Building, Wilmington, Delaware, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified investment company, has filed an application pursuant to section 17(b) of the Act for an order exempting from section 17(a) the transaction wherein Christiana will extend to its shareholders, some of whom may be affiliated persons of Christiana, an offer to exchange Christiana common stock for common stock of General Motors Corporation ("GM"). Wilmington Trust Company is the only stockholder known to Christiana to hold 5 percent or more of the outstanding common stock of Christiana. Other affiliated persons include E. I. DuPont de Nemours and Company ("DuPont"), The News-Journal Company, Longwood Foundation, and the trustees, officers, directors and employees of the foregoing and of Christiana. Section 17(a) makes it unlawful for an affiliated person of a registered investment company to sell to or buy from such company any security or property, with certain exceptions, unless the Commission finds upon application that the terms of the proposed transaction are reasonable and fair and do not involve overreaching and that the proposed transaction is consistent with the policy of the company and the Act. All interested persons are referred to the application on file with the Commission for a complete statement of Christiana's representations which are summarized below.

Christiana owns 8,900,363 shares of GM common stock. Pursuant to the order of divestiture contained in the final judgment of the United States District Court for the Northern District of Illinois in United States v. E. I. DuPont de Nemours and Company et al., Christiana must divest all GM stock before May 1, 1965. Christiana will extend to the owners of its common stock as of January 4, 1965 an offer to exchange up to 8,400,000 shares of GM for shares of its common stock in the ratio of 3¼ shares of GM common stock for one share of Christiana common stock. The market value of the shares of GM stock offered will be approximately equal to the net asset value of one Christiana share. Christiana also proposes to sell approximately 500,000 shares of GM stock to raise funds to pay Federal income taxes and expenses incident to sale of all the GM shares. Any of such 8,400,000 shares of GM stock not so exchanged will be distributed pro rata to holders of common stock of Christiana before May 1, 1965 except that some GM shares may be sold to pay taxes or expenses.

All tenders of shares of Christiana stock under the exchange offer will be irrevocable. The exchange offer will expire on February 8, 1965. If more than 2,584,615 shares of Christiana stock are tendered for exchange, the 8,400,000 shares of GM stock will be allotted to Christiana stockholders pro rata according to the number of shares of Christiana stock tendered by each stockholder.

Christiana has been advised by counsel that for Federal income tax purposes, gain realized by a Christiana stockholder who exchanges shares of Christiana stock for GM stock (other than a corporation entitled to a dividend received deduction) will be treated as gain from a sale or exchange of Christiana's stock and will not be treated as dividend income. Generally, a stockholder will realize gain or loss on the exchange measured by the difference between the market value of the GM stock received and the stockholder's tax basis for the shares of Christiana's stock exchanged.

Christiana and GM have entered into a registration, expense and indemnity agreement under which GM has agreed to take all steps necessary to register under the Securities Act of 1933 the shares of GM common stock offered pursuant to the exchange offer and to qualify such shares under the securities or blue sky laws of such states as Christiana shall request, and Christiana has agreed to reimburse GM for costs and expenses and to indemnify GM, its directors and officers against certain liabilities which may arise out of the exchange offer. Similarly, Christiana and DuPont have entered into an expense and indemnity agreement pursuant to which Christiana will pay or reimburse DuPont for its costs or expenses incurred in connection with the exchange offer and to indemnify DuPont, its directors and officers against certain liabilities which may arise out of the exchange offer. Total expenses to be incurred by Christiana are not expected to exceed $850,000, including stock transfer taxes.

Notice is further given, that any interested person may, not later than January 25, 1965 at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after such 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.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary*.

[F.R. Doc. 65-251; Filed, Jan. 8, 1965; 8:45 a.m.]

TARIFF COMMISSION

[AA1921-44]

BICYCLES FROM HUNGARY

Notice of Investigation

Having received advice from the Treasury Department on December 31, 1964, that bicycles from Hungary, manufactured by Pannonia, Budapest, Hungary, are being, or are likely to be, sold in the United States at less than fair value, the United States Tariff Commission has instituted an investigation under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

No hearing in connection with this investigation has been ordered. If a hearing is ordered, due notice of the time and place thereof will be given. In this connection, interested parties are referred to § 208.4 of the Commission's rules of practice and procedure (19 CFR 208.4) which provides that interested parties may, within 15 days after the date of publication of this notice in the FEDERAL REGISTER, request that a public hearing be held, stating reasons for the request.

Interested parties are also referred to § 208.5 of the Commission's rules regarding the submission of written statements of pertinent information. Written statements must be filed not later than February 8, 1965.

Issued: January 5, 1965.

By order of the Commission.

[SEAL] DONN N. BENT, *Secretary*.

[F.R. Doc. 65-252; Filed, Jan. 8, 1965; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1106]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 6, 1965.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), 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 67425. By order of December 21, 1964, the Transfer Board approved the transfer to Southwest Coach Lines, Incorporated, Post Office Box 826, Bristol, Va., of the operating rights in Certificate No. MC 124836 Sub 2, issued January 9, 1964, to Ralph Ownbey, doing business as Virginia & Kentucky Coach Lines, Post Office Box 826, Bristol, Va., authorizing the transportation, over regular routes, of: Passengers and their baggage, between Pennington Gap, Va., and Harlan, Ky., serving all intermediate points on U.S. Highway 421.

No. MC-FC 67443. By order of December 22, 1964, the Transfer Board has approved the transfer to Fuller Bus Line, Inc., Bristol, Va., of the operating rights in Certificate No. MC 108963, issued March 22, 1956, to G. A. Fuller and Robert M. Parrott, a partnership, doing business as Fuller Bus Line, Bristol, Va., authorizing the transportation, over regular routes, of: Passengers and their baggage, and express, newspapers, and mail in the same vehicle, between specified points in Virginia, and Tennessee, serving certain intermediate points, on the highways utilized. Jno. C. Goddin, 10 South 10th Street, Richmond, Va., attorney for applicants.

No. MC-FC 67444. By order of December 22, 1964, the Transfer Board approved the transfer to Gordon D. Nelson, doing business as Nelson Trucking, Rice Lake, Wis., of the Certificate in No. MC 29834, issued July 24, 1964, to Dewey Tangwall, doing business as Tangwall Trucking, Sarona, Wis., authorizing the transportation of: Livestock, from points in the Towns of Cedar Lake, Doyle, Oak Grove, Bear Lake, Stanfold, Stanley, Summer, and Rice Lake, Barron County, Wis., to South St. Paul and Newport, Minn.; and general commodities, excluding household goods, commodities in bulk and other specified commodities, from Minneapolis, St. Paul, South St. Paul, and Newport, Minn., to the above-specified Wisconsin points. A. R. Fowler, 2288 University Avenue, St. Paul, Minn., 55114, representative for applicants.

No. MC-FC 67446. By order of December 22, 1964, the Transfer Board approved the transfer to Glenn-Dor Products Corp., South Fallsburg, N.Y., of the Certificate in No. MC 56967 Sub 1, issued April 6, 1955, to Goodman Refrigerated Trucking Co., Inc., New York, N.Y., authorizing the transportation of: Live poultry, over regular routes, from Watkins Glen, N.Y., to New York, N.Y., serving specified intermediate and off-route points; empty egg and poultry crates, from New York, N.Y., to Watkins Glen, N.Y., serving specified intermediate and off-route points; groceries, from New York, N.Y., to Elmira, N.Y.; honey, in seasonal operations, from Watkins Glen, N.Y., to New York, N.Y., serving Odessa, N.Y., and Dundee, N.Y. for pick-up only; grapes, in seasonal operations, from Hector, N.Y., to New York, N.Y., serving specified intermediate points; butter, cheese and eggs, between New York, N.Y., and points in New York and New Jersey within 25 miles of New York, N.Y., on the one hand, and, on the other, points in New York; and dressed poultry, from New York, N.Y., and points within 25 miles thereof, to points in New York. Alvin Altman, 1776 Broadway, New York 19, N.Y., attorney for applicants.

No. MC-FC 67450. By order of December 22, 1964, the Transfer Board approved the transfer to J. C. Bowman Trucking Company, a corporation, Natchez, Mississippi, of the operating rights in Certificate No. MC 50242 Sub 1, issued March 16, 1961, to John C. Bowman, doing business as J. C. Bowman Trucking Co., Natchez, Mississippi, authorizing the transportation, over irregular routes, of structural steel, tanks, heavy machinery, and oilfield equipment, materials, and supplies, in truck loads, between points in Louisiana and Mississippi, trees, between points in Mississippi, on the one hand, and, on the other, New Orleans, La., and points in Louisiana within 10 miles of New Orleans, and boats, between points in Louisiana and Mississippi. Joseph S. Zuccaro, 133 South Commerce Street, Natchez, Miss., attorney for applicants.

No. MC-FC 67452. By order of December 22, 1964, the Transfer Board approved the transfer to Joe R. Brasier, doing business as Joe R. Brasier Trucking Contractor, Tulsa, Oklahoma, of the operating rights in Permit No. MC 102300, issued September 15, 1941, to R. C. Brasier, Claremore, Oklahoma, authorizing the transportation, over irregular routes, of such materials, as are used in or are incidental to the construction, operation, and maintenance of telephone lines, between points in Oklahoma. Wilburn L. Williamson, 450 American National Building, Oklahoma City, Okla., attorney for applicants.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-261; Filed, Jan. 8, 1965; 8:46 a.m.]

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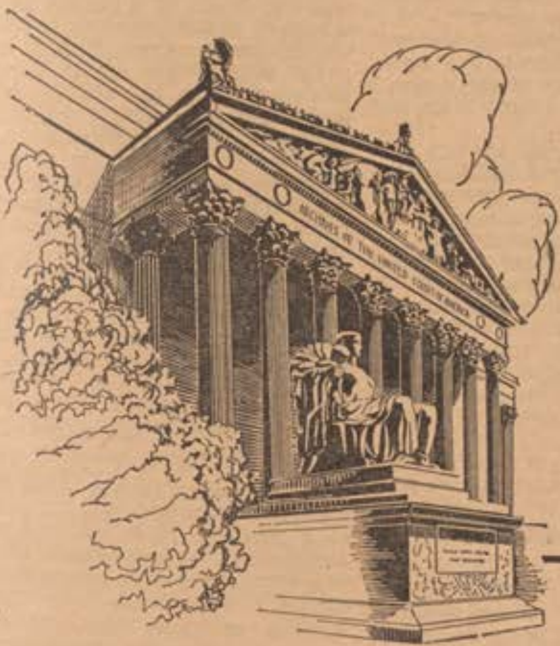
Saturday, January 9, 1965 • Washington, D.C.

PART II

Effectuation of Title VI of the Civil Rights Act of 1964

Nondiscrimination in Federally-Assisted Programs of—

Department of State
Department of Commerce
Agency for International Development
National Aeronautics and Space Administration
Office of Economic Opportunity
Office of Emergency Planning
Small Business Administration
Tennessee Valley Authority



Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

PART 112—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF SBA—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Chapter I of Title 13 CFR is hereby amended by adding the following new Part 112:

AUTHORITY: The provisions of this Part 112 are issued under section 602, 78 Stat. 252.

§ 112.1 Purpose.

The purpose of this part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any financial assistance activities of the Small Business Administration to which the Act applies.

§ 112.2 Application of this part.

(a) *Financial assistance included.* Except as hereinafter noted, this part applies to business activities or other activities receiving financial assistance of the following description:

(1) Loans to small business concerns under Title IV of the Economic Opportunity Act of 1964;

(2) Loans to State development companies and local development companies, under Title V of the Small Business Investment Act of 1958, for the benefit of identifiable small business concerns;

(3) Loans to, and purchases of debentures from, small business investment companies under section 302(a) and section 303(b) of the Small Business Investment Act of 1958;

(4) Loans to small business concerns, under section 7(a) of the Small Business Act, which qualify for the 4 percent interest rate prescribed in § 120.2(b)(2) of this chapter;

(5) Loans under section 7(b)(1) of the Small Business Act to individuals or organizations, whether or not operated for profit, which provide medical care or education or which conduct other activities of special significance to health, safety or welfare; and

(6) Any other financial assistance program which, though not specifically referred to herein, is covered by Title VI of the Civil Rights Act of 1964. Other programs under statutes now in force or hereafter enacted may be covered by this part after notice is published in the FEDERAL REGISTER.

(b) *Payments and insurance contracts.* This part applies to monies paid after its effective date under any of the assistance described in paragraph (a) of this section, even where paid pursuant to an application approved prior to such date. It does not apply, however, to monies paid prior to such date, and in no case does it apply to financial assistance extended by way of insurance or guarantee contracts.

(c) *"Applicant" and "recipient" defined.* As used in this part the terms "applicant" and "recipient" mean, respectively, one who applies for and one who receives any of the financial assistance described in paragraph (a) of this section.

§ 112.3 Discrimination prohibited.

(a) *General.* To the extent that this part applies, no person in the United States shall, on the ground of race, color or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination by any business or other activity.

(b) *Specific discriminatory actions prohibited.* (1) To the extent that this part applies, a business or other activity may not, directly or through contractual or other arrangements, on ground of race, color or national origin:

(i) Deny an individual any services, financial aid or other benefit provided by the business or other activity;

(ii) Provide any service, financial aid or other benefit to an individual which is different or is provided in a different manner, from that provided to others by the business or other activity;

(iii) Subject an individual to segregation or separate treatment in any manner related to his receipt of any service, financial aid or other benefit from the business or other activity;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid or other benefit from the business or other activity;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid or other benefit provided by the business or other activity.

(2) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

§ 112.4 Discrimination in employment.

Small business concerns and development companies which apply for or receive any financial assistance of the kind described in subparagraphs (1), (2), and (4) of § 112.2(a), including concerns which are identifiable beneficiaries of loans made under subparagraph (2), may not discriminate on the ground of race, color or national origin in their employment practices. Such assistance is deemed to have as a primary objective the providing of employment.

§ 112.5 Discrimination in providing financial assistance.

Development companies and small business investment companies which apply for or receive any of the financial assistance described in § 112.2(a) may not discriminate, on the ground of race, color or national origin, in providing financial assistance to small business concerns.

§ 112.6 Discrimination in accommodations or services.

Physicians, hospitals, schools, libraries and other individuals or organizations which apply for or receive financial assistance of the kind described in subparagraph (5) of § 112.2(a) may not discriminate in the treatment, accommodations or services they provide to their patients, students, visitors or others.

§ 112.7 Illustrative applications.

(a) *Employment.* The discrimination prohibited by § 112.4 includes but is not limited to any action (taken directly or through contractual or other arrangements) which subjects an individual to discrimination on the ground of race, color or national origin in any employment practice, including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities.

(b) *Financial assistance.* The discrimination prohibited by § 112.5 includes but is not limited to the failure or refusal, because of the race, color, or national origin of a person, to extend a loan or equity financing to him or to any business concern of which he is an owner or employee; or, in the case of financing which has actually been extended, the failure or refusal, because of the race, color, or national origin of the borrower or of an owner or employee of the borrower, to accord the borrower fair treatment and the customary courtesies regarding such matters as default, grace periods and the like.

(c) *Accommodations or services.* The discrimination prohibited by § 112.6 includes but is not limited to the failure or refusal, because of the race, color, or national origin of a person, to accept him on a nonsegregated basis as a patient, student, visitor, guest, member, customer, passenger or patron.

§ 112.8 Assurances required.

An application for any of the financial assistance described in § 112.2(a) shall, as a condition to its approval and the extension of such assistance, contain or be accompanied by an assurance that the recipient will comply with this part. Such an assurance shall contain provisions authorizing the acceleration of the maturity of the recipient's financial obligations to the SBA in the event of a failure to comply, and provisions which give the United States a right to seek judicial enforcement of the terms of the assurance. SBA shall specify the form of the foregoing assurance for each program, and the extent to which like assurances will be required of contractors and subcontractors, transferees, successors in interest, and other participants in the program.

§ 112.9 Compliance information.

(a) *Cooperation and assistance.* SBA shall to the fullest extent practicable seek the cooperation of applicants and recipients in obtaining compliance with this part and shall provide assistance and guidance to applicants and recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each applicant or recipient shall keep such records and submit to SBA timely, complete and accurate compliance reports at such times, and in such form and containing such information, as SBA may determine to be necessary to enable SBA to ascertain whether the applicant or recipient has complied or is complying with this part. In the case of a small business concern which receives financial assistance from a development company or from a small business investment company, such concern shall submit to the company such information as may be necessary to enable the company to meet its reporting requirements under this part.

(c) *Access to sources of information.* Each applicant or recipient shall permit access by SBA during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of an applicant or recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the applicant or recipient shall so certify in its report and shall set forth what efforts it has made to obtain this information.

(d) Each applicant or recipient shall make available to persons entitled under the Act and under this part to protection against discrimination by the applicant or recipient such information as SBA may find necessary to apprise them of their rights to such protection.

§ 112.10 Conduct of investigations.

(a) *Periodic compliance reviews.* SBA shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may, by himself or by a representative, file with SBA a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by SBA.

(c) *Investigations.* SBA will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the applicant or recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the applicant or recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, SBA will so inform the applicant or recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 112.11.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph, SBA will so inform the applicant or recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No applicant or recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or by this part or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 112.11 Procedure for effecting compliance.

(a) *General.* (1) If there appears to be a failure or threatened failure to comply with this part and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by suspending, terminating, or refusing any financial assistance approved but not yet disbursed to an applicant or, in the case of a loan which has been partially disbursed, by refusing to make further disbursements. In addition, compliance may be effected by any other means authorized by law.

(2) Such other means may include but are not limited to (i) legal action by SBA to enforce its right, embodied in the assurances described in § 112.8, to accelerate the maturity of the recipient's obligation; (ii) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States, including other titles of the Act; and (iii) any applicable proceedings under State or local law.

(b) *Noncompliance with § 112.8.* If an applicant fails or refuses to furnish an assurance required under § 112.8 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. SBA shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that SBA shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Conditions precedent.* No order suspending, terminating, or refusing financial assistance shall become effective until (1) SBA has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means; (2) there has been an express finding on the record after an opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part; (3) the action has been approved by the Administrator of SBA pursuant to § 112.13; and (4) the expiration of 30 days after SBA has filed with the committee of the House and the committee of the Senate having legislative jurisdiction of the form of financial assistance involved, a full written report of the circumstances and the grounds for such action.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) SBA has determined that compliance cannot be secured by voluntary means; (2) the action has been approved by the Administrator; (3) the applicant or recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance; and (4) the expiration of at least 10 days from the mailing of such notice to the applicant or recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the applicant or recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§ 112.12 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 112.11, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of SBA that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing and as consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearing shall be held at the offices of SBA in Washington, D.C. at a time fixed by SBA unless SBA determines that the convenience of the applicant or recipient or of SBA requires that another place be selected. Hearings shall be held before a hearing examiner designated in accordance with section 11 of the Administrative Procedure Act.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and SBA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decisions, and any administrative review thereof shall be conducted in conformity with sections 5–8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, request for findings, and other related matters. Both SBA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance or threatened noncompliance with this part, with respect to two or more forms of financial assistance to which this part applies, or noncompliance with this part and the regulations of one or more other Federal agencies issued under Title VI of the Act, the Administrator may, by agreement with such other agencies, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules and procedures not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 112.13.

§ 112.13 Decisions and notices.

(a) *Decision by a hearing examiner.* If the hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the Administrator for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and the complainant. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the Administrator his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the Administrator may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the Administrator shall review the initial decision and issue his own decision thereon including the reasons therefor. The decision of the Administrator shall be mailed promptly to the applicant or recipient and the complainant, if any. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the Administrator.

(b) *Decisions on record or review by the Administrator.* Whenever a record is certified to the Administrator for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the Secretary conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the Administrator shall be given in writing to the applicant or recipient and the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 112.12 a decision shall be made by the Administrator on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or the Administrator shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the Administrator that it will fully comply with this part.

§ 112.14 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 112.15 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by SBA which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin and which authorize the suspension or termination of or refusal to grant to or to continue financial assistance to any applicant for or recipient of such assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925 and 11114 and regulations issued thereunder, (2) Executive Order 11063 and regulations issued thereunder, or any other regulations or instructions, insofar as such order, regulations, or instructions prohibit discriminaton on the ground of race, color, or national origin in any situation to which this part is inapplicable or prohibit discrimination on any other ground.

(b) *Forms and instructions.* SBA shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part.

(c) *Supervision and coordination.* The Administrator may from time to time assign to officials of SBA or to officials of other agencies of the Government with the consent of such agencies, responsibilities in connection with the effectuation of the purposes of Title VI of the Act and this part (other than responsibility for final decision as provided in § 112.13), including the achievement of effective coordination and maximum uniformity within SBA and within the Executive Branch of the Government in the application of Title VI and this part to similar situations.

Effective date. This part shall become effective on the 30th day following the date of its publication in the FEDERAL REGISTER.

Dated: December 29, 1964.

EUGENE P. FOLEY,
Administrator,
Small Business Administration.

Approved: January 7, 1965.

LYNDON B. JOHNSON.

[F.R. Doc. 65-301; Filed, Jan. 8, 1965; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter V—National Aeronautics and Space Administration

PART 1250—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF NASA—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

New Part 1250 is added to Chapter V of Title 14, as follows:

AUTHORITY: The provisions of this Part 1250 issued under sec. 602 of the Civil Rights Act of 1964, P.L. 88-352, 78 Stat. 252, 42 U.S.C. 2000d-1; and the laws listed in Appendix A to this Part 1250.

§ 1250.100 Purpose.

The purpose of this part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (hereafter referred to as "the Act") to the end that no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the National Aeronautics and Space Administration, hereinafter referred to as NASA.

§ 1250.101 Applicability.

(a) *Covered programs.* (1) This part applies to any program for which Federal financial assistance is authorized under a law administered by NASA, including the Federally-assisted programs and activities listed in Appendix A to this part. The fact that a program or activity is not listed in Appendix A shall not mean, if Title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereafter enacted may be added to Appendix A by notice published in the FEDERAL REGISTER.

(2) This part applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of this part pursuant to an application approved prior to such effective date.

(b) *Excluded activities.* This part does not apply to (1) any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, except as provided in paragraph (a) of this section, (3) any assistance to any individual who is the ultimate beneficiary under any such program, (4) any employment practice, under any such program, of any employer, employment agency, or labor organization, except as provided in § 1250.103-3, (5) contracts not covered in the programs listed in Appendix A, or (6) advances, V-loans, and other financial assistance made incident to NASA procurements not covered in the programs listed in Appendix A.

§ 1250.102 Definitions.

As used in this part—

(a) "Administrator" means the Administrator of the NASA.

(b) "Applicant" means one who submits an application, request, proposal, or plan required to be approved by a responsible NASA official, or by a primary recipient, as a condition to eligibility for Federal financial assistance; and the term "application" means such an application, request, proposal or plan.

(c) "Facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(d) "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(e) "NASA" means the National Aeronautics and Space Administration.

(f) "Primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(g) "Principal Compliance Officer" means the Director of Headquarters Operations in the Office of Administration, NASA Headquarters, or any successor officer to whom the Administrator shall delegate authority to perform the functions assigned to the Principal Compliance Officer by this part.

(h) "Program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training) whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals, or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(i) "Recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

(j) "Responsible NASA official" means:

(1) The heads of Offices at NASA Headquarters responsible for making grants, and contracts of the kind listed in Appendix A; and (2) each Director of a field installation which makes or administers contracts of the kind listed in Appendix A, or any officer to whom he has delegated authority to act within the areas of responsibility assigned to him under this part.

(k) "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

§ 1250.103 Discrimination prohibited.

§ 1250.103-1 General.

No person in the United States shall, on the ground of race, color or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies.

§ 1250.103-2 Specific discriminatory acts prohibited.

(a) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on ground of race, color, or national origin:

(1) Deny an individual any service, financial aid, or other benefit provided under the program;

(2) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(3) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(4) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(5) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(6) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in § 1250.103–3).

(b) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.

(c) As used in this section the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(d) A recipient may not take action that is calculated to bring about indirectly what this part forbids it to accomplish directly.

(e) The enumeration of specific forms of prohibited discrimination in this section does not limit the generality of the prohibition in § 1250.103–1.

§ 1250.103–3 Employment practices.

(a) Where a primary objective of the Federal financial assistance to a program to which this part applies is to provide employment, a recipient may not directly or through contractual or other arrangements subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities), including programs where a primary objective of the Federal financial assistance is (1) to assist such individuals through employment to meet expenses incident to the commencement or continuation of their education or training, or (2) to provide work experience which contributes to the education or training of such individuals.

(b) Employment opportunities provided in connection with any of the programs listed in Appendix A, which opportunities are limited, or for which preference is given, to students, fellows, or other persons in training for the same or related employments, are programs of the kind described in paragraph (a) (1) and (2) of this section.

(c) The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Executive Order 11114, dated June 22, 1963 (28 F.R. 6485).

§ 1250.103–4 Illustrations of discriminatory acts prohibited.

(a) In training grant programs discrimination is forbidden in the selection or eligibility of individuals to be trained and in their treatment by the grantee during their training. In any case where selection is made from a predetermined group, such as the students in an institution, the group must have been selected without discrimination.

(b) In a research or training grant to a university for activities to be conducted in a graduate school, discrimination in the admission and treatment of students in the graduate school is prohibited and the prohibition extends to the entire university unless it satisfies the responsible NASA official that practices with respect to other parts or programs of the university will not interfere, directly or indirectly, with fulfillment of the assurance required with respect to the graduate school.

(c) Discrimination in the treatment of students or other trainees includes the prohibition of discrimination among the students or trainees in the availability or use of any academic, dormitory, eating, recreational, or other facilities of the grantee or other recipient.

(d) In a research or training grant, discrimination is prohibited with respect to the availability of any educational activity and any provision of medical or other services and any financial aid to individuals incident to the grant.

(e) Upon transfers of real or personal property for research or educational uses, discrimination is forbidden to the same extent as in the case of grants for the construction of facilities or the provision of equipment for like purposes.

§ 1250.103–5 Special programs.

An individual shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, or national origin different from his.

§ 1250.103–6 Medical emergencies.

Notwithstanding the provisions of §§ 1250.103–1250.103–5, a recipient of Federal financial assistance shall not be deemed to have failed to comply with § 1250.103–1, if immediate provision of a service or other benefit to an individual is necessary to prevent his death or serious impairment of his health, and such service or other benefit cannot be provided except by or through a medical institution which refuses or fails to comply with § 1250.103–1.

§ 1250.104 Assurances.

(a) *General requirement.* Every application for Federal financial assistance to carry out a program to which this part applies, and every application for Federal financial assistance to provide a facility, shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain, be accompanied by, or identify and make reference to, an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. If the assurance is not made a part of the application, the application shall identify the assurance which is applicable to the application. One assurance shall suffice for all applications of an applicant if the assurance complies with the conditions made applicable by this part to each such application for Federal financial assistance. Every assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(b) *Duration of assurances.* The period of time to be covered by the assurances required under this § 1250.104 shall be as follows:

(1) *Real property.* In the case of an application for Federal financial assistance for providing real property or structures thereon, the assurance shall obligate the recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) *Personal property.* In the case of an application for Federal financial assistance for providing personal property, the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property.

(3) *Other kinds of Federal financial assistance.* In the case of an application for any other kind of Federal financial assistance, the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application.

(c) *Assurances for research, training, or educational programs.* (1) In the case of application by an institution of higher education or any other organization for Federal financial assistance for a program or activity which involves participation by students, fellows or trainees, including but not limited to assistance for research, training, or the provision of facilities, the assurance required by this § 1250.104 shall extend to admission practices and to all other practices relating to the treatment of students or other participants.

(2) The assurances from such an applicant shall be applicable to the entire organization of the applicant unless the applicant establishes, to the satisfaction

of the officer administering the program or activity involved, that its practices in designated parts or programs of the organization of the applicant will in no way affect its practices in the program of the applicant for which Federal financial assistance is sought, or the beneficiaries of or participants in such program.

(d) *Assurances for construction of facilities.* (1) In the case of assistance for the construction of a facility, or part thereof, the assurance shall extend to the entire facility and to facilities operated in connection therewith. In grants to assist in the construction of facilities for the provision of research, training, or educational services, assurances will be required that services will be provided without discrimination, to the same extent that discrimination would be forbidden as a condition of grants for the support of such services. Thus, as a condition of grants for the construction of academic, research or other facilities at institutions of higher education, assurances will be required that there will be no discrimination in the admission or treatment of students. Also, see paragraph (c) of this section for the requirement as to the applicability of the assurance to the applicant's organization.

(2) In other construction grants the assurances required will similarly be adapted to the nature of the activities to be conducted in the facilities for construction of which the grants have been authorized by Congress.

(e) *Assurances for transfer of surplus real property.* Transfers of surplus property are subject to regulations issued by the Administrator of General Services (41 CFR 101-6.2).

(f) *Form of assurances.* The responsible NASA officials shall specify the form of the assurances required by this § 1250.104 and the extent to which like assurances will be required by subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program.

(g) *Requests for proposals.* Any request for proposals issued by NASA which relates to a covered program listed in Appendix A shall have set forth therein or have attached thereto the assurance prescribed in accordance with paragraph (f) of this section, and shall require that the proposer either include the assurance as a part of his signed proposal or identify and refer to an assurance already signed and submitted by the proposer.

§ 1250.105 Compliance information.

(a) *Cooperation and assistance.* Each responsible NASA official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the Principal Compliance Officer or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the Principal Compliance Officer or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the Principal Compliance Officer or his designee during normal business hours to such of its books, records, accounts and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and that agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the Principal Compliance Officer finds necessary to apprise such persons of the protection against discrimination assured them by the Act and this part.

§ 1250.106 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible NASA official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Compliants.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the Principal Compliance Officer or his designee a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the Principal Compliance Officer or his designee.

(c) *Investigations.* The Principal Compliance Officer or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the Principal Compliance Officer or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 1250.107.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph, the responsible NASA official or his designee will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judical proceeding arising thereunder.

§ 1250.107 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 1250.104.* If an applicant fails or refuses to furnish an assurance required under § 1250.104 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. NASA shall not be obligated to provide assistance in such as case during the pendency of the administrative proceedings under such subsection except that NASA shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible NASA official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the action has been approved by the Administrator pursuant to § 1250.109(e), and (4) the expiration of 30 days after the Administrator has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the Principal Compliance Officer has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Administrator, (3) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (4) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§ 1250.108 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 1250.107(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the Principal Compliance Officer, that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 1250.107(c) of this part and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at NASA Headquarters in Washington, D.C., at a time fixed by the Principal Compliance Officer unless he determines that the convenience of the applicant or recipient or of NASA requires that another place be selected. Hearings shall be held before the Administrator, or, at his discretion, before a hearing examiner designated in accordance with section 11 of the Administrative Procedure Act (5 U.S.C. 1010).

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and NASA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5–8 of the Administrative Procedure Act (5 U.S.C. 1004–1007), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both NASA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute non-compliance with this part with respect to two or more programs to which this part applies, or non-compliance with this part and the regulations of one or more other Federal departments or agencies issued under Title VI of the Act, the Administrator may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedures not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 1250.109.

§ 1250.109 Decisions and notices.

(a) *Decision by person other than the NASA Principal Compliance Officer.* If the hearing is held by a hearing examiner, such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the Principal Compliance Officer for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing examiner, the applicant or recipient may, within 30 days of the mailing of such notice of initial decision, file with the Principal Compliance Officer his exceptions to the initial decision with his reasons therefor. In the absence of exceptions, the Principal Compliance Officer may on his own motion, within 45 days after the initial decision, serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the Principal Compliance Officer shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the Principal Compliance Officer.

(b) *Decisions on record or review by the NASA Principal Compliance Officer.* Whenever a record is certified to the Principal Compliance Officer for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the Administrator conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the Principal Compliance Officer shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 1250.108, a decision shall be made by the Principal Compliance Officer on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or the Principal Compliance Officer shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by administrator.* Any final decision of the NASA Principal Compliance Officer which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part or the Act, shall promptly be transmitted to the Administrator, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no

Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its non-compliance and satisfies the Principal Compliance Officer that it will fully comply with this part.

§ 1250.110 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 1250.111 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by any officer of NASA which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this part applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this Instruction. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925 and 11114 and regulations or instructions issued thereunder, or (2) any other regulations or instructions, insofar as such other regulations or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each responsible NASA official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.* The Administrator may assign to officials of other departments or agencies of the Government, with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of Title VI of the Act and this part (other than responsibility for final decision as provided in § 1250.109), including the achievement of effective coordination and maximum uniformity within NASA and within the Executive Branch of the Government in the application of Title VI and this part to similar programs and in similar situations.

§ 1250.112 Relationship with other officials.

NASA officials, in performing the functions assigned to them by this part are responsible for recognizing the delegations of authority and responsibility of other NASA officials and for seeing that actions taken or instructions issued by them are properly coordinated with the offices and divisions having joint interests.

Effective date. This part is effective on the 30th day following the date of its publication in the FEDERAL REGISTER.

Dated: December 28, 1964.

JAMES E. WEBB,
Administrator, National Aeronautics and Space Administration.

Approved: January 7, 1965.

LYNDON B. JOHNSON.

APPENDIX A

PROGRAMS OF NASA TO WHICH THIS PART APPLIES

1. Grants made under the authority of Public Law 85-934, approved September 6, 1958 (42 U.S.C. 1891-1893).

2. Contracts with nonprofit institutions of higher education or with nonprofit organizations whose primary purpose is the conduct of scientific research, wherein title to equipment purchased with funds under such contracts may be vested in such institutions or organizations under the authority of section 2 of Public Law 85-934, approved September 6, 1938 (42 U.S.C. 1892).

3. Training grants made under the authority of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451-2460, 2472-2473).

4. Facilities grants made under authority in annual NASA authorization and appropriation acts.

[F.R. Doc. 65-302; Filed, Jan. 8, 1965; 8:50 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

PART 8—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF COMMERCE—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Subtitle A of Title 15 CFR is hereby amended by adding the following new Part 8.

AUTHORITY: The provisions of this Part 8 are issued under sec. 602, 78 Stat. 252 (Civil Rights Act of 1964).

Subpart A—General Provisions; Prohibitions; Nondiscrimination Clause; Applicability to Programs

§ 8.1 Purpose.

The purpose of this part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (hereafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program receiving Federal financial assistance from the Department of Commerce.

§ 8.2 Application of this part.

(a) This part applies to any program for which Federal financial assistance is authorized under a law administered by the Department, including the federally-assisted programs listed in Appendix A to this part and as said Appendix may be amended. They apply to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of this part pursuant to an application approved prior to such effective date.

(b) This part does not apply to (1) any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, (3) any assistance to any individual who is the ultimate beneficiary under any such program, or (4) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 8.4(c). The fact that a program is not listed in Appendix A shall not mean, if Title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereinafter enacted may be added to the list by notice published in the FEDERAL REGISTER.

§ 8.3 Definitions.

(a) "Department" means the Department of Commerce, and includes each of its primary organization and equivalent other units.

(b) "Secretary" means the Secretary of Commerce.

(c) "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(d) "Person" means an individual in the United States who is or is eligible to be a participant in or a beneficiary of any program which receives Federal fi-