsor and Travelers not to pursue the matter further, Fund shares are no longer available to a broad list of employees and agents of Travelers.

Applicant states that Travelers and Sponsor have no plans to implement sales without sales charge by use of Applicant and that it has never had any assets or made any commitments and that it has incurred no expenses or taken any further organization steps other than as described above.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons, and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 24, 1971, 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, if any, of fact or law proposed to be controverted, or he may request he be notified if the Commission should 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 at the address stated above. 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 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.71–16380 Filed 11–9–71;8:47 am]

SELECTIVE SERVICE SYSTEM

[Local Board Memorandum No. 99]

RANDOM SELECTION SYSTEM

Procedures for Implementation

The following document is deemed to be of sufficient public interest to warrant publication.

I. *Introduction.* This memorandum instructs local boards on the implementation of random selection procedures established by section 1631, Selective Service Regulations. Particular attention is given here to various transitional questions arising at the end of each calendar year as registrants are transferred from one priority group to another.

II. *Random sequence number.* A. Each registrant shall be assigned a random sequence number (RSN) which will be determined by a lottery drawing of birth dates, and shall retain this random sequence number as long as he is registered with the Selective Service System. A registrant's random sequence number shall be established based upon the birth date given by him at the time of registration and entered on his Registration Card (SSS Form 1). However, should a registrant furnish documentation establishing a new date of birth, prior to the lottery drawing, effect will be given to this change, and it will be entered on the registration card.

B. All registrants born in the years 1944 through 1950 shall be assigned a birth date sequence based upon the results of the drawing held on December 1, 1969, identified as 1970 Random Selection Sequence. Registrants born during 1951 shall be assigned a similar sequence based on the drawing of July 1, 1970, identified as 1971 Random Selection Sequence, while those born in 1952 shall receive a number from the drawing of August 5, 1971, identified as 1972 Random Selection Sequence. Charts showing the random selection sequence for each of these years have been previously issued, and are to be attached to this Local Board Memorandum. A drawing will be held annually to establish the random sequence numbers for each succeeding year of birth.

C. The applicable random selection sequence number is to be placed on the Cover Sheet (SSS Form 101) above the registrant's name; for example, (70) 041. The number in parentheses ( ) is used by the local board for administrative convenience and refers to the year after

the year in which the drawing was held that established the registrant's random sequence number.

Example 1. Michael O'Brien was born on December 10, 1950. His assigned RSN is (70) 041.

Example 2. Manuel Gomez was born on June 13, 1951. His assigned RNS is (71) 342.

D. When the Director of Selective Service issues an induction call, he will establish a random sequence number cutoff in a given priority group, and subgroup, if any, which will apply nationally. All registrants with RSN's equal to or below that number will be subject to induction under that call.

E. A registrant's random sequence number will be deemed to have been "reached" if it is not higher than the highest random sequence cutoff number established by the Director of Selective Service for induction of registrants in the same priority selection group and subgroup in that calendar year.

III. *Identification of selection groups.* A. Each registrant in Class 1–A, 1–A–O, or 1–O shall be assigned to a selection group, from January 1 of the year in which he attains the age of 20 until the 26th anniversary of his date of birth. If a registrant receives a deferment or exemption while a member of any priority selection group and is subsequently reclassified 1–A, 1–A–O, or 1–O, he shall, upon such reclassification, be reassigned to the priority selection group to which he was assigned when he received his deferment or exemption, provided he has not attained the age of 26; except that a registrant who was in the Extended Priority Selection Group (EPSG) at the time he was granted a deferment or exemption will be returned to the EPSG only if his RSN is not higher than the RSN cutoff which was applicable to his subgroup of the EPSG in the year in which he left the EPSG. If his RSN is higher than such RSN cutoff, he shall be assigned to the Second Priority Selection Group. (See Examples 4 and 5.)

B. There shall be subgroups within the Extended Priority Selection Group. Registrants who first entered the Extended Priority Selection Group in 1971 shall be assigned to Subgroup A. Registrants who first enter the Extended Priority Selection Group in 1972 shall be assigned to Subgroup B. A new subgroup shall be established in this manner each succeeding year. Subgroup A registrants will be the first called after volunteers for induction, then the subgroups following will be called until all Extended Priority Group men are called, after which men in the First Priority Group will be called. A registrant who returns to the Extended Priority Selection Group after having been in a deferred or exempt classification shall be placed in a subgroup according to the year in which he first entered the Extended Priority Selection Group.

Example 3. Carl Nelson is reclassified 1–D in 1971 when he is a member of the Second Priority Selection Group. In 1972, he is reclassified 1–A. He should be reassigned to the Second Priority Selection Group for 1972.

Example 4. On January 1, 1972, Malcolm MacLeod became a member of Subgroup B of the Extended Priority Selection Group, with RSN (71) 124. He was placed in Class 1–D on January 20, 1972. The cutoff RSN for March 1972 inductions was RSN 120 within Subgroup B of the Extended Priority Selection Group. Malcolm was classified into Class 1–A on September 19, 1972. He is assigned to the Second Priority Selection Group, because his RSN is above the Extended Priority Selection Group cutoff for that year.

Example 5. Biagi Petrello, RSN (71) 114, became a member of the Extended Priority Selection Group, Subgroup B, on January 1, 1972. In February 1972, he received a deferment and was withdrawn from the Extended Priority Group. His RSN was reached in Subgroup B of the EPSG in 1972. In 1973, Biagi lost his deferment. Since he has not attained age 26, he shall be returned to the Extended Priority Group, Subgroup B.

Example 6. Sidney Cohen, RSN (70) 002, entered the Extended Priority Selection Group on January 1, 1971, and was classified into Class 3–A on February 3, 1971. Upon being classified 1–A on January 12, 1972, he would return to the Extended Priority Selection Group, and would be assigned to Subgroup A, because he had first entered the Extended Priority Selection Group in 1971.

Example 7. Vernon Fowler, RSN (70) 120, was in Class 2–S from November 1969 until July 15, 1971, when he was reclassified 1–A and entered the First Priority Selection Group. The reached RSN for that year was 125. If Vernon retained his 1–A classification for the remainder of the year, but was not reached for induction, he would, on January 1, 1972, enter the Extended Priority Selection Group. He would be assigned to Subgroup B, because he first entered the Extended Priority Selection Group in 1972. To deliver men for induction in 1972, the local board will call Subgroup A men, lowest RSN first, and then Subgroup B men, lowest RSN first, up to the national cutoff number. When RSN 120 is reached, Vernon will be issued an induction order.

C. *The First Priority Selection Group*—(1) *1970.* Consisted of nonvolunteers in Class 1–A, 1–A–O, or 1–O born on or after January 1, 1944, and on or before December 31, 1950, who had not attained their 26th birthday.

(2) *1971 and later years.* Consists of two groups: Nonvolunteers in Class 1–A, 1–A–O, or 1–O who in the preceding year attained the age of 19 years; and those who have attained the age of 20 but not 26 who during the calendar year are classified into Class 1–A, 1–A–O, or 1–O and who were not in the First Priority Selection Group on December 31 of any previous year.

Example 8. Burton Barton was born on April 18, 1952. He is in Class 1–A. He will enter the 1972 First Priority Selection Group on January 1, 1972.

Example 9. Casimir Lenski was born on January 11, 1949. He was placed in Class 2–S in 1967. After completing college, he was reclassified 1–A on June 20, 1971. He was assigned to the 1971 First Priority Selection Group.

D. *Transfer From First Priority Selection Group to Second Priority Selection Group.* Any registrant who was a member of a First Priority Selection Group on December 31 of any calendar year, whose random sequence number was not reached, shall on January 1 of the succeeding year be placed in the Second Priority Selection Group, even if he has not been previously found physically qualified and even if he is in the process of exercising his procedural rights at the end of the year.

Example 10. Peter Van Der Meer RSN (71) 215, became a member of the First Priority Selection Group upon being classified 1–A on August 30, 1971. His RSN was not reached for induction that year. On January 1, 1972, he will be assigned to the Second Priority Selection Group.

Example 11. Joseph Davis, RSN (70) 215, was a member of the First Priority Selection Group on October 3, 1970. On that date he was classified 2–S. On February 14, 1971, he is reclassified 1–A because he left school. He would be assigned to the First Priority Selection Group. He would not be assigned to the Second Priority Selection Group, because he was not in Class 1–A on December 31, 1970. On December 31, 1971, he was assigned to the Second Priority Selection Group because his RSN was above 125.

E. *Transfer from First Priority Selection Group to Extended Priority Selection Group.* (1) Any registrant in the First Priority Selection Group on December 31 of any calendar year, whose random sequence number was reached during that year, but who was not issued an SSS Form 252 or an SSS Form 153 with a scheduled reporting date within that calendar year, shall on January 1 of the following year, be assigned to the Extended Priority Selection Group.

Example 12. Robert DuMont has RSN (71) 110. He is classified into Class 1–A from a deferred class on September 28, 1971, and he appeals. Although his RSN was reached, he was not issued an induction order because his appeal was pending. On January 1, 1972, he is assigned to the Extended Priority Selection Group, Subgroup B. On January 13, 1972, he is classified unanimously into Class 1–A by the appeal board. He is then available for induction as a member of the Extended Priority Selection Group, Subgroup B.

(2) In order to fill the January call by issuing orders in November, registrants in the Extended Priority Selection Group shall be tentatively identified and issued orders by RSN in November. If such a registrant is reclassified into a deferred class before the end of the year, he will not be identified as a member of the extended group, as deferred registrants are not in a priority group.

Example 13. In November 1971, Harold Osborn is tentatively identified by his local board as a member of the Extended Priority Selection Group, Subgroup B, and is ordered for induction in January 1972. On December 15, 1971, Harold presents information to his board which would qualify him for a 3–A classification. If Harold's board in its December meeting reclassifies him 3–A, his order for induction in January will be canceled. If he is eventually reclassified 1–A before his 26th birthday, he would then be placed in the First Priority Selection Group in that year.

(3) A registrant in the First Priority Selection Group who has been issued an order to report for induction or alternate service with a reporting date within the calendar year in which the order was issued, and after the end of that calendar year has his order canceled, or for other reasons fails to complete his

military service or alternate service, shall, upon thereafter becoming eligible for selection for induction or alternate service, be placed in the Extended Priority Selection Group.

Example 14. Kurt Baumann, RSN (71) 121, a member of the 1971 First Priority Selection Group, is issued an order to report for induction in October 1971, to report in December 1971. His induction is postponed at the request of the State director to have his file reviewed. In January 1972, the local board, at the request of the State director, reopens and classifies Kurt anew into Class 1–A. He should be placed in the Extended Priority Selection Group, Subgroup B.

F. *Transfer from Extended Priority Selection Group to Second Priority Selection Group.* Any member of the Extended Priority Selection Group who was not issued an SSS Form 252 or an SSS Form 153 with a reporting date prior to April 1 of the year in which he entered the Extended Priority Selection Group shall forthwith be assigned to the Second Priority Selection Group, with the following exception: Any member who would have been so issued an SSS Form 252 or an SSS Form 153, but could not be issued one, shall remain in the Extended Priority Selection Group, and shall be issued an SSS Form 252 or SSS Form 153 as soon as practicable. Circumstances which could prevent such an order shall include but not be limited to those arising from a personal appearance, appeal, preinduction examination, judicial proceeding of inability of the local board to act. However, any registrant in the Extended Priority Selection Group who is fully available to be issued an SSS Form 252 or SSS Form 153 for 270 consecutive days and to whom the local board has not issued such form during such 270 consecutive days, shall be assigned to the Second Priority Selection Group.

Example 15. The cutoff number for March inductions is set at RSN 100 within Subgroup B of the Extended Priority Selection Group. John Williams has RSN 82 in that subgroup. He is involved in an appeal which was not decided until March 15. This was too late to issue an induction order for delivery prior to April 1. Consequently, he will remain in the Extended Priority Selection Group and be ordered as soon as practicable.

Example 16. The cutoff number for March inductions is set at RSN 100 within Subgroup B of the Extended Priority Selection Group. Sam Samuels has RSN 104 in that subgroup. As his random sequence number is above the ceiling number, on April 1 he would be assigned to the Second Priority Selection Group.

Example 17. Tetsu Nagata is classified 1–A and enters the Extended Priority Selection Group on July 10, 1973. He remains in the Extended Priority Selection Group, fully available for induction, for 270 consecutive days. During this time, no induction calls are placed upon the Selective Service System. At the end of the 270 days, not having been issued an induction order, he is placed in the Second Priority Selection Group.

G. *Selection of 26-year-old registrants.* Any registrant assigned to the Extended Priority, First Priority, or a reduced priority selection group shall upon his 26th birthday be removed from that group unless he has previously been ordered to report for induction and also has extended liability because of a previous deferment. See Local Board Memorandum No. 38. If no such order has been issued and he has extended liability, he shall be placed in the selection group consisting of registrants between the ages of 26 and 35, who have extended liability.

Example 18. Robert Brown, RSN (70) 120, born on October 15, 1945, having been unanimously reclassified from Class 2–A to Class 1–A by the appeal board on September 15, 1971, is a member of the 1971 First Priority Selection Group. His local board on October 8, 1971, issues an order for Robert to report for induction on November 29, 1971. That order is valid since Robert had extended liability and the local board issued the order to report for induction prior to his 26th birthday.

Example 19. Chong Lee, RSN (70) 120, was born on October 15, 1945. He was reclassified from 2–A to 1–A by his local board on October 5, 1971, and entered the 1971 First Priority Selection Group. His rights to appear or appeal prevent his being issued an induction order before his 26th birthday (on October 15). Since he was not issued an induction order before he reached the age of 26, he then would be placed in the selection group consisting of registrants between the ages of 26 and 35, who have extended liability.

Example 20. David Anderson, RSN (71) 250, is in Class 1–O and is a member of the First Priority Selection Group. If his random sequence number has not been reached by December 31, David shall be reassigned to the Second Priority Selection Group. He shall not thereafter be ordered for civilian work unless RSN 250 in his reduced priority group is reached for induction.

IV. *Administrative processing of selection groups.* Each phase of local board administration—reclassification, orders for preinduction physical examination, personal appearance, appeals, and so forth—shall be done in order of random sequence number and priority group and subgroup insofar as practicable, so that registrants will be processed in the order of their vulnerability for induction.

To achieve fundamental fairness for registrants, it is important that local boards swiftly process all registrants who submit information which merits reclassification of the registrant into or out of the First Priority Selection Group, especially that information sent to the board late in the calendar year. The local board shall also promptly consider for reclassification any registrant who requests in writing that his current deferment be ended and who is currently classified in one of the following classes: Class 1–S, Class 2–A, Class 2–C, Class 2–D, Class 2–S, or Class 3–A. It is equally critical that local boards give rapid and fair consideration to members of the Extended Priority Selection Group to insure that their vulnerability to selection is continued no longer than necessary.

Information or requests received by the local board after its last meeting in the calendar year but before January 1 of the new year or enclosed in an envelope postmarked after the last meeting in the calendar year but before January 1 of the new year, and information or requests submitted prior to the last meeting in the calendar year and upon which the local board has not completed action shall be considered by the local board at its first meeting in the new year. Local board actions with respect to information submitted or requests made in accordance with the provisions of this section, will be effective as of December 31 in the year in which submitted. Annotate the Minutes of Action, page 8 of the Classification Questionnaire (SSS Form 100) following the classification action with the legend, "Effective 31 December (year) as per LBM 99."

Other circumstances which may prevent consideration prior to December 31 in any calendar year of information which may merit reclassification of a registrant shall be referred to the Director of Selective Service for his decision. If the Director of Selective Service, or a State Director of Selective Service with respect to registrants of his State, determines that a registrant has been improperly assigned to a priority selection group, he may direct the reassignment of the registrant to a designated priority selection group.

V. *Recision.* The attachments to Local Board Memorandums Nos. 100 and 108 become parts of this Local Board Memorandum; other parts of Local Board Memorandums Nos. 100 and 108 are rescinded. Local Board Memorandum No. 117 is also rescinded.

Issued: November 26, 1969.

As amended: November 3, 1971.

CURTIS W. TARR,
Director.

NOVEMBER 3, 1971.

[FR Doc.71-16397 Filed 11-9-71;8:52 am]

SUBVERSIVE ACTIVITIES CONTROL BOARD

[Dockets Nos. E72-001—E72-025]

ATTORNEY GENERAL'S LIST OF ORGANIZATIONS

Notice of Hearings

John N. Mitchell, Attorney General of the United States, Petitioner, v.

Abraham Lincoln Brigade, Respondent in Docket No. E72-001.

Abraham Lincoln School, Chicago, Ill. (AKA: Chicago Workers School), Respondent in Docket No. E72-002.

Action Committee to Free Spain now, respondent in Docket No. E72-003.

Alabama People's Educational Association (See Communist Political Association), Respondent in Docket No. E72-004.

American Association for Reconstruction in Yugoslavia, Inc., Respondent in Docket No. E72-005.

American Branch of the Federation of Greek Maritime Unions, Respondent in Docket No. E72-006.

American Christian Nationalist Party, Respondent in Docket No. E72-007.

American Committee for European Workers' Relief (AKA: American Council for European Workers' Relief), Respondent in Docket No. E72-008.

American Committee for the Settlement of Jews in Birobidjan, Inc. (AKA: The American Committee for the Settlement of German Jewish Refugees in the U.S.S.R.; AMBIJAN Committee for Emergency Aid to the Soviet Union; AMBIJAN Committee), Respondent in Docket No. E72-009.
American Committee to Survey Labor Conditions in Europe, Respondent in Docket No. E72-010.
American Council for a Democratic Greece, formerly known as the Greek American Council; Greek American Committee for National Unity, Respondent in Docket No. E72-011.
American Jewish Labor Council, Respondent in Docket No. E72-012.
American League Against War and Fascism (AKA: American League for Peace and Democracy), Respondent in Docket No. E72-013.
American League for Peace and Democracy, Respondent in Docket No. E72-014.
American National Labor Party, Respondent in Docket No. E72-015.
American Nationalist Party (AKA: American National Socialist League; American National Labor Party; Freunde Des Neuen Deutschland), Respondent in Docket No. E72-016.
American National Socialist League (AKA: American National Socialist Party; American National Labor Party), Respondent in Docket No. E72-017.
American National Socialist Party, Respondent in Docket No. E72-018.
American Patriots, Inc., Respondent in Docket No. E72-019.
American Peace Crusade, Respondent in Docket No. E72-020.
American Peace Mobilization (AKA: American People's Mobilization; American League Against War and Fascism; American League for Peace and Democracy), Respondent in Docket No. E72-021.
American Poles for Peace (AKA: Polish American Committee for Peace; Current Events Forum), Respondent in Docket No. E72-022.
American Polish Labor Council, Respondent in Docket No. E72-023.
American Polish League (AKA: American Friends of Polish Unity; Polish-American League; American Polish Cultural Group; Polonia Club; American Polish Club), Respondent in Docket No. E72-024.
American Rescue Ship Mission (A project of the United American Spanish Aid Committee), Respondent in Docket No. E72-025.

On October 1, 1971, the Attorney General petitioned the Subversive Activities Control Board for a determination that the above organizations now on the Attorney General's List have ceased to exist. The petitions are published in accordance with the Rules of the Subversive Activities Control Board.

Notice is hereby given pursuant to Executive Order 11605 and the Rules of the Subversive Activities Control Board issued in accordance therewith that hearings on the petitions will be held Monday, November 22, 1971, at 11 a.m., in Room 500, 2120 L Street NW., Washington, DC 20037.

JOHN W. MAHAN,
Chairman,
Subversive Activities Control Board.

[Docket No. E72-001]

In regard Abraham Lincoln Brigade, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Abraham Lincoln Brigade ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about October 1938. There is no record of any known activity since that date.

The last known address of the above named organization was c/o Veterans of the Abraham Lincoln Brigade, Room 233, 799 Broadway, New York City, NY.

Therefore the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the Abraham Lincoln Brigade has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on Proceedings Under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the Abraham Lincoln Brigade, at the following last known address: c/o Veterans of the Abraham Lincoln Brigade, Room 233, 799 Broadway, New York City, N.Y.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-002]

In regard Abraham Lincoln School, Chicago, Ill. (AKA: Chicago Workers School), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Abraham Lincoln School, Chicago, Ill., ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about August 1948.

There is no record of any known activity since that date.

The last known address of the above named organization was 180 West Washington Boulevard, Chicago, IL.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the Abraham Lincoln School, Chicago, Ill. has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice, does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on Proceedings Under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971 to Abraham Lincoln School, Chicago, Ill., at the following last known address: 180 West Washington Boulevard, Chicago, IL.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-003]

In regard Action Committee to Free Spain Now, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Action Committee to Free Spain Now ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about November 1946.

There is no record of any known activity since that date.

The last known address of the above named organization was 55 West 42d Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the Action Committee to Free Spain Now has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971 to the Action Committee to Free Spain Now, at the following last known address: 55 West 42d Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-004]

In regard Alabama People's Educational Association (see Communist Political Association), petition for a determination pursuant to section 12(1) of Executive Order

No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Alabama People's Educational Association ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist prior to 1945.

There is no record of any known activity since that date and there is no known address.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the Alabama People's Educational Association has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[E72-005]

In regard American Association for Reconstruction in Yugoslavia, Inc., petition for a determination pursuant to section 12 (1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Association for Reconstruction in Yugoslavia, Inc., ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about February 1948. There is no record of any known activity since that date.

The last known address of the above named organization was Room 21, 465 Lexington Avenue, New York City, N.Y.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Association for Reconstruction in Yugoslavia, Inc., has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971, to the American Association for Reconstruction in Yugoslavia, Inc. at the following last known address: Room 21, 465 Lexington Avenue, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. 72-006]

In regard American Branch of the Federation of Greek Maritime Unions, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Branch of the Federation of Greek Maritime Unions ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about April 1960. There is no record of any known activity since that date.

The last known address of the above named organization was 24 Stone Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Branch of the Federation of Greek Maritime Unions has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971 to the American Branch of the Federation of Greek Maritime Unions, at the following last known address: 24 Stone Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-007]

In regard American Christian Nationalist Party, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Christian Nationalist Party ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939.

There is no record of any known activity since that date and there is no known address.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Christian Nationalist Party has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-008]

In regard American Committee for European Workers' Relief (AKA: American Council for European Workers' Relief), petition for a determination pursuant to section 12 (1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Committee for European Workers' Relief ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about October 1950.

There is no record of any known activity since that date.

The last known address of the above named organization was 130 West 23d Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Committee for European Workers' Relief has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971 to the American Committee for European Workers' Relief, at the following last known address: 130 West 23d Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-009]

In regard American Committee for the Settlement of Jews in Birobidjan, Inc. (AKA: The American Committee for the Settlement of German Jewish Refugees in the U.S.S.R.; AMBIJAN Committee for Emergency Aid to

the Soviet Union; AMBIJAN Committee), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Committee for the Settlement of Jews in Birobidjan, Inc., ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about March 1951. There is no record of any known activity since that date.

The last known address of the above named organization was 103 Park Avenue, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that American Committee for the Settlement of Jews in Birobidjan, Inc., has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, D.C. 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971 to American Committee for the Settlement of Jews in Birobidjan, Inc., at the following last known address: 103 Park Avenue, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-010]

In regard American Committee to Survey Labor Conditions in Europe, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Committee to Survey Labor Conditions in Europe ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about October 1952. There is no record of any known activity since that date.

The last known address of the above named organization was 1265 Broadway, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Committee to Survey Labor Conditions in Europe has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971 to the American Committee to Survey Labor Conditions in Europe, at the following last known address: 1265 Broadway, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-011]

In regard American Council for a Democratic Greece, formerly known as the Greek American Council; Greek American Committee for National Unity, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Council for a Democratic Greece ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about December 1949.

There is no record of any known activity since that date.

The last known address of the above named organization was 152 West 42d Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Council for a Democratic Greece has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Council for a Democratic Greece at the following last known address: 152 West 42d Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-012]

In regard American Jewish Labor Council, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Jewish Labor Council ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about June 1951.

There is no record of any known activity since that date.

The last known address of the above named organization was Room 601, 22 East 17th Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Jewish Labor Council has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Jewish Labor Council at the following last known address: Room 601, 22 East 17th Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-013]

In regard American League Against War and Fascism (AKA: American League for Peace and Democracy), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American League Against War and Fascism ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939.

There is no record of any known activity since that date.

The last known address of the above-named organization was 268 Fourth Avenue, New York City, N.Y.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American League Against War and Fascism has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American League Against War and Fascism at the following last known address: 268 Fourth Avenue, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-014]

In regard American League for Peace and Democracy, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American League for Peace and Democracy ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about February 1940.

There is no record of any known activity since that date.

The last known address of the above-named organization was 268 Fourth Avenue, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American League for Peace and Democracy has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American League for Peace and Democracy at the following last known address: 268 Fourth Avenue, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-015]

In regard American National Labor Party, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American National Labor Party ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939. There is no record of any known activity since that date.

The last known address of the above-named organization was 113 West 57th Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American National Labor Party has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American National Labor Party at the following last known address: 113 West 57th Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-016]

In regard American Nationalist Party (AKA: American National Socialist League; American National Labor Party: Preunde Des Neuen Deutschland), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Nationalist Party ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939. There is no record of any known activity since that date.

The last known address of the above named organization was 113 West 57th Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Nationalist Party has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Nationalist Party, at the following last known address: 113 West 57th Street, New York City, NY.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-017]

In regard American National Socialist League (AKA: American National Socialist Party; American National Labor Party), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American National Socialist League ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939. There is no record of any known activity since that date.

The last known address of the above named organization was 113 West 57th Street, New York City, NY.

Therefore the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American National Socialist League has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American National Socialist League, at the following last known address: 113 West 57th Street, New York City, NY.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-018]

In regard American National Socialist Party, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American National Socialist Party ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939. There is no record of any known activity since that date.

The last known address of the above named organization was 113 West 57th Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American National Socialist Party has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General,

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American National Socialist Party, at the following last known address: 113 West 57th Street, New York City, NY.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-019]

In regard American Patriots, Inc., petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Patriots, Inc., ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939. There is no record of any known activity since that date.

The last known address of the above named organization was c/o Allan A. Zoll, 2223 Massachusetts Avenue NW., Washington, DC.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Patriots, Inc., has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Patriots, Inc., at the following last known address: c/o Allan A. Zoll, 2223 Massachusetts Avenue NW., Washington, DC.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-020]

In regard American Peace Crusade, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Peace Crusade ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about September 1955. There is no record of any known activity since that date.

The last known address of the above-named organization was Room 312, 166 West Washington Street, Chicago, IL.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Peace Crusade has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Peace Crusade, at the following last known address: Room 312, 166 West Washington Street, Chicago, IL.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-021]

In regard American Peace Mobilization (AKA: American People's Mobilization; American League Against War and Fascism; American League for Peace and Democracy), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Peace Mobilization ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about February 1942. There is no record of any known activity since that date.

The last known address of the above-named organization was 268 Fourth Avenue, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Peace Mobilization has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Peace Mobilization at the following last known address: 268 Fourth Avenue, New York City, NY.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-022]

In regard American Poles for Peace (AKA: Polish American Committee for Peace; Current Events Forum), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Poles for Peace ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about September 1953. There is no record of any known activity since that date.

The last known address of the above named organization was 1547 North Leavitt Street, Chicago, IL.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Poles for Peace has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on Proceedings Under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Poles for Peace at the following last known address: 1547 North Leavitt Street, Chicago, IL.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-023]

In regard American Polish Labor Council, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Polish Labor Council ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1947. There is no record of any known activity since that date.

The last known address of the above named organization was 144 Bleeker Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Polish Labor Council has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on Proceedings Under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Polish Labor Council at the following last known address: 144 Bleeker Street, New York City, NY.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-024]

In regard American Polish League (AKA: American Friends of Polish Unity; Polish-American League; American Polish Cultural Group; Polonia Club; American Polish Club), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Polish League ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about November 1960. There is no record of any known activity since that date.

The last known address of the above named organization was 1251 South Saint Andrews Place, Los Angeles, CA.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Polish League has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on Proceedings Under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Polish League at the following last known address: 1251 South Saint Andrews Place, Los Angeles, CA.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-025]

In regard American Rescue Ship Mission (A project of the United American Spanish Aid Committee), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Rescue Ship Mission ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about February 1941. There is no record of any known activity since that date.

The last known address of the above named organization was 200 Fifth Avenue, New York City, N.Y.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Rescue Ship Mission has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on Proceedings Under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971, to the American Rescue Ship Mission at the following last known address: 200 Fifth Avenue, New York City, NY.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[FR Doc.71-16382 Filed 11-9-71;8:48 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 5, 1971.

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 107515 Sub 763, Refrigerated Transport Co., Inc., assigned December 13, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 112822 Sub 200, Bray Lines, Inc., assigned December 13, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 11220 Sub 122, Gordons Transport, MC 75320 Sub 156, Campbell Sixty-Six Express, now assigned November 8, 1971, at Atlanta, Ga., postponed to December 6, 1971, in Room 305, 1252 West Peachtree Street, Northwest, Atlanta, GA.

MC 107993 Sub 20, J. J. Willis Trucking Co., assigned December 6, 1971, at Phoenix, is postponed to January 31, 1972, at Phoenix, Ariz. in a hearing room to be designated later.

MC 135387, Harbor Transfer, Inc., now assigned November 15, 1971, at Philadelphia, Pa., will be held in the Civil Service Conference Room 313, U.S. Customhouse, Second and Chestnut Streets, instead of U.S. Customs Courtroom, Third Floor, U.S. Courthouse.

MC 124078 Sub 476, Schwermen Trucking, MC 125474 Sub 29, bulk haulers, now assigned for continued hearing on November 17, 1971, at Washington, D.C.

MC-F-10976, Oneida Motor Freight, Inc.—purchase (portion)—Somco Freight Lines, Inc., MC-F-10977, P. Callahan, Inc.—purchase (portion)—Somco Freight Lines, Inc., MC-F-10984, Matco Transportation, Inc.—purchase (portion) Somco Freight Lines, MC-FC Taylor Services, Inc., transferee Somco Freight Lines, Inc., transferor, assigned November 8, 1971, at New York, N.Y., canceled and reassigned to November 8, 1971, in Room 212, 1100 Raymond Boulevard, Newark, NJ.

MC 107227 Sub 118, Insured Transporters, now assigned November 29, 1971, at Santa Fe, New Mex., canceled and application dismissed.

MC 2284 Sub 24, Boulevard Transit Lines, Inc.—revocation of certificate, assigned December 4, 1971, in Room E-2222, 26 Federal Plaza, New York, NY.

MC 134915 Sub 2, Refrigerated Distributing, assigned January 17, 1972, at Jefferson City, Mo., hearing room to be later designated.

MC 135825, Panhandle Freight System, Inc., assigned January 17, 1972, at Oklahoma City, hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16412 Filed 11-9-71;8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 5, 1971.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42297—*Fluorspar to Deepwater (Carney's Point), N.J.* Filed by Southwestern Freight Bureau, agent (No. B-260), for interested rail carriers. Rates on fluorspar, in carloads, as described in the application, from specified Rio Grande River crossings, to Deepwater (Carney's Point), N.J.

Grounds for relief—Private water-motor competition.

Tariff—Supplement 159 to Southwestern Freight Bureau, agent, tariff ICC 4834. Rates are published to become effective on December 5, 1971.

FSA No. 42298—*Liquefied carbon dioxide to St. Louis, Mo.* Filed by M. B. Hart, Jr., agent (No. A6287), for and on behalf of the Illinois Central Railroad Co. Rates on carbon dioxide, liquefied, in tank carloads, as described in the application, from Yazoo City, Miss., to St. Louis, Mo.

Grounds for relief—Market competition.

Tariff—Supplement 155 to Southern Freight Association, agent, tariff ICC S-800. Rates are published to become effective on December 15, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16411 Filed 11-9-71;8:50 am]

[Notice 35]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 5, 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 Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

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 1042.4(d)(12)) 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 PROPERTY

No. MC-41432 (Deviation No. 13), EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, TX 75207, filed October 26, 1971. Carrier's representative: Rollo E. Kidwell, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From El Paso, Tex., over Interstate Highway 10 to Las Cruces, N. Mex., thence over U.S. Highway 70 to Alamogordo, N. Mex., thence over U.S. Highway 54 to Vaughn, N. Mex., thence over U.S. Highway 285 to Clines Corners, N. Mex., thence over U.S. Highway 66 to Albuquerque, N. Mex., thence over Interstate Highway 25 (and access road) to Bernalillo, N. Mex., thence over New Mexico Highway 44 to Bloomfield, N. Mex., thence over New Mexico Highway 17 to Farmington, N. Mex., thence over U.S. Highway 550 to Shiprock, N. Mex., thence over U.S. Highway 666 to Montecello, Utah, thence over U.S. Highway 163 to Crescent Junction, Utah, thence over U.S. Highway 50 to Thistle, Utah, thence over U.S. Highway 89 to Provo, Utah, thence over Interstate Highway 15 to Salt Lake City, Utah, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From El Paso, Tex., over U.S. Highway 80 to Las Cruces, N. Mex., thence over U.S. Highway 70 to Phoenix, Ariz., thence over U.S. Highway 89 to junction Arizona Highway 69, thence over Arizona Highway 69 to junction U.S. Highway 89, thence over U.S. Highway 89 to junction Alternate U.S. Highway 89, thence over Alternate U.S. Highway 89 to Flagstaff, Ariz., thence over U.S. Highway 89 to Salt Lake City, Utah, and return over the same route.

No. MC-121218 (Sub-No. 1), (Deviation No. 1), A-O K MOTOR LINES, INC. (Samuel Kaufman, Trustee), Industrial Site, Opp, Ala. 36467, filed October 29, 1971. Carrier's representative: Robert G. Olterman, Post Office Box 969, Kingsport, TN 37662. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Birmingham, Ala., over U.S. Highway 11 (Interstate Highway 20) to junction Alabama Highway 5, thence over Alabama Highway 5 to junction U.S. Highway 43, thence over U.S. Highway 43 to Mobile, Ala., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: Between Birmingham, Ala., and Mobile, Ala., over U.S. Highway 31.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16407 Filed 11-9-71;8:49 am]

[Notice 89]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 5, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 44984 (Sub-No. 4) (Republication) filed November 30, 1970, published in the FEDERAL REGISTER issue of January 7, 1971, and republished this issue. Applicant: BROWN'S MOVING AND STORAGE COMPANY, INC., 1215 State Fair Boulevard, Syracuse, NY 13209.

Applicant's representative: John A. Barnaba, 244 Harrison Street, Suite, 609, Syracuse, NY 13202. A supplemental order of the Commission, Operating Rights Board, dated September 30, 1971, and served October 27, 1971, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of used household goods, between points in Oswego, Cayuga, Oneida, Onondaga, Madison, and Cortland Counties, N.Y., on the one hand, and, on the other, points in New York, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. Because it is possible that other parties who have relied upon the notice in the FEDERAL FEGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority in the findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 109028 (Sub-No. 10) (Republication), filed February 10, 1971, published in the FEDERAL REGISTER issue of March 18, 1971, and republished this issue. Applicant: S & W TRANSFER, INC., 2505 North Mayfair Road, 1050 East Bay Street, Milwaukee, WI 53226. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006. A report and order of the Commission, Review Board Number 2 decided October 20, 1971, and served October 29, 1971, finds; that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of meat, meat products, and meat byproducts, and such commodities as are used by meatpackers in the conduct of their business when destined to and for use by meatpackers, as described in sections A and D of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between Gibbon, Nebr., on the one hand, and, on the other, Chicago, Ill., and Milwaukee, Wis., under a continuing contract or contracts with Gibbon Packing Corp., of Gibbon, Nebr., will be consistent with the public interest and the national transportation policy. Because it is possible that other persons, who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this report, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such application, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 109397 (Sub-No. 177) (Republication), filed September 2, 1969, published in the FEDERAL REGISTER issue of October 2, 1969, and republished this issue. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, Post Office Box 113, Joplin, MO 64801. Applicant's representative: Max C. Morgan, 600 Leininger Building, Oklahoma City, Okla. 73112. An order of the Commission, Division 1, acting as an appellate division, dated October 21, 1971, and served October 29, 1971, finds: That the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of commodities bearing a security classification by the U.S. Government, between points in the United States (except Alaska and Hawaii), restricted against the transportation of shipments weighing in the aggregate more than 5,000 pounds from one consignor to one consignee on any one day; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who may have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129808 (Sub-No. 8) (Republication), filed December 21, 1970, published in the FEDERAL REGISTER issue of February 4, 1971, and republished this issue. Applicant: GRAND ISLAND CONTRACT CARRIER, INC., 410 West Second Street, Box 399, Grand Island, NE. Applicant's representative: Charles J. Kimball, 300 NSEA Building, Post Office Box 82028, Lincoln, NE 68501. A report and order of the Commission, Review Board No. 1, decided September 30, 1971, and served October 26, 1971, finds: That operation by applicant as a *contract carrier* by motor vehicle, over irregular routes, of breading meal and batter mix (1) in interstate or foreign commerce, from the plantsite and storage facilities utilized by Modern Maid Food Products at or near Ponchatoula, La., and Jamaica, N.Y., to the plantsite and storage facilities of Delicious Foods Co. at or near Grand Island, Nebr., and (2) in foreign commerce, from the ports of entry on the international boundary line between the United States and Canada at or near Detroit, Mich., and Buffalo, N.Y., to the plantsite and storage facilities of Delicious Foods Co. at or near Grand Island, Nebr., under a continuing contract or contracts with Delicious Foods Co., of Grand Island, Nebr., will be consistent with the public interest and the national transportation policy. Because it is possible that other parties who have relied on the notice of the application as published in the FEDERAL REGISTER, may have an interest in and would be prejudiced by the lack of proper notice of the actual authority herein described in findings, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit herein will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene herein or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING PETITIONS

No. MC 2056 (Notice of Filing of Petition for Modification of Certificate), filed October 19, 1971. Petitioner: HOPLA TRUCKING CO., INC., Post Office Box 241, U.S. Highway 1 North, Edison, NJ 08817. Petitioner's representative: Alexander Markowitz, 1180 Karin Street, Post Office Box 793, Vineland, NJ. Petitioner holds certificate No. MC 2056, issued September 28, 1971, authorizing the transportation, over irregular routes, of (1) *General commodities*, except those of unusual value, classes A and B explosives, livestock, fibre conduit, junction boxes and fittings, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (a) between Closter, N.J., and Secaucus, N.J., (b) between Harrison, N.J., and points in Bergen County, N.J. (2) *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, restricted to shipments moving on bills of lading of freight forwarders, between points in Ocean, Middlesex, and Monmouth Counties, N.J. (3) *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between those points in New York in that part of the New York, N.Y., commercial zone as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt zone") and those points in New Jersey within 5 miles of New York, N.Y., and all of any municipality in New Jersey any part of which is within 5 miles of New York, N.Y., on the one hand, and, on the other, points in Essex, Hudson, Bergen, Middlesex, Monmouth, and Union Counties, N.J.

By the instant petition, Petitioner states it seeks modification of its authority in MC 2056 and issuance of a certificate which will be subject to a single uniform acceptable commodity description already widely employed, and a territorial grant which will be no greater than the sum of the operating rights it now holds, with all extraneous matter removed, and all restrictions likewise. Petitioner proposes its operating authority in MC 2056 to be modified to read as follows: *"General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between New York, N.Y., and points in New Jersey within 5 miles of New York, N.Y., on the one hand, and, on the other, points and places in Essex, Hudson, Bergen, Middlesex, Monmouth, Ocean, and Union Counties, N.J." Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments, in support of, or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

Nos. MC 30319 (Sub-No. 24) and MC 30319 (Sub-No. 25) (Notice of Filing of Petition for Modification of Certificates by Removal of Service Restrictions Relating to Smiley and Nixon, Tex.), filed October 22, 1970. Petitioner: SOUTHERN PACIFIC TRANSPORT COMPANY OF TEXAS AND LOUISIANA (formerly Southern Pacific Transport Co.), Dallas, Tex. Petitioner's attorneys: Damon R. Capps, Edwin N. Bell, 1600 Esperson Building, Houston, Tex. 77002. Petitioner is a *common carrier* of general commodities, operating in Texas and Louisiana, only, over regular routes. It is a wholly-owned subsidiary of Southern Pacific Transportation Co. (formerly Southern Pacific Co.), and its routes parallel that railroad's lines in the two named States. Petitioner's Certificate No. MC 30319 (Sub-No. 24), dated May 18, 1949, authorizes service between San Antonio and Smiley, Tex., and Certificate No. MC 30319 (Sub-No. 25), dated January 16, 1952, authorizes service between Smiley and Victoria, Tex. Service is authorized at all intermediate points in both cases. (Nixon, Tex., is an intermediate point on the route between Smiley and San Antonio.) Several restrictions appear in both certificates, including as pertinent:

The service by motor vehicle to be performed by carrier shall be limited to service which is auxiliary to, or supplemental of, rail service of the railroad. Carrier shall not serve any point not a station on the rail line of the railroad.

By the instant petition, petitioner requests that the involved restrictions be modified to read as follows:

The service to be performed by said carrier shall be limited to service which is auxiliary, or supplemental of the train service of the Southern Pacific Transportation Co., hereinafter the railroad, except at Smiley and Nixon (in Sub-No. 24), and except at Smiley (in Sub-No. 25).

Said carrier shall not render any service to or from any point not a station on the rail line of the railroad, except at Smiley and Nixon (in Sub-No. 24), and except at Smiley (in Sub-No. 25).

Any interested person or persons desiring to participate and to be heard in the matter may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

No. MC 116316 (Sub-No. 2) (Notice of filing of petition to add an additional contracting shipper), filed October 15, 1971. Petitioner: ARMORED MOTOR SERVICE OF ARIZONA, INC., Phoenix, Ariz. Petitioner's representative: Earl H. Carroll, 363 North First Avenue, Phoenix, AZ 85003. Petitioner, as herein pertinent states it was originally issued a permit as a motor contract carrier authorizing the transportation in Interstate or Foreign commerce, in the transportation of Coin, Currency and Securities, between Los Angeles, Calif., on the one hand, and, on the other, points in Arizona. The operations then authorized were limited to a transportation service to be performed, under a continuing contract, or contracts, with two specified member banks of the Federal Reserve System located in Phoenix, Ariz. Petitioner states that in the Recommended report and order regarding said application which was originally filed on February 8, 1963, the joint board found and stated that although the Federal Reserve Bank paid the transportation charges with the service being performed between the Arizona destinations and the Federal Reserve Bank of San Francisco, Los Angeles Branch, the contract was negotiated between the carrier and the above said member banks. Petitioner further states that thereafter it was issued an amended permit pursuant to application filed by Petitioner authorizing service to additional specified banks located in various points in Arizona, the service still being shipments between the destinations and the Federal Reserve Bank of San Francisco, with the transportation charges being paid by the Federal Reserve Bank of San Francisco. By the instant petition, Petitioner requests the said Federal Reserve Bank of San Francisco be named as an additional shipper under its existing contract carrier permit, so as to remove any questions or doubts regarding the arrangements with the above said Federal Reserve Bank of San Francisco and the fact that it is providing service pursuant to the directions and requirements of said Federal Reserve Bank. Any interested person or persons desiring to participate and to be heard in the matter may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 119914 (Sub-No. 19), filed October 20, 1971. Applicant: MINNESOTA-WISCONSIN TRUCK LINES, INC., 965 Eustis Street, St. Paul, MN 55114. Applicant's representative: William Rosen, Room 630, Osborn Building, St. Paul, Minn. 55101. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Carver and Chaska, Minn., and Minneapolis and St. Paul over U.S. Highway 212 with the limitation that no local service shall be rendered between St. Paul and Minneapolis and Excelsior and intermediate points. This application is identical to that contained in certificate of registration MC 98287 (Sub-No. 1) Carl Schoen, doing business as Chaska-Carver Motor Express, Chaska, Minn., and the instant application is also directly related to MC–F 11352 published in the FEDERAL REGISTER issue November 3, 1971. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., Minneapolis, Minn., or Washington, D.C.

No. MC 112713 (Sub-No. 134) (Correction), filed September 10, 1971, published FEDERAL REGISTER issue of October 6, 1971, and republished in part as corrected this issue. Applicant: YELLOW FREIGHT SYSTEM, INC., 92d Street at State Line Road, Kansas City, Mo. 64114. Applicant's representative: Richard K. Andrews, 1500 Commerce Bank Building, Kansas City, Mo. 64106. NOTE: The sole purpose of this partial republication is to show that the instant application is a matter directly related to MC–F 11316 in lieu of MC–F 11326, published in the FEDERAL REGISTER issue of September 22, 1971, which was in eror in previous publication. The rest of the application remains as previously published.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice the United States. Such comments must of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–11355. Authority sought for control by THOMAS FULKERSON AND K. SUSAN EDMUNDS (non carriers), 7878 I Street, Omaha, NE 68127, of GREAT PLAINS TRANSPORTATION COMPANY, also of Omaha, Nebr. 68127. Applicants' attorney: Donald L. Stern, 530 Univac Building, Omaha, Nebr.

68106. Operating rights sought to be controlled: *General commodities*, as a *common carrier* over regular routes, between Omaha, and McCook, Nebr., serving the intermediate points of Lincoln and Hastings, Nebr., and intermediate points of West Hastings, between Holdrege, Eustis, Elwood, and Maywood, Nebr., between Hastings and Grand Island, Nebr., serving all intermediate points and the off-route point of Orafino, Nebr., with restriction; *general commodities*, over irregular routes, between points in Nebraska within 60 miles of Wilsonville, Nebr., on the one hand, and, on the other, points in Nebraska; over one alternate route for operating convenience only. THOMAS FULKERSON AND K. SUSAN EDMUNDS, hold no authority from this Commission. However, they control HOLMES FREIGHT LINES, INC., also of Omaha, Nebr. 68127, which is authorized to operate as a *common carrier* in Iowa, Illinois, and Nebraska. Application has been filed for temporary authority under section 210a(b).

No MC–F–11356. Authority sought for purchase by MOMSEN TRUCKING CO., Highways 71 and 18 North, Spencer, Iowa 51301, of the operating rights of BRUCE W. CLARK, 300 Ohio St., Buffalo, NY 14204, and for acquisition by KARL E. MOMSEN, 8210 Poppleton, Omaha, NE, of control of such rights through the purchase. Applicants' attorneys: Robert D. Gunderman, 1708 Statler Hilton, Buffalo, NY 14202, and Marshall D. Becker, 7100 West Center Road, Omaha, NE. Operating rights sought to be transferred: *Wallboard*, as a *contract carrier* over irregular routes, from Lockport, N.Y., to points in Pennsylvania, Ohio, Indiana, the Lower Peninsula of Michigan, and points in Illinois, north and east of a line beginning at the Indiana-Illinois State line and extending west along U.S. Highway 24 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois-Wisconsin State line. Vendee is authorized to operate as a *common carrier* in Iowa, Nebraska, Illinois, Missouri, Minnesota, Kansas, Wisconsin, South Dakota, Arkansas, North Dakota, Indiana, Pennsylvania, Maryland, New York, Michigan, New Jersey, Ohio, Maine, New Hampshire, Georgia, Massachusetts, Delaware, Kentucky, Tennessee, West Virginia, Vermont, Colorado, Oklahoma, Tennessee, Texas, Virginia, Kentucky, North Carolina, and Wyoming. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11357. Authority sought for purchase by INTERCITY TRANSPORTATION CO., 600 Turnpike Street, South Easton, MA 02375, of a portion of the operating rights of AL'S AUTO EXPRESS CORP., 524 West 29th Street, New York, NY 10001, and for acquisition by HAROLD F. BERGERON, STANLEY L. BERGERON, NORMAN S. BERGERON, G. IRVING BERGERON, AND MARIE C. KEARNEY, all of South Easton, Mass. 02375, of control of such rights through the purchase. Applicants' attorneys: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108, and Martin Werner, 2 West 45th Street, New York, NY 10036. Operating rights sought to be transferred: *General commodities*, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment as a *common carrier* over irregular routes, between New York, N.Y., on the on hand, and, on the other, points in Nassau and Suffolk Counties, N.Y. Vendee is authorized to operate as a *common carrier* in Massachusetts, New York, New Jersey. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11358. Authority sought for purchase by CEDAR RAPIDS STEEL TRANSPORTATION, INC., 3930 16th Avenue SW., Post Office Box 68, Cedar Rapids, IA 52406, of a portion of the operating rights of LEE BROS., INC., 3659 South Normal Avenue, Chicago, IL 60609, and for acquisition by HERALD A. SMITH, JR., 536 Valley Brook Drive SE., Cedar Rapids, IA, MIRIAM G. SMITH, 536 Valley Brook Drive SE., Cedar Rapids, IA, and PAUL R. SHAWVER, 2314 Blake Boulevard, Cedar Rapids, IA, of control of such rights through the purchase. Applicants' attorney: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier*, over irregular routes, from certain specified points in Illinois, to certain specified points in Indiana, between certain specified points in Illinois, on the one hand, and, on the other, certain specified points in Ohio and Michigan; *soda ash, caustic soda, and other cleaning compounds*, from Detroit and Wyandotte, Mich., to certain specified points in Indiana; and *meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except liquid commodities in bulk, in tank vehicles, between the plantsite of Swift & Co., at Rochelle, Ill., on the one hand, and, on the other, certain specified points in Ohio and certain specified points in Michigan, from the plantsite of Swift & Co., at Rochelle, Ill., to points in that part of Indiana on and north of U.S. Highway 20, with restriction. Vendee is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC–F–11359. Authority sought for purchase by OHIO EASTERN EXPRESS, INC., Post Office Box 2297, 300 West Perkins Avenue, Sandusky, OH 44870, of the operating rights of J. MITCHELL TRUCKING CO., INC., 1 Scout Street, Kearny, NJ 07032, and for acquisition by THOMAS FEICK, 1230 Wayne Street, Sandusky, OH 44870, and KENNETH TONE, 333 East Washington Street, Sandusky, OH 44870, of control of such rights through the purchase. Applicants' attorney: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be transferred: *Live and dressed poultry*, as a *common carrier* over irregular routes, from Baltimore, Md., to New York, N.Y., and points within 20 miles of New York; *barrel staves*, from Fredericksburg, Va., to Baltimore, Md.; *seafood*, from Baltimore, Md., to Peoria, Ill., and New Haven, Conn., between Baltimore, Md., and Port Norris, N.J.; *fruit and vegetables*, between Baltimore, Md., on the one hand, and, on the other, Richmond, Va., Washington, D.C., Philadelphia, Pittsburgh, and Elizabeth, Pa., and New York, N.Y., and points within 20 miles of New York; *butter, coffee, tea, and spices*, between Baltimore, Md., and New York, N.Y.; *theatrical equipment*, between Baltimore, Md., and Washington, D.C.; *bananas*, from Baltimore, Md., to Harrisburg, Philadelphia, Pittsburgh, and Pottsville, Pa., Rochester and New York, N.Y., and points in Maryland, Virginia, Delaware, and the District of Columbia; *bananas, and agricultural commodities* exempt from economic regulation under section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Wilmington, Del., to points in Connecticut, Delaware, Massachusetts, Maryland, New York, New Jersey, Pennsylvania, Virginia, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in Ohio, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Vermont, Illinois, Connecticut, Delaware, Florida, Rhode Island, Virginia, North Carolina, South Carolina, Maine, West Virginia, Michigan, New Hampshire, Indiana, Kentucky, Wisconsin, Missouri, and the District of Columbia. Application has been filed for temporary authority under Section 210a(b).

No. MC–F–11360. Authority sought for merger into CROUCH BROS., INC., U.S. Highway 36 West, Elwood, Kans. 66024, of the operating rights and property of MIDWEST FREIGHT FORWARDING COMPANY, INC., also of Elwood, Kans. 66024, and for acquisition by ARTHUR F. CROUCH, CLEO CROUCH and ROGER CROUCH all of Elwood, Kans. 66024, of control of such rights and property through the transaction. Applicants' attorney: Jack Goodman, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be merged: *General commodities*, excepting among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Chicago and Bridgeport, Conn., serving certain intermediate and off-route points; from Chicago, Ill., to Boston, Mass., serving no intermediate points, but serving the off-route points of North Chicago and Great Lakes, Ill., between Chicago, Ill., and New York, N.Y., serving points in New York and New Jersey within 20 miles of New York, N.Y., as intermediate or off-route points, and serving North Chicago and Great Lakes, Ill., as off-route points; *empty equipment*, between Boston, Mass., and Bridgeport,

Conn., serving no intermediate points; *general commodities*, excepting among others, household goods and commodities in bulk, over irregular routes, between Bridgeport, Conn., on the one hand, and, on the other, points in Connecticut, between points in Illinois within a 50 mile radius of 706–708 West Harrison Street, Chicago, Ill., including Chicago, with restriction; *fish*, from Boston, Mass., to Chicago, Ill.; drugs, from Bridgeport, Conn., to Peoria, Ill. CROUCH BROS., INC., is authorized to operate as a *common carrier* in Iowa, Illinois, Missouri, Kansas, Nebraska, Oklahoma, Arkansas, Indiana, and Minnesota. Application has not been filed for temporary authority under section 210a(b). NOTE: CROUCH BROS., INC., controls MIDWEST FREIGHT FORWARDING COMPANY, INC., through ownership of capital stock pursuant to authority granted in MC–F–10305, by order of March 14, 1969 as supplemented by orders of September 1, 1969 and September 1, 1970.

No. MC–F–11361. Authority sought for purchase by ANDERSON MOTOR LINES, INC., 86 Washington Street, Plainville, MA 02762, of a portion of the operating rights of GLOSSON MOTOR LINES, INC., Post Office Box 1328, Lexington, NC 27292, and for acquisition by ROBERT F. ANDERSON, 37 Woodruff Road, Walpole, MA 02081, of control of such rights through the purchase. Applicants' attorneys: Frederick T. O'Sullivan, 372 Granite Avenue, Milton, MA 02186 and James Wilson, Suite 1032 Pennsylvania Building, Pennsylvania Avenue, and 13th Street, NW., Washington, DC 20004. Operating rights sought to be transferred: *Frozen sea food*, as a *common carrier* over irregular routes, from Boston and Gloucester, Mass., to points in Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, Virginia, Alabama, and West Virginia; *frozen foods*, from Watertown, Mass., to points in North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana, from Boston, Mass., to points in Mississippi, from Washington, D.C., to points in North Carolina, South Carolina, Georgia, and Alabama; *frozen foods*, except frozen sea foods, from Boston, Mass., to points in North Carolina, South Carolina, Georgia, Florida, Alabama, and Louisiana; *frozen fruits and frozen vegetables*, from Macon, Ga., to Baltimore, Md., certain specified points in Massachusetts, New Jersey, New York, N.Y., certain specified points in Pennsylvania, Richmond and Norfolk, Va., certain specified points in Connecticut, Providence, R.I., Wilmington, Del., and the District of Columbia; *cheese*, from Heuvelton and Chateaugay, N.Y., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Virginia, and West Virginia;

Frozen citrus juice concentrate, and citrus products not canned and not frozen, in vehicles equipped with mechanical refrigeration, from points in Florida, to certain specified points in Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Petersburg, Va., Huntington, W. Va., and points in Maine, New Hampshire, and Vermont; *frozen fruits and frozen vegetables*, only when moving in mixed shipments with frozen citrus juice concentrate, from Plant City, Fla., to points in Maryland, Pennsylvania, and Virginia, from Jacksonville, Fla., to certain specified points in Massachusetts, Connecticut, New York, New Jersey, and Huntington, W. Va.; *frozen fruits*, from Tampa, Fla., to Canajoharie and Rochester, N.Y., Richmond, Va., Baltimore, Md., Washington, D.C., and Jersey, N.J.; *frozen vegetable juice concentrates*, with additives, in mixed shipments with frozen citrus products, from certain specified points in Florida, to Watertown and Worcester, Mass., certain specified points in Connecticut, New York, New Jersey, Pennsylvania, Petersburg, Va., Huntington, W. Va., and points in Maine, New Hampshire, and Vermont. Vendee is authorized to operate as a *common carrier* in Massachusetts, Delaware, New Jersey, Virginia, Maryland, Connecticut, Michigan, Illinois, Maine, New York, Pennsylvania, Ohio, Georgia, Kentucky, Indiana, Wisconsin, Mississippi, Texas, Louisiana, Alabama, South Carolina, Tennessee, Florida, North Carolina, Arkansas, Iowa, Kansas, Minnesota, Missouri, New Hampshire, Oklahoma, Vermont, West Virginia, Rhode Island, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11362. Authority sought for purchase by McVEY TRUCKING, INC., Rural Route No. 1, Oakwood, IL 61858, of the operating rights of LLOYD McVEY, doing business as McVEY TRUCKING, of Oakwood, Ill. 61858, and for acquisition by LLOYD McVEY and NORMA McVEY both of Oakwood, Ill. 61858, of control of such rights through the purchase. Applicant's attorney: Clyde Meachum, 41 North Vermilion, Danville, IL 61832. Operating rights sought to be transferred: (A) *Dry fertilizer*, in bulk, as a *common carrier* over irregular routes, from Danville, Ill., to points in Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin; *feed*, in bulk and in bags, from Danville, Ill., to points in Indiana; *feed*, from Danville, Ill., to Owensboro, Ky., and points in Wisconsin, Ohio, and Michigan; and (B) *brick and cement building blocks*, as a *contract carrier*, from Danville, Ill., to points in Indiana. Vendee is authorized to operate as a *common carrier* in Illinois and Indiana. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71–16408 Filed 11–9–71;8:49 am]

[Notice 393]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 5, 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 22229 (Sub-No. 69 TA), filed October 26, 1971. Applicant: TERMINAL TRANSPORT COMPANY, 248 Chester Avenue, SE., Mailing: Post Office Box 1918, 30301, Atlanta, GA 30316. Applicant's representative: L. H. Kerlin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Indianapolis, Ind., to St. Louis, Mo., and return over the same route, serving Indianapolis, Ind., as a point of joinder only, from Indianapolis, Ind., over Interstate Highway 70 (and U.S. Highway 40 where I–70 is incomplete) to St. Louis, Mo., and return over the same route, serving no intermediate points, as an alternate route, for operating convenience only, for 180 days. NOTE: Applicant states it will tack at Indianapolis, Ind., with authority held under Docket No. MC 22229 and at Chicago, Ill., with authority granted under Docket No. MC–F–11185; and interline at Milwaukee, Wis., and Rock Island, Ill., and St. Louis, Mo. Supporting shipper: L. H. Kerlin, vice-president, Operations, Terminal Transport Co., Inc. 248 Chester Avenue SE., Atlanta, GA 30315. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 30319 (Sub-No. 140), filed October 26, 1971. Applicant: SOUTHERN PACIFIC TRANSPORT OF TEXAS AND LOUISIANA, a corporation, 7600 South Central Expressway, Post Office Box 6187, Dallas, TX 75222. Applicant's representative: D. Humphrey (same address as applicant). Authority sought to operate as a *common carrier*, by motor

vehicle, over regular routes, transporting: *General commodities* (except household goods as described by the Commission, commodities in bulk and those requiring special equipment), between Nixon, Smiley, San Antonio, and Cuero, Tex., over U.S. Highway 87, for 180 days. NOTE: Carrier is currently authorized to serve. The intent of application is to remove restriction in MC-30319 Subs 24 and 25 requiring auxiliary or supplemental to train service of the Southern Pacific Co., a rail carrier. Applicant intends to tack with existing authority at San Antonio and Cuero, Tex. Supporting shipper: There are approximately 15 statements of supports attached to the application which may be examined here at the Interstate Commerce Commission in Washington, D.C. or copies thereof which may be examined at the field offices named below. Send protests to: E. K. Willis, Jr., District Supervisor, Room 13C12 Federal Building, 100 Commerce Street, Interstate Commerce Commission, Bureau of Operation, Dallas, Tex. 75202.

No. MC 54567 (Sub-No. 10 TA), filed October 29, 1971. Applicant: RELIANCE TRUCK COMPANY, 2500 North 24th Avenue, Phoenix, AZ 85009. Applicant's representative: A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reinforcing steel bar and fabricated and unfabricated steel*, from Phoenix, Ariz., and Tempe, Ariz. to points in California south of the northern boundaries of San Bernardino, San Luis Obispo, and Kern Counties, for 180 days. Supporting shipper: Allison Steel Manufacturing Co., Post Office Box 6598, Phoenix, AZ 85005. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Building, 230 North First Avenue, Phoenix, AZ.

No. MC 76032 (Sub-No. 288 TA), filed October 28, 1971. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, CO 80223. Applicant's representative: Ira E. Neal (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from San Ysidro, Calif., on the United States-Mexican boundary, and imported through the port of Ensenade, Mex., to points in California, Arizona, New Mexico, Colorado, Nevada, Wyoming, Montana, Oregon, Idaho, Utah, and Washington, for 180 days. NOTE: Carrier does intend to tack with existing authority at Los Angeles, Calif. Supporting shipper: Chiquita Brands, 1250 Broadway, New York, NY 10001. Send protests to: District Supervisor, Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 94201 (Sub-No. 99 TA), filed October 26, 1971. Applicant: BOWMAN TRANSPORTATION, INC., Post Office Box 2188, 1010 Stroud Avenue, Gadsden, AL 35903. Applicant's representative: M. Bishop, 325–29 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal litter, chopped, alfalfa pellets*, from the plantsite and storage facilities of The Clorox Co. at or near Atlanta, Ga., to points in Alabama, Florida, Mississippi, and Tennessee, with no transportation for compensation on return except as otherwise authorized; and (2) *cleaning and bleaching compounds*, except in bulk, from the plantsite and storage facilities of Clorox Co. at or near Atlanta, Ga., to points in Mississippi, with no transportation for compensation on return except as otherwise authorized, for 180 days. Supporting shipper: The Clorox Co., 7901 Oakport Street, Oakland, CA 94621. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814–2121 Building, Birmingham, Ala. 35203.

No. MC 100623 (Sub-No. 30 TA), filed October 29, 1971. Applicant: HOURLY MESSENGERS, INC., doing business as H. M. PACKAGE DELIVERY SERVICE, 20th and Indiana Avenue, Philadelphia, PA 19132. Applicant's representative: V. Baker Smith, 123 South Broad Street, Philadelphia, PA 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers and distributors of greeting cards, party supplies, and related commodities, from Philadelphia, Pa., to points in Maryland, Virginia, the counties of Berks, Bucks, Carbon, Chester, Delaware, Duaphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Schuylkill and York, Pa., the counties of Atlantic, Ocean, Cape May, Burlington, Camden, Cumberland, Gloucester, Hunterdon, Mercer, Salem, and Warren, N.J., the county of New Castle, Del., and the District of Columbia. Restriction: The service authorized herein is subject to the following conditions: No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined and each package or article shall be considered as a separate and distinct shipment. No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 500 pounds from one consignor at one location to one consignee at one location on any day. Service is limited to shipments which have a prior movement from out of State by motor common carrier, for 150 days. Supporting shipper: American Greetings Corp., 10500 American Road, Cleveland, OH 44144. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 109490 (Sub-No. 7 TA), filed October 29, 1971. Applicant: H. W. HEDING, doing business as HEDING TRUCK SERVICE, Post Office Box 43, Union Center, WI 53962. Applicant's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, WI 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feeds and animal and poultry feed ingredients*, from Union Center, Wis., to points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, and Ohio; and (2) *materials, equipment and supplies* used in the manufacture, sale, or distribution of animal and poultry feeds and animal poultry feed ingredients, from points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, and Ohio, to Union Center, Wis. Restriction: Restricted to traffic originating at or destined to the plantsite and facilities of Merrick Dry Milk, Co., Inc. at Union Center, Wis., for 180 days. Supporting shipper: Merrick Dry Milk Co., Inc., 633 South La Grange Road, La Grange, IL 60525. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, WI 53703.

No. MC 111545 (Sub-No. 166 TA), filed October 26, 1971. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road, Southeast, Post Office Box 6426, Station A, Marietta, GA 30060. Applicant's representative: Robert E. Born (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, from Tifton, Ga., to points in Alabama, Florida, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper: Bowen Mobile Homes, Inc., Tifton, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street, Northwest, Atlanta, GA 30309.

No. MC 112205 (Sub-No. 10 TA), filed October 26, 1971. Applicant: ELLSWORTH LAMOTTE RABON, doing business as RABON TRANSFER, Route 2, Box 235, Shadbourn, NC 28431. Applicant's representative: Vaughan S. Winborne, Capitol Club Building, Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products, lumber* (which includes plywood), *and veneer*, from Tabor City, N.C., to points in Florida, Georgia, South Carolina, West Virginia, Tennessee, Kentucky, Ohio, Indiana, Illinois, and Connecticut, for 180 days. Supporting shipper: Tabor City Lumber Co., Post Office Box 37, Tabor City, NC 28463. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 26896, Raleigh, NC 27611.

No. MC 116561 (Sub-No. 4 TA), filed October 29, 1971. Applicant: KELLER-WEBER TRUCKING, INC., 235 Old Tote Road, Mountainside, NJ 07092. Applicant's representative: Thomas C. Dorsey,

Suite 622, 1625 Eye Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business house, and in connection therewith, *equipment, materials and supplies* used in the conduct of such business, from Lancaster, Pa., to areas in northern New Jersey and southeastern New York, and return, from Lancaster, Pa., to points in that part of New Jersey north and east of a line beginning at the Atlantic Ocean and extending along the southern and western boundaries of Ocean County, N.J., to junction with the western boundary of Monmouth County, N.J., thence along the western boundary of Monmouth County to junction with the southern boundary of Mercer County, N.J., and thence along the southern boundary of Mercer County to the New Jersey-Pennsylvania State line, and points in that of New York south of a line beginning at the New York-Pennsylvania State line and extending along the northern boundary of Sullivan County, N.Y., to the northern boundary of Ulster County, N.Y., thence along the northern boundary of Ulster County to the northern boundary of Dutchess County, N.Y., and thence along the northern boundary of Dutchess County to the New York-Connecticut State line, including New York, N.Y., and points on Long Island, N.Y., and including points on the above-specified boundary lines, and from points in described area of New Jersey and New York to Lancaster, Pa., for 180 days. Supporting shipper: Acme Markets, Inc., 124 North 15th Street, Philadelphia, PA 19101. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 117565 (Sub-No. 49 TA), filed October 29, 1971. Applicant: MOTOR SERVICE COMPANY, INC., Route 3, Post Office Box 448, Coshocton, OH 43812. Applicant's representative: John R. Hafner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *All terrain vehicles*, from Norwalk, Ohio, to points in Alabama, Arizona, California, Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Mississippi, for 180 days. Supporting shipper: Alsport, Inc., 84 Whittlesey, Norwalk, OH 44857. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 117565 (Sub-No. 50 TA), filed October 29, 1971. Applicant: MOTOR SERVICE COMPANY, INC., Route 3, Post Office Box 448, Coshocton, OH 43812. Applicant's representative: John R. Hafner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in truckaway service, from Cincinnati, Ohio, to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Vanguard Motor Homes, Inc., 2530 Spring Grove Avenue, Cincinnati, OH 45214. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 119991 (Sub-No. 2 TA), filed October 29, 1971. Applicant: YOUNG TRANSPORT, INC., 1915 East Broadway, Logansport, IN 46947. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hides and skins*, from Chester, Fort Plain, Buffalo, and New York, N.Y., Newark and Trenton, N.J., West Chester, Boyertown, and Philadelphia, Pa.; Wilmington, Del., Baltimore, Md., and Springfield, Mass., to Girard, Ohio; Chicago, Ill., Racine, Milwaukee, South Milwaukee, Sheboygan, and Fond du Lac, Wis., St. Louis, Mo., and Grand Rapids and Grand Haven, Mich., (2) *hides*, from the facilities of M. Aschheim Co., Inc., at Chicago, Ill., to the facilities of M. Aschheim Co., Inc., at New York, N.Y., (3) *chemicals* used in the tanning of hides and skins, in containers, when transported in the same vehicle with hides and skins (otherwise authorized), from New York, N.Y., Newark, N.J., and Philadelphia, Pa., to Milwaukee, Wis., (4) *hides* from Chester, Buffalo, and New York, N.Y., Newark and Trenton, N.J., West Chester, Boyertown, and Philadelphia, Pa., and Baltimore Md., to Girard, Ohio; and (5) *scrap leather*, from Girard, Ohio, to Oak Creek, Wis., for 180 days. Supporting shippers: Western Hide, Inc., 3612 South Iron Street, Chicago, Ill.; A. F. Gallun & Sons Corp., 1818 North Warer Street, Milwaukee, WI; Remis Industries, Inc., 429 Adams Street, Newark, NJ 07114, and 141 Lynnfield Street, Peabody, MA 01960; Aschheim Co., Inc., 116 Nassau Street, New York, NY 10038. Send protests to: Acting District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 123282 (Sub-No. 9 TA), filed October 27, 1971. Applicant: McKINLAY TRANSPORT LIMITED, Highway 401 at 25, Milton, Ontario, P.Q., Canada. Applicant's representative: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment, between the port of entry on the international boundary line between the United States and Canada at or near Port Huron, Mich., and Detroit, Mich., as an alternate route on Canadian traffic between the Sarnia-Port Huron gateway and Detroit, Mich., over Interstate Highway 94, serving no intermediate points, for 180 days. NOTE: Applicant proposes to interline with existing U.S. carriers at Detroit in the same fashion as it now interlines on traffic moving across the Windsor-Detroit gateway. Supporting shipper: Ford Motor Co., The American Road, Dearborn, Mich. 48121. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, NY 14203.

No. MC 128273 (Sub-No. 110 TA), filed October 28, 1971. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, 121 Humboldt Street, Ft. Scott, KS 66701. Applicant's representative: Harry Ross, 848 Warner Building, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Warren Glen, Hughesville, Riegelsville, and Milford, N.J., and Riegelwood and Cape Fear, N.C., to points in California, Oregon, Washington, and Texas, for 180 days. Supporting shipper: Riegel Paper Corp., Milford, N.J. 08848. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 134145 (Sub-No. 12 TA) (Correction), filed October 15, 1971, published FEDERAL REGISTER October 29, 1971, corrected and republished in part as corrected this issue. Applicant: NORTH STAR TRANSPORT, INC., Post Office Box 51, Thief River Falls, MN 56701. Applicant's representative: Robert P. Sack, Post Office Box 6010, West St. Paul, MN 55118. NOTE: The purpose of this partial republication is to set forth the correct No. MC 134145 (Sub-No. 12 TA), in lieu of No. MC 134286 (Sub-No. 12 TA), shown erroneously in previous publication. The rest of the notice remains the same.

No. MC 135007 (Sub-No. 9 TA), filed October 28, 1971. Applicant: AMERICAN TRANSPORT, INC., Post Office Box 37406, Millard, NE 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Floor covering and floor tile and materials, equipment and supplies* used in the installing and maintaining such floor covering and floor tile, from Lancaster, Pa., to points in Washington, Oregon, California, Arizona, Utah, Nevada, Idaho, Montana, and South Dakota, (2) *carpet lining*, from Torrington, Conn., to points specified above; and (3) *carpet*, from Ware, Mass., to points specified above, for 180 days. Supporting shipper: William Volker & Co., 945 California Drive, Post Office Box 529, Burlingame, CA 94010. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 135032 (Sub-No. 1 TA), filed October 29, 1971. Applicant: HIAWATHA PRODUCE COMPANY, 3850

Fourth Street, Winona, MN 55987. Applicant's representative: Allan B. Torhorst, Post Office Box 307, Burlington, WI 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, and other commodities*, distributed by dairies (except commodities in bulk), from the plantsites, warehouses, storage, and production facilities utilized by Land O'Lakes, Inc., in Minnesota, Wisconsin, and Chicago, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Land O'Lakes, Inc., Post Office Box 116, Minneapolis, MN 55440. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 136085 TA (Correction), filed October 15, 1971, published in the FEDERAL REGISTER October 29, 1971, corrected and republished in part as corrected this issue. Applicant: B & M CARRIERS LIMITED, Post Office Box 4040, Station E, Ottawa, ON, Canada. Applicant's representative: Herbert M. Canter, 345 South Warren Street, Syracuse, NY 13202. NOTE: The purpose of this partial republication is to set forth the correct No. MC 136085 TA, in lieu of No. MC 136005 TA, shown erroneously in previous publication. The rest of the notice remains the same.

No. MC 136111 (Sub-No. 1 TA), filed October 28, 1971. Applicant: JOSEPH W. HUNKEN & ROBERT F. HUGHES, a partnership, doing business as H & H TRUCKING COMPANY, 104 Maplewood Drive, Bolingbrook, IL 60439. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Microfoam*, from the plantsite of Tekra Corp. at Milwaukee, Wis., to points in Iowa; (2) *plastic air caps*, from Chicago, Ill. to the plantsites and warehouse facilities of Tekra Corp. at Milwaukee, Wis., and St. Paul-Minneapolis, Minn., (3) *microfoam*, from Wurtland, Ky., to the plantsites and warehouse facilities of Tekra Corp. at Milwaukee, Wis., and St. Paul-Minneapolis, Minn.; and (4) *paper wadding*, from Salem, Ill., to points in Wisconsin, for 180 days. Supporting shipper: Frederic Johnson, Tekra Corp., 204 West Vogel Avenue, Milwaukee, WI. Send protests to: District Supervisor Robert G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16409 Filed 11-9-71;8:49 am]

[Notice 779]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 5, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73209. By order of November 1, 1971, the Motor Carrier Board approved the transfer to Ray D. Simmons, doing business as Simmons Trucking Co., Carthage, Mo., of certificate No. MC-125745 (Sub-No. 1), issued March 11, 1969, to Vivian V. Simmons, doing business as Simmons Trucking Co., Carthage, Mo., authorizing the transportation of: Crushed and ground limestone, from Carthage, Mo., to points in Arkansas, Kansas, and Oklahoma and from the quarry and plantsite of The Independent Gravel Co. near Sulphur Springs, Ark., to points in Arkansas, Kansas, Missouri, and Oklahoma; and flint chats, sand, and asphalt concrete, from Webb City, Mo., to points in Illinois, Iowa, Kansas, Oklahoma, Arkansas, and specified areas in Mississippi, Louisiana, Texas, Alabama, Tennessee, Kentucky, and Indiana. Turner White, 805 Woodruff Building, Springfield, Mo. 65806, attorney for applicants.

No. MC-FC-73245. By order of November 3, 1971, the Motor Carrier Board approved the transfer to MJR Enterprises, a corporation, Hawthorne, Calif., of permit No. MC-129275 (Sub-No. 1) issued July 22, 1971, to Jack Roberts, doing business as F & H Trucking Co., Hawthorne, Calif., authorizing the transportation of: Store fixtures and equipment, from points in Los Angeles County, Calif., to points in the United States, except Alaska, Hawaii, Arizona, Nevada, New Mexico, and Texas. Donald Murchison, attorney, 9454 Wilshire Boulevard, Beverly Hills, CA 90212.

No. MC-FC-73249. By order of November 1, 1971, the Motor Carrier Board approved the transfer to Glenn E. Carlson, Grantsburg, Wis., of certificate No. MC-110379, issued July 29, 1959, to Orville Murphy, Frederic, Wis., authorizing the transportation of: General commodities, livestock and agricultural commodities, from, to, or between specified points in Wisconsin and Minnesota, A. R. Fowler, 2288 University Avenue, St. Paul, MN 55114, representative for applicants.

No. MC-FC-73272. By order of November 2, 1971, the Motor Carrier Board approved the transfer to Steiger Bros. Express Co., Inc., Middle Village, Long Island, N.Y., of the operating rights in certificate No. MC-64301 issued March 26, 1962, to A. Greenberg Trucking Corp., New York, N.Y., authorizing the transportation of new luggage, enamelware, cooking utensils, shoes, dolls, imitation leather, card tables, and chairs, between New York, N.Y., on the one hand, and, on the other, points in Essex, Hudson, Middlesex, Morris, Passaic, Somreset, Bergen, and Union Counties, N.J. Dual operations were authorized. Bert Collins, registered practitioner, 140 Cedar Street, New York, N.Y. 10006, representative for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc. 71-16410 Filed 11-9-71;8:49 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 5, 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. CC-7108, filed October 26, 1971. Applicant: INTERCITY BUS LINES, INC., Route 1, Box 316, Roanoke, VA 24012. Applicant's representative: Jno. C. Goddin, 200 West Grace Street, Richmond, VA 23220. Certificate of public convenience and necessity sought to operate a service as a common carrier for the handling of *passengers and their baggage, mail, newspapers, and express*, between Lynchburg and Lexington, Va., via Buena Vista, Va. Both intrastate and interstate authority sought.

HEARING: January 18, 1972, 10 a.m., Blanton Building, Richmond, Va. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Commonwealth of Virginia, State Corporation Commission, Box 1197, Richmond, VA 23209 and should not be directed to the Interstate Commerce Commission.

State Docket No. 69-338-MP/A, filed October 12, 1971. Applicant: ROY M. PAYNE, doing business as MT. McKINLEY BUS LINES, 118 East Sixth

Avenue, Anchorage, AK. Applicant's representative: David J. Pree, 101 Christensen Drive, Anchorage, AK. Certificate of public convenience and necessity sought to operate a service as follows: Transportation of *Passengers, their baggage and express shipments,* as a common carrier by bus, in intrastate and interstate commerce: Between Homer, Alaska and Fairbanks, Alaska via Alaska State Highway 1 to its junction with Alaska State Highway 3, thence via Alaska State Highway 3 to Fairbanks and return over the same route serving all intermediate and off-route points including, but not limited to Seward via Alaska Highway 9, Kenai, Palmer, and Talkeetna, Alaska, and the off-route points of Petersville and Hope on a nonscheduled basis via Alaska Highway No. 1, secondary route. All express shipments must be transported in conjunction with the above interurban bus service in vehicles used for the transportation of passengers. Special services of tour and sightseeing over the regular routes defined above and charter service between points on the above routes on the one hand, and, points in Alaska on the other hand. Both intrastate and interstate authority sought.

HEARING: Date, time, and place unknown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the State of Alaska, Department of Commerce, Alaska Transportation Commission, 750 MacKay Building, 338 Denali Street, Anchorage, AK 99501 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16406 Filed 11-9-71;8:49 am]

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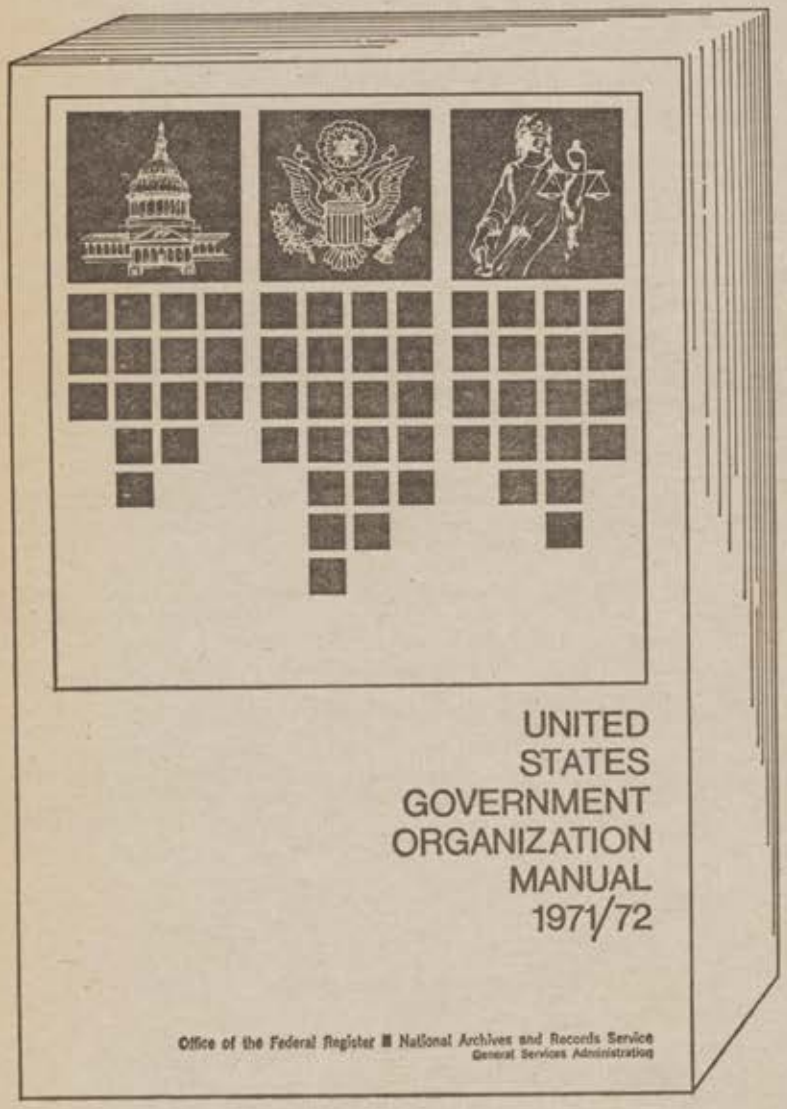

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