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Title 3—THE PRESIDENT

Proclamation 3279

ADJUSTING IMPORTS OF PETROLEUM AND PETROLEUM PRODUCTS INTO THE UNITED STATES

By the President of the United States of America
A Proclamation

WHEREAS, pursuant to section 2 of the act of July 1, 1954, as amended (72 Stat. 678, 19 U.S.C. 1352a), the Director of the Office of Civil and Defense Mobilization has made an appropriate investigation to determine the effects on the national security of imports of crude oil and crude oil derivatives and products and, having considered the matters required by him to be considered by the said act of July 1, 1954, as amended, has advised me of his opinion "that crude oil and the principal crude oil derivatives and products are being imported in such quantities and under such circumstances as to threaten to impair the national security"; and

WHEREAS, having considered the matters required by me to be considered by the said act of July 1, 1954, as amended, I agree with the said advice; and

WHEREAS I find and declare that adjustments must be made in the imports of crude oil, unfinished oils, and finished products, so that such imports will not so threaten to impair the national security; and

WHEREAS I find and declare that within the continental United States there are two areas, one, east of the Rocky Mountains (Districts I-IV), in which there is substantial oil production capacity in excess of actual production, and the other, west of the Rocky Mountains (District V), in which production is declining and in which, due to the absence of any significant inter-area flow of oil, limited imports are necessary to meet demand, and that accordingly, imports into such areas must be treated differently to avoid discouragement of and decrease in domestic oil production, exploration and development to the detriment of the national security; and

WHEREAS I find and declare that the Commonwealth of Puerto Rico largely depends upon imported crude oil, unfinished oils, and finished products and that any system for the adjustment of imports of such commodities should permit imports into Puerto Rico adequate for the purposes of local consumption, export to foreign areas, and limited shipment of finished products to the continental United States:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by section 2 of the act of July 1, 1954, as amended, do hereby proclaim as follows:

SECTION 1. (a) In Districts I-IV, District V, and in Puerto Rico, on and after March 11, 1959, no crude oil or unfinished oils may be entered for consumption or withdrawn from warehouse for consumption, and on and after April 1, 1959, no finished products may be entered for consumption or withdrawn from warehouse for consumption, except (1) by or for the account of a person to whom a license has been issued by the Secretary of the Interior pursuant to an allocation made to such person by the Secretary in accordance with regulations issued by the Secretary, and such entries and withdrawals may be made only in accordance with the terms of such license, or (2) as authorized by the Secretary pursuant to paragraph (b) of this section, or (3) as to finished products, by or for the account of a department, establishment, or agency of the United States, which shall not be required to have such a license but which shall be subject to the provisions of paragraph (c) of this section.

(b) Until the Secretary of the Interior is able to make allocations and issue licenses, he may, subject to such conditions as he may deem appropriate, temporarily authorize such entries and withdrawals without licenses and the quantities so entered or withdrawn shall be deducted from any allocation subsequently made by the Secretary to any person who has made any such entry or withdrawal.

(c) In Districts I-IV, District V, and in Puerto Rico, on and after April 1, 1959, no department, establishment, or agency of the United States shall import finished

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CFR SUPPLEMENTS
(As of January 1, 1959)

The following supplement is now available:

Title 38 (\$0.55)

Previously announced: Title 3, 1958 Supp. (\$0.35); Title 8 (\$0.35); Titles 22-23 (\$0.35); Title 25 (\$0.35); Title 46, Parts 146-149, 1958 Supp. 2 (\$1.50); Title 47, Part 30 to end (\$0.30); Title 49, Parts 91-164 (\$0.40)

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products in excess of the respective allocations made to them by the Secretary of the Interior. Such allocations shall be within the maximum levels of imports established in section 2 of this proclamation.

Sec. 2. (a) (1) In Districts I-IV the maximum level of imports of crude oil, unfinished oils, and finished products, except residual fuel oil to be used as fuel, shall be approximately 9% of total demand in these districts, as estimated by the Bureau of Mines for periods fixed by the Secretary of the Interior. Within this maximum level, imports of finished products, exclusive of residual fuel oil to be used as fuel, shall not exceed the

level of imports of such products into these districts during the calendar year 1957 and imports of unfinished oils shall not exceed 10% of the permissible imports of crude oil and unfinished oils.

(2) In Districts I-IV the imports of residual fuel oil to be used as fuel shall not exceed the level of imports of that product into these districts during the calendar year 1957.

(b) In District V the maximum level of imports of crude oil, unfinished oils, and finished products shall be an amount which, together with domestic production and supply, will approximate total demand in this district as estimated by the Bureau of Mines for periods fixed by the Secretary. Within this maximum level imports of finished products shall not exceed the level of imports of such products into this district during the calendar year 1957 and imports of unfinished oils shall not exceed 10% of the permissible imports of crude oil and unfinished oils.

(c) Such additional imports of crude oil may be permitted in addition to the maximum levels established in paragraphs (a) and (b) of this section as are necessary to meet the minimum requirements of refiners, and pipeline companies using crude oil directly as fuel, which are not able to obtain sufficient quantities of domestic crude oil by ordinary and continuous means, such as by barges, pipelines, or tankers.

(d) The maximum level of imports of crude oil, unfinished oils, and finished products into Puerto Rico shall be approximately the level of imports into Puerto Rico during all or part of the calendar year 1958, as determined by the Secretary of the Interior to be consonant with the purposes of this proclamation, or such lower or higher levels as the Secretary may subsequently determine are required to meet increases or decreases in local demand in Puerto Rico or demand for export to foreign areas.

(e) The Secretary of the Interior shall keep under review the imports into Districts I-IV and into District V of residual fuel oil to be used as fuel and the Secretary may make, on a monthly basis if required, such adjustments in the maximum level of such imports as he may determine to be consonant with the objectives of this proclamation.

(f) The levels established, and the total demand referred to, in this section do not include free withdrawals by persons pursuant to section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), or petroleum supplies for vessels or aircraft operated by the United States between points referred to in said section 309 (as to vessels or aircraft, respectively) or between any point in the United States or its possessions and any point in a foreign country.

Sec. 3. (a) The Secretary of the Interior is hereby authorized to issue regulations for the purpose of implementing this proclamation. Such regulations shall be consistent with the levels established in this proclamation for imports of crude oil, unfinished oils, and finished products into Districts I-IV, into District V, and into Puerto Rico, and shall pro-

vide for a system of allocation of the authorized imports of such crude oil, unfinished oils and finished products and for the issuance of licenses pursuant to such system, with such restrictions upon the transfer of allocations and licenses as may be deemed appropriate to further the purposes of this proclamation.

(b) (1) With respect to the allocations of imports of crude oil and unfinished oils into Districts I-IV, and into District V, such regulations shall provide, to the extent possible, for a fair and equitable distribution among persons having refinery capacity in these districts in relation to refinery inputs during an appropriate period or periods selected by the Secretary and may provide for distribution in such manner as to avoid drastic reductions below the last allocations under the Voluntary Oil Import Program. Such regulations also shall provide for allocations of crude oil to persons having operating refinery capacity or having pipeline facilities using crude oil directly as fuel who show inability to obtain sufficient quantities of domestic crude oil by ordinary and continuous means, such as barges, pipelines, or tankers.

(2) Such regulations shall provide for the allocation of imports of crude oil and unfinished oils into Puerto Rico among persons having refinery capacity in Puerto Rico in relation to refinery inputs during all or a part of the calendar year 1958 as the Secretary may determine.

(3) Such regulations shall require that imported crude oil and unfinished oils be processed in the licensee's refinery except that exchanges for domestic crude or unfinished oils may be made if otherwise lawful, if effected on a current basis and reported in advance to the Secretary, and if the domestic crude or unfinished oils are processed in the licensee's refinery. However, persons receiving allocations of crude oil on the basis of inability to obtain sufficient domestic crude by ordinary and continuous means shall not be permitted to make exchanges.

(4) With respect to the allocations of imports of finished products into Districts I-IV, District V, and Puerto Rico, such regulations shall, to the extent possible, result in a fair and equitable distribution of such products among persons who have been importers of finished products during the respective base periods specified in section 2 of this proclamation.

(c) Such regulations may provide for the revocation or suspension by the Secretary of any allocation or license on grounds relating to the national security, or the violation of the terms of this proclamation, or of any regulation or license issued pursuant to this proclamation.

Sec. 4. For the purpose of hearing and considering appeals or petitions by persons affected by the regulations issued by the Secretary of the Interior, he is authorized to provide for the establishment and operation of an Appeal Board, comprised of one representative each from the Departments of the Interior, Defense, and Commerce to be designated, respectively, by the heads of such Departments. Such representatives shall

be of the rank of Deputy Assistant Secretary or higher. The Appeal Board may be empowered, on grounds of hardship, error, or other relevant special consideration, but within the limits of the maximum levels of imports established in section 2 of this proclamation (1) to modify any allocation made to any person under the regulations issued pursuant to section 3 of this proclamation, (2) to grant allocations of crude oil and unfinished oils in special circumstances to persons with importing histories who do not qualify for allocations under such regulations; and (3) to review the revocation or suspension of any allocation or license. The Secretary may provide that such decisions by the Appeal Board shall be final.

SEC. 5. Persons who apply for allocations of crude oil, unfinished oils, or finished products and persons to whom such allocations have been made shall furnish to the Secretary of the Interior such information and shall make such reports as he may require, by regulation or otherwise, in the discharge of his responsibilities under this proclamation.

SEC. 6. (a) The Director of the Office of Civil and Defense Mobilization shall maintain a constant surveillance of imports of petroleum and its primary derivatives in respect of the national security and, after consultation with the Secretaries of State, Defense, Treasury, the Interior, Commerce, and Labor, he shall inform the President of any circumstances which, in the Director's opinion might indicate the need for further Presidential action under section 2 of the act of July 1, 1954, as amended. In the event prices of crude oil or its products or derivatives should be increased after the effective date of this proclamation, such surveillance shall include a determination as to whether such increase or increases are necessary to accomplish the national security objectives of the act of July 1, 1954, as amended, and of this proclamation.

(b) The Special Committee to Investigate Crude Oil Imports is hereby discharged of its responsibilities.

SEC. 7. The Secretary of the Interior may delegate, and provide for successive re delegation of, the authority conferred upon him by this proclamation. All departments and agencies of the Executive branch of the Government shall cooperate with and assist the Secretary of the Interior in carrying out the purposes of this proclamation.

SEC. 8. Executive Order 10761 of March 27, 1958, entitled "Government Purchases of Crude Petroleum and Petroleum Products" (23 F.R. 2067) is hereby revoked as of April 1, 1959.

SEC. 9. As used in this proclamation:

(a) "Person" includes an individual, a corporation, firm, or other business organization or legal entity, and an agency of a state, territorial, or local government, but does not include a department, establishment, or agency of the United States;

(b) "Districts I-IV" means the District of Columbia and all of the States of the United States except those States within District V;

(c) "District V" means the States of Arizona, Nevada, California, Oregon, Washington, Alaska, and the Territory of Hawaii;

(d) "Crude oil" means crude petroleum as it is produced at the wellhead;

(e) "Finished Products" means any one or more of the following petroleum oils, or a mixture or combination of such oils, which are to be used without further processing except blending by mechanical means:

(1) liquefied gases—hydrocarbon gases recovered from natural gas or produced from petroleum refining and kept under pressure to maintain a liquid state at ambient temperatures;

(2) gasoline—a refined petroleum distillate which, by its composition, is suitable for use as a carburant in internal combustion engines;

(3) jet fuel—a refined petroleum distillate used to fuel jet propulsion engines;

(4) naphtha—a refined petroleum distillate falling within a distillation range

overlapping the higher gasoline and the lower kerosenes;

(5) fuel oil—a liquid or liquefiable petroleum product burned for lighting or for the generation of heat or power and derived directly or indirectly from crude oil, such as kerosene, range oil, distillate fuel oils, gas oil, diesel fuel, topped crude oil, residues;

(6) lubricating oil—a refined petroleum distillate or specially treated petroleum residue used to lessen friction between surfaces;

(7) residual fuel oil—a topped crude oil or viscous residuum which, as obtained in refining or after blending with other fuel oil, meets or is the equivalent of Military Specification Mil-F-859 for Navy Special Fuel Oil and any other more viscous fuel oil, such as No. 5 or Bunker C;

(8) asphalt—a solid or semi-solid cementitious material which gradually liquefies when heated, in which the predominating constituents are bitumens, and which is obtained in refining crude oil.

(f) "Unfinished Oils" means one or more of the petroleum oils listed in paragraph (e) of this section, or a mixture or combination of such oils, which are to be further processed other than by blending by mechanical means.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 10th day of March in the year of our Lord nineteen hundred and [SEAL] fifty-nine, and of the Independence of the United States of America the one hundred and eighty-third.

DWIGHT D. EISENHOWER

By the President

CHRISTIAN A. HERTER,
Acting Secretary of State.

[F.R. Doc. 59-2170; Filed, Mar. 10, 1959; 5:14 p.m.]

RULES AND REGULATIONS

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 978—MILK IN NASHVILLE, TENN., MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Nashville, Tennessee, marketing area (7 CFR Part 978), it is hereby found and determined that:

(a) The following provisions of the order do not tend to effectuate the declared policy of the Act for March 1959:

(1) Section 978.8(b).

(2) In § 978.8(c), the words "for any of the months of September through December";

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) The Nashville market is relatively short of producer receipts in relation to Class I sales, and some handlers are im-

porting supplemental supplies from other markets.

(4) The order provides that during any of the months of September through December a plant not regulated under the terms of any Federal order may ship up to 70,000 pounds of Grade A milk or skim milk to Nashville fluid milk plants without becoming regulated under the terms of the Nashville order. During the months of January through August a plant not regulated by any Federal order which ships any Grade A milk or skim milk to a Nashville fluid milk plant will become regulated. In recognition of the current short supply of producer milk, pursuant to this suspension order fluid milk plants may receive a limited amount of Grade A milk or skim milk from an unregulated plant during March 1959

without involving regulation of the shipping plant.

(5) The suspension has been requested by the majority of producers and by two of the handlers supplying the market.

Therefore, good cause exists for making this order effective March 1, 1959.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended effective March 1, 1959, for the period March 1, 1959, through March 31, 1959.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Issued at Washington, D.C., this 9th day of March 1959.

[SEAL] CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 59-2124; Filed, Mar. 11, 1959; 8:50 a.m.]

PART 982—MILK IN CENTRAL WEST TEXAS MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), hereinafter referred to as the "Act," and of the order, as amended (7 CFR Part 982), regulating the handling of milk in the Central West Texas marketing area, hereinafter referred to as the "order," it is hereby found that:

(a) The provisions of the base plan and all references thereto, including but not necessarily limited to those set forth below, no longer tend to effectuate the declared policy of the Act;

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to its effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in that the major cooperative association in the market found it necessary to transfer several producers from an adjoining market to the Central West Texas market to accommodate increased Class I sales in the market. These producers do not have bases under the Central West Texas order and unless the base plan is suspended they would receive only the excess price for all milk produced by them.

(3) This suspension order in no way affects the cost of milk to handlers as computed under the order.

(4) This suspension order has been requested by a cooperative association which represents approximately 93 percent of the producers whose milk is regulated by the order. The other cooperative association which represents the remaining 7 percent of the producers has

indicated it is in accord with the request.

This suspension order must be made effective on March 1, 1959, since the base-paying period under the order is effective for the months of March, April, May, and June.

Therefore, good cause exists for making this order effective March 1, 1959.

It is therefore ordered, That the provisions of the base plan and all references thereto, including but not necessarily limited to those set forth below, are hereby suspended effective March 1, 1959:

1. Sections 982.15, 982.16, 982.73, 982.80, and 982.81 in their entirety;

2. In § 982.30(a) the following: "and for the months of March through June the aggregate quantities of base milk and excess milk";

3. In § 982.31(a) the following: "and for the months of March through June, such producer's deliveries of base milk and excess milk";

4. In § 982.72 the phrase, "of July through February";

5. In § 982.90(a) the phrase, "or § 982.73";

6. In § 982.91 the phrase, "or the uniform price for base milk computed pursuant to § 982.73(e)"; and

7. Section 982.91(b) in its entirety.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Issued at Washington, D.C., this 9th day of March 1959.

[SEAL] CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 59-2123; Filed, Mar. 11, 1959; 8:50 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter II—National Bureau of Standards, Department of Commerce

PART 230—STANDARD SAMPLES AND REFERENCE STANDARDS ISSUED BY THE NATIONAL BUREAU OF STANDARDS

Subpart B—Standard Samples and Reference Standards With Schedule of Weights and Fees

DESCRIPTIVE LIST

In accordance with the provisions of section 4 (a) and (c) of the Administrative Procedure Act, it has been found that notice and hearing on these schedules of fees are unnecessary for the reason that such procedures, because of the nature of these rules, serve no useful purpose. The amendment of paragraph (m) is effective March 1, 1959; the amendment to paragraph (p) was effective from February 9, 1959.

Section 230.11. *Descriptive list* is revised as follows:

1. Paragraph (m) *Spectrographic standards* is amended by the addition of

two new series of standards (titanium-base and high-temperature standards) and to regroup the present standards to read as follows:

(m) *Spectrographic standards — (1) Low-alloy steels.*

Sample No. ¹	Name	Price ² per sample	
		400 Series	1100 Series
401 (C)	B.O.H., 0.4C	\$6.00	
402 802	B.O.H., 0.8C	6.00	
403a 803a	A.O.H., 0.6C	6.00	
404a 804a	Basic electric	6.00	
405a 805a	Medium manganese	6.00	
407a 807a	Chromium-vanadium	6.00	
408a 808a	Chromium-nickel	6.00	
409b 809b	Nickel	6.00	
410a 810a	Cr-Mo	6.00	
411a 811a	Cr-Mo (SAE X4130)	6.00	
412a 812a	Cr-Ni-Mo (NE 8637)	6.00	
413a (C)	A.O.H., 0.4C	6.00	
414 (C)	Cr-Mo (SAE 4140)	6.00	
415a 815a	Bessemer, 0.5C	6.00	
416a (C)	Nitralloy G	6.00	
417 (C)	A.O.H., 0.4C	6.00	
417a 817a	B.O.H., 0.4C	6.00	
418 (C)	Cr-Mo (SAE X4130)	6.00	
418a 818a	Cr-Mo (SAE X4130)	6.00	
420a 820a	Ingot iron	6.00	
421 821	Cr-W, 0.9C	5.00	
425 (C)	Mn-Ni-Cr (NE 9450) (boron only)	6.00	
427 827	Cr-Mo (SAE 4150) (boron only)	6.00	

¹ Sizes: 400 series, rods 7/8 in. in diameter, 4 in. long (20 g).

800 series, rods 1/2 in. in diameter, 2 in. long (50 g).

² For each sample in the 400 and 800 series.

³ This standard is available in only one size.

(2) *Ingot irons and low-alloy steels.*

Sample No. ¹	Name ²	Price per sample	
		400 Series	1100 Series
461 1161	Low-alloy steel A (modified TS46B12)	\$8.00	\$12.00
462 1162	Low-alloy steel B (modified TS86B45)	8.00	12.00
463 1163	Low-alloy steel C (modified TS94B17)	8.00	12.00
464 1164	Low-alloy steel D (modified 14B52)	8.00	12.00
465 1165	Ingot iron E	8.00	12.00
466 1166	Ingot iron F	8.00	12.00
467 1167	Low-alloy steel G (modified C1010)	8.00	12.00
468 1168	Low-alloy steel H (modified TS4720)	8.00	12.00

¹ Sizes: 400 series, rods 7/8 in. in diameter and 4 in. long. 1100 series, disks 1 1/4 in. in diameter and 3/4 in. thick.

² The series of eight standards provides a "tailored" composition range for more than 20 elements.

(3) *Stainless steels.*

Sample No. ¹	Name	Price ² per sample	
		400 Series	1100 Series
442 (C)	Stainless (Cr16-Ni10)	\$10.00	
443 (C)	Stainless (Cr18-Ni9)	10.00	
444 (C)	Stainless (Cr21-Ni10)	10.00	
445 845	Cr13-Mo0.9 (Modified AISI 410)	10.00	
446 846	Cr18-Ni9 (Modified AISI 321)	10.00	
447 847	Cr24-Ni13 (Modified AISI 309)	10.00	
448 848	Cr9-Mo0.3 (Modified AISI 403)	10.00	
449 849	Cr5.5-Ni6.5	10.00	
450 850	Cr3-Ni25	10.00	

¹ Sizes: 400 series, rods 7/8 in. in diameter, 4 in. long (20 g).

800 series, rods 1/2 in. in diameter, 2 in. long (50 g).

² For each sample in the 400 and 800 series.

³ This standard is available in only one size.

(4) Tool steels.

Sample No. ¹	Name	Price ² per sample
436 836	Special (Cr ₃ -Mo ₃ -W ₁₀)	\$10.00
437 837	Special (Cr ₃ -Mo ₂ -W ₃ -Co ₃)	10.00
438 838	Mo High Speed (AISI-SAE M30)	10.00
439 839	Mo High Speed (AISI-SAE M30)	10.00
440 840	Special W High Speed (Cr ₂ -W ₁₃ -Co ₂)	10.00
441 841	W High Speed (AISI-SAE T1)	10.00

¹ Sizes: 400 series, rods 7/8 in. in diameter, 4 in. long. 800 series, rods 1/2 in. in diameter, 2 in. long.
² For each sample in the 400 and 800 series.

Note on (3) Stainless Steels and (4) Tool Steels: As an interim provision and until X-ray spectrometric standard samples of a suitable size are available, samples of the stainless and tool steel spectrographic standards in the form of rods 1/2 in. in diameter and 2 in. long have been upset-forged and ground to disks, 1 1/4 in. in diameter and 3/4 in. thick, for use in X-ray spectroscopy. The analysis given in NBS Circular 552 and on the provisional certificate for the spectrographic standard samples applies to the X-ray samples. The disk samples are intended only for X-ray analysis; investigation of these samples for use in optical spectrochemical analysis has not been made.

The X-ray standard samples may be ordered by prefixing a letter D before the appropriate 800-standard number desired, such as D845. The price of the disks for the stainless standards (D845 through D850) is \$12.00 each and for the tool steel standards (D836 through D841) \$12.00.

(5) Aluminum alloys.

Sample No. ¹	Name	Approximate weight of sample in grams	Price per sample
604	Aluminum-base casting alloy (142)	160	\$8.00

¹ Size: Disks 2 1/2 in. in diameter, 3/4 in. thick.

(6) Nickel base samples.²

Sample No. ¹	Name	Approximate weight of sample in grams	Price per sample
671	Nickel oxide 1	25	\$8.00
672	Nickel oxide 2	25	8.00

¹ Although intended primarily as spectrographic standards, these samples are equally suitable for chemical standards.

(7) Tin metal.

Sample No. ¹	Name	Approximate weight of sample in grams	Price per sample
431	Tin metal A	25	\$8.00
432	Tin metal B	25	8.00
433	Tin metal C	25	8.00
434	Tin metal D	25	8.00
435	Tin metal E	25	8.00
831	Tin metal A	45	14.00
832	Tin metal B	45	14.00
833	Tin metal C	45	14.00
834	Tin metal D	45	14.00
835	Tin metal E	45	14.00

¹ Sizes: 400 series, rods 1/4 in. in diameter, 4 in. long. 800 series, rods 1/2 in. in diameter, 2 in. long.

(8) Zinc base samples—(i) Die-casting alloys.

Sample No. ¹	Name ²	Price per sample
625	Zinc-base A	\$15.00
626	Zinc-base B	15.00
627	Zinc-base C	15.00
628	Zinc-base D	15.00
629	Zinc-base E	15.00
630	Zinc-base F	15.00

¹ Size: Bar segments, 1 1/4 in. square and 3/4 in. thick.
² NBS Nos. 625, 626, and 627 correspond to ASTM Alloy A.G40A.
 NBS Nos. 628, 629, and 630 correspond to ASTM Alloy A.C41A.

(ii) Spelter (modified).

Sample No. ¹	Name	Price per sample
631	Zinc spelter (modified)	\$15.00

¹ Size: Bar segments, 1 1/4 in. square and 3/4 in. thick.

(9) High-temperature alloys.

Sample No. ¹	Name ²	Price per sample
1184	19-90L	\$18.00
1185	AISI 316; AMS 5360A	18.00
1187	Multimet; AMS 5376A	18.00
1189	Nimonic 80A	18.00

¹ Size: Disks 1 1/4 in. in diameter and 3/4 in. thick.
² Nominal composition standards.

(10) Titanium-base samples.

Sample No. ¹	Name ²	Price per sample
653	Titanium alloy, 6A1-4V(A)	\$20.00
654	Titanium alloy, 6A1-4V(B)	20.00
655	Titanium alloy, 6A1-4V(C)	20.00

¹ Size: Disks 1 1/4 in. in diameter and 3/4 in. thick.
² Three standards are available for each alloy—a high, low, and a nominal composition standard.

2. Paragraph (p) *Standard rubbers and rubber compounding materials* is amended to revise standard 375 to read as follows:

Sample No.	Name	Approximate weight of sample in grams	Price per sample
375d	Channel Black	7,500	\$4.50

(Sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Interprets or applies sec. 7, 70 Stat. 959; 15 U.S.C. 275a)

R. D. HUNTON,
 Deputy Director,
 National Bureau of Standards.

Approved: March 5, 1959.

LEWIS L. STRAUSS,
 Secretary of Commerce.

[F.R. Doc. 59-2126; Filed, Mar. 11, 1959; 8:52 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter III—Foreign and Territorial Compensation

[Dept. Reg. 108.390]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

Employees Excluded

Section 325.4 (a) of Departmental Regulation 108.384, appearing in 23 F.R. 9531, is corrected to read as follows:

§ 325.4 Employees excluded.

(a) An employee who is the spouse of a person employed, stationed or resident in the area shall not be eligible to receive a differential when the agency concerned determines that the spouse's presence there is primarily in order to be with such individual and not for the convenience of the Government.

(Secs. 102, 401, E.O. 10000, 13 F.R. 5453, 3 CFR, 1948 Supp., E.O. 10623, E.O. 10636, 20 F.R. 5297, 7025, 3 CFR, 1955 Supp.)

For the Acting Secretary of State.

W. K. SCOTT,
 Assistant Secretary.

FEBRUARY 27, 1959.

[F.R. Doc. 59-2122; Filed, Mar. 11, 1959; 8:51 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7275]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Derry Fibre Mills, Inc., and Harry Flagler

Subpart—*Invoicing products falsely*: § 13.1108 *Invoicing products falsely*: Wool Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure*: § 13.1852 *Formal regulatory and statutory requirements*: Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68-68 (c)) [Cease and desist order, Derry Fibre Mills, Inc., et al., Derry, N.H., Docket 7275, Feb. 11, 1959]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a manufacturer in Derry, N.H., with violating the Wool Products Labeling Act by failing to label woolen stocks as required by the Act, and by invoicing the stocks falsely as

"all wool", "100% wool", and "100% all wool stock".

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on February 11 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Respondents Derry Fibre Mills, Inc., a corporation, and its officers, and Harry Flagler, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction of manufacture for introduction into commerce, or the offering for sale, sale, transportation, or distribution in commerce as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of woolen stocks or other "wool products" as such products are defined in and subject to said Wool Products Labeling Act, do forthwith cease and desist from:

Failing to securely affix to, or place on, each such product a stamp, tag, or label or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool product exclusive of ornamentation not exceeding five per centum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five per centum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool product of any non-fibrous, loading, filling, or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution, or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

It is further ordered, That Respondents Derry Fibre Mills, Inc., a corporation, and its officers, and Harry Flagler, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the sale or distribution of woolen stocks or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly: Misrepresenting the constituent fibers of which their products are composed or the percentages or amounts thereof, in sales invoices, shipping memoranda, or in any other manner.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents Derry Fibre Mills, Inc., a corporation, and Harry Flagler, individually and as an

officer of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: February 11, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-2090; Filed, Mar. 11, 1959;
8:45 a.m.]

[Docket 7281]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Ruth Elenowitz et al.

Subpart—*Advertising falsely or misleadingly*: § 13.155 *Prices*: Exaggerated as regular and customary; § 13.205 *Scientific or other relevant facts*. Subpart—*Misbranding or mislabeling*: § 13.1325 *Source or origin*: Place: *Domestic product as imported*. Subpart—*Misrepresenting oneself and goods*—*Prices*: § 13.1805 *Exaggerated as regular and customary*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Ruth Elenowitz and Irving Elenowitz doing business as Mark Trading, Maspeth, N.Y., Docket 7281, February 11, 1959]

In the Matter of Ruth Elenowitz, and Irving Elenowitz, Doing Business Under the Name of Mark Trading

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a concern in Maspeth, N.Y., with misrepresenting domestic perfumes as French imports through use of the brand name "La Vie En Rose" and advertising them as "The favorite of fashionable Paris", etc., and with advertising that fictitious prices ranging from \$10 to \$27.50 were regular retail prices of the perfumes, that they were nationally advertised at such prices, and were sold in well-known department stores.

Following acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on February 11 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Respondents Ruth Elenowitz, also known as Ruth Weidenbaum, and Irving Elenowitz, individuals doing business under the trade name Mark Trading, or trading under any other name, and Respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of perfumes or any other related product, do forthwith cease and desist from, directly or indirectly:

1. Disseminating, or causing to be disseminated, any advertisement, by means

of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of said products, which advertisement:

(a) Represents, directly or by implication, that any amount is the retail price of a product when said amount is in excess of the price at which said product is usually and customarily sold at retail;

(b) Represents, directly or by implication, that any of their products are nationally advertised or sold in well-known department stores, unless such is the fact;

(c) Uses the words "La Vie En Rose" or any other French name, word, term, or depiction, in connection with any such product not manufactured or compounded in France, or otherwise representing, directly or by implication, that such products are manufactured or compounded in France;

2. Disseminating, or causing to be disseminated, any advertisement, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of such product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents Ruth Elenowitz, and Irving Elenowitz, doing business under the name of Mark Trading, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: February 11, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-2091; Filed, Mar. 11, 1959;
8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 27—CANNED FRUITS AND CANNED FRUIT JUICES; DEFINITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER

Frozen Concentrates for Lemonade; Order Acting on Proposal To Establish Definitions and Standards of Identity

In the matter of establishing definitions and standards of identity for frozen concentrates for lemonade:

RULES AND REGULATIONS

A notice of proposed rule making was published in the FEDERAL REGISTER of June 29, 1957 (22 F.R. 4620), setting forth proposals of the National Association of Frozen Food Packers, 1315 K Street NW., Washington 5, D.C., to establish definitions and standards of identity for frozen concentrates for lemonade and for industrial frozen concentrate for lemonade. This notice also set forth proposals made by the Commissioner of Food and Drugs on his own initiative to establish definitions and standards of identity for frozen concentrate for lemonade and frozen concentrate for colored lemonade. The notice invited all interested persons to submit views and comments on both proposals.

Upon consideration of the views and comments submitted and other relevant information, it is concluded that it will not promote honesty and fair dealing in the interest of consumers to establish the definition and standard of identity proposed for industrial frozen concentrate for lemonade with added chemical preservatives. It is also concluded that it will promote honesty and fair dealing in the interest of consumers to establish definitions and standards of identity for frozen concentrate for lemonade and for frozen concentrate for colored lemonade, as hereinafter set forth.

Now, therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U.S.C. 341, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (23 F.R. 9500): *It is ordered:*

1. That the petition for the establishment of a definition and standard of identity for industrial frozen concentrate for lemonade with added chemical preservatives be denied; and

2. That the following definitions and standards of identity be established:

§ 27.101 Frozen concentrate for lemonade; identity; label statement of optional ingredients.

(a) Frozen concentrate for lemonade is the frozen food prepared from one or both of the lemon juice ingredients specified in paragraph (b) of this section, together with one of the sweetening ingredients specified in paragraph (c) of this section. Water may be added, and it may contain the optional ingredient specified in paragraph (e) of this section. The product contains not less than 48.0 percent by weight of soluble solids taken as the sucrose value determined by refractometer and corrected for acidity as given in "Refractometric Determination of Soluble Solids in Citrus Juices," by Stevens and Baier, Industrial and Engineering Chemistry, Analytical Edition, Volume 11, page 447 (1939). When the product is diluted according to directions for making lemonade, which shall appear on the label, the acidity of the lemonade, calculated as anhydrous citric acid, shall be not less than 0.70 gram per 100 milliliters, and the soluble solids, measured

as described for the concentrate, shall be not less than 10.5 percent by weight.

(b) The lemon juice ingredients referred to in paragraph (a) of this section are:

(1) Lemon juice or frozen lemon juice or a mixture of these.

(2) Concentrated lemon juice or frozen concentrated lemon juice or a mixture of these.

For the purposes of this section, lemon juice is the undiluted juice expressed from mature lemons of an acid variety; and concentrated lemon juice is lemon juice from which part of the water has been removed.

(c) The sweetening ingredients referred to in paragraph (a) of this section are:

(1) Sugar or invert sugar sirup or any mixture of these.

(2) Any mixture consisting of sugar or invert sugar sirup or both with dextrose, corn sirup, dried corn sirup, glucose sirup, dried glucose sirup, or any two or more of these: *Provided*, That the solids of the sugar or invert sugar sirup or both amount to not less than two-thirds of the weight of the total solids of the mixture.

(d) For the purposes of this section:

(1) The term "sugar" means refined sucrose.

(2) The term "invert sugar sirup" means an aqueous solution of inverted or partly inverted refined or partly refined sucrose, the solids of which contain not more than 0.3 percent by weight of ash, and which is odorless and flavorless except for sweetness.

(3) The term "dextrose" means the hydrated or anhydrous refined monosaccharide obtained from hydrolyzed starch.

(4) The term "corn sirup" means a clarified concentrated aqueous solution of the products obtained by incomplete hydrolysis of cornstarch. The solids of corn sirup contain not less than 40 percent by weight of reducing sugars, calculated as anhydrous dextrose.

(5) The term "glucose sirup" means a sirup that conforms to the definition in subparagraph (4) of this paragraph for corn sirup, except that it is made from any edible starch.

(e) The optional ingredient referred to in paragraph (a) of this section is lemon oil or concentrated lemon oil or both.

(f) (1) If the optional ingredient specified in paragraph (e) of this section is used, the label shall bear the statement "----- added" or "with added -----," the blank being filled in with the name "lemon oil" or "concentrated lemon oil," or where both are used, with the names "lemon oil and concentrated lemon oil."

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in subparagraph (1) of this paragraph shall conspicuously precede or

follow the name, without intervening written, printed, or graphic matter.

§ 27.102 Frozen concentrate for colored lemonade; identity; label statement of optional ingredients.

(a) Frozen concentrate for colored lemonade conforms to the definition and standard of identity and is subject to the requirement for label statement of optional ingredients prescribed for frozen concentrate for lemonade by § 27.101, except that it is colored with artificial coloring or with one or more of the following optional ingredients: Grape juice, cranberry juice, loganberry juice, beet juice, or any such juice that has been concentrated.

(b) (1) The name of the food is "Frozen concentrate for ----- lemonade," the blank being filled in with the word describing the color; as, for example, "Frozen concentrate for pink lemonade."

(2) If artificial coloring is used, the label shall bear the statement "artificially colored."

(3) If one or more of the optional juice ingredients named in paragraph (a) of this section is used, the label shall bear the statement "colored with -----," the blank being filled in with the name of the juice or concentrated juice used; as, for example, "colored with grape juice" or "colored with concentrated cranberry juice and beet juice."

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, shall specify with particularity the provisions of the order deemed objectionable and the grounds for the objections, and shall request a public hearing. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall become effective 90 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of objections thereto. Notice of the filing of objections, or lack thereof, will be announced by publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 401, 52 Stat. 1046, as amended; 21 U.S.C. 341)

Dated: March 5, 1959.

[SEAL]

JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

[F.R. Doc. 59-2092; Filed, Mar. 11, 1959; 8:45 a.m.]

Title 39—POSTAL SERVICE**Chapter I—Post Office Department****PART 26—AIR MAIL****Miscellaneous Amendments***Correction*

In F.R. Doc. 59-1825, appearing at page 1569 of the issue for Tuesday, March 3, 1959, the entry in the table of rates of \$ 26.1 under the column heading zone 5 for the weight of 53 pounds should read "29.82" instead of "28.82."

Title 32—NATIONAL DEFENSE**Chapter I—Office of the Secretary of Defense****SUBCHAPTER C—MILITARY PERSONNEL****PART 62—INTER-SERVICE TRANSFER OF OFFICERS (REGULAR)**

The Deputy Secretary of Defense approved the following on January 7, 1959:

Sec.

- 62.1 Purpose.
- 62.2 Applicability.
- 62.3 Policy.
- 62.4 Procedure.

AUTHORITY: §§ 62.1 to 62.4 issued under sec. 716, Title 10, United States Code.

§ 62.1 Purpose.

The purpose of this part is to establish the policies which will govern implementation of section 716, Title 10, United States Code, with respect to the transfer of commissioned officers between the Regular components of the Army, Navy, Air Force and Marine Corps.

§ 62.2 Applicability.

(a) This part is applicable to officers holding Regular commissions in the armed services, except officers of the medical services. The inter-service transfer of officers holding commissions in the medical services will continue to be accomplished under existing regulations (DoD Instruction 1205.1, "Implementation of the Universal Military Training and Service Act with Respect to Medical, Dental, and Allied Specialist Registrants", Section XI).

(b) Policy and procedure for the transfer of Reserve officers on extended active duty is contained in DOD Directive 1300.5, Part 63 of this subchapter.

(c) Transfer of officers of the Reserve components not on active duty (except officers of the medical services) will continue to be accomplished under applicable Service regulations for conditional resignation and appointment.

(d) No officer of a Reserve component will be transferred to a Regular component under this authority.

§ 62.3 Policy.

(a) It is the policy of the Department of Defense that an officer of any military service who is especially qualified to contribute to the success of an activity of another service will be given an opportunity to do so without interruption of his service career, by being transferred

from one service and appointed in another.

(b) No officer will be so transferred without his consent, nor will an officer transferred from one service be appointed in another service with a higher rank or precedence than that he held on the date prior to his transfer.

(c) Transfers will be made only within authorized strength limitations.

(d) While intended for use primarily in the technical fields to permit the full utilization of specialists, this authority to transfer between services is not restricted to technical specialists.

§ 62.4 Procedure.

(a) Request for transfer will normally be initiated by an appropriate agency of the military department desiring the services of an officer serving in another department, or by the officer himself.

(1) (i) If initiated by the officer himself, the request will be forwarded through military channels to the Secretary of the military department in which he is presently commissioned, and will be accompanied by a justification of the requested transfer as being in the interest of national defense and the individual officer.

(ii) The Secretary of the losing Department will forward the request to the Secretary of Defense through the Secretary of the gaining Department. Both Departmental Secretaries will indicate their concurrence or non-concurrence in the requested transfer.

(2) If initiated by other than the officer himself, request for transfer will be routed to the Secretary of Defense through the Secretaries of the gaining and losing Departments and will be accompanied by a statement that the officer concerned consents to the proposed transfer.

(b) The Secretary of Defense will recommend to the President such requested transfers as he considers in the best interests of the Department of Defense.

(c) Termination of presently held commissions and reappointment in another service will be accomplished by the two Services affected without interruption of the continuity of the officer's total military service.

(d) An officer transferred under provisions of this part will be placed on the applicable promotion list or lineal list of the armed force to which he is transferred in an appropriate position as determined by the amount of promotion-list service with which he was credited in his parent service on the day prior to his transfer. His permanent grade and date of rank will be determined by applying that amount of promotion-list service to the appointment laws in effect for the service to which he is being transferred. His temporary grade and date of rank will remain the same as that he held in his parent service on the day prior to his transfer.

(e) An officer transferred under provisions of this part will be credited with the unused leave with which he was credited at the time of transfer, and with the total military service with

which he was credited on the date prior to his transfer.

MAURICE W. ROCHE,
Administrative Secretary.

MARCH 6, 1959.

[F.R. Doc. 59-2113; Filed, Mar. 11, 1959; 8:49 a.m.]

PART 63—INTER-SERVICE TRANSFER OF RESERVE OFFICERS ON EXTENDED ACTIVE DUTY

The Secretary of Defense approved the following on January 16, 1959:

Sec.

- 63.1 Purpose.
- 63.2 Applicability.
- 63.3 Policy.
- 63.4 Procedure.

AUTHORITY: §§ 63.1 to 63.4 issued under sec. 716, Title 10, United States Code.

§ 63.1 Purpose.

The purpose of this part is to establish the policies which will govern implementation of section 716, Title 10, United States Code, with respect to the transfer of Reserve commissioned officers on extended active duty between the Reserve components of the Army, Navy, Air Force and Marine Corps.

§ 63.2 Applicability.

(a) This part is applicable to officers on extended active duty holding Reserve commissions in the armed services, except officers of the medical services. The inter-service transfer of officers holding commissions in the medical services will continue to be accomplished under existing regulations, DoD Instruction 1205.1, "Implementation of the Universal Military Training and Service Act with Respect to Medical, Dental, and Allied Specialist Registrants", Section XI.

(b) Policy and procedure for the transfer of Regular officers on extended active duty is contained in Part 62 of this subchapter.

(c) Transfer of officers of the Reserve components not on active duty (except officers of the medical services) will continue to be accomplished under applicable Service regulations for conditional resignation and appointment.

§ 63.3 Policy.

(a) It is the policy of the Department of Defense that an officer of any military service who is especially qualified to contribute to the success of an activity of another service will be given an opportunity to do so without interruption of his service career, by being transferred from one service and appointed in another.

(b) No officer will be so transferred without his consent, nor will an officer transferred from one service be appointed in another service with a higher rank or precedence than that he held on the date prior to his transfer.

(c) Transfers will be made only within authorized strength limitations for the active duty forces.

(d) While intended for use primarily in the technical fields to permit the full

utilization of specialists, this authority to transfer between services is not restricted to technical specialists.

§ 63.4 Procedure.

(a) Request for transfer will normally be initiated by an appropriate agency of the military department desiring the services of an officer serving in another department, or by the officer himself.

(1) (i) If initiated by the officer himself, the requests will be forwarded through military channels to the Secretary of the military department in which he is presently commissioned, and will be accompanied by a justification of the requested transfer as being in the interest of national defense and the individual officer.

(ii) The Secretary of the losing Department will forward the request to the Secretary of Defense through the Secretary of the gaining Department. Both Departmental Secretaries will indicate their concurrence or non-concurrence in the requested transfer.

(2) If initiated by other than the officer himself, request for transfer will be routed to the Secretary of Defense through the Secretaries of the gaining and losing Departments and will be accompanied by a statement that the officer concerned consents to the proposed transfer.

(b) The Secretary of Defense will approve such requested transfers as he considers in the best interests of the Department of Defense.

(c) Termination of presently held commissions and reappointment in another service will be accomplished by the two Services affected without interruption of the continuity of the officer's active duty.

(d) An officer transferred under the provisions of this part will be awarded a permanent reserve grade and date of rank as determined by applying the amount of his promotion service to the appointment laws in effect for the Service to which he is being transferred. His temporary grade and date of rank will remain the same as that he held in his present Service on the day prior to his transfer.

(e) An officer transferred under provisions of this part will be credited with the unused leave with which he was credited at the time of transfer, and with the total military service with which he was credited on the date prior to his transfer.

MAURICE W. ROCHE,
Administrative Secretary.

[F.R. Doc. 59-2114; Filed, Mar. 11, 1959;
8:49 a.m.]

Chapter V—Department of the Army

SUBCHAPTER F—PERSONNEL

PART 578—DECORATIONS, MEDALS, RIBBONS, AND SIMILAR DEVICES

General Provisions Governing Awards

Paragraph (m) (3) of § 578.3 is revoked, as follows:

§ 578.3 General provisions governing the awards of decorations.

(m) *Time limitations.* * * *
(3) [Revoked]

[C 9, AR 672-5-1, February 20, 1959] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

[SEAL] R. V. LEE,
*Major General, U.S. Army,
The Adjutant General.*

[F.R. Doc. 59-2088; Filed, Mar. 11, 1959;
8:45 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

PART 21—COMMISSIONED OFFICERS

Miscellaneous Amendments

1. Section 21.11 is amended as follows:

§ 21.11 Officers other than medical officers.

The category titles of officers, other than medical officers, in the junior assistant, assistant, senior assistant, full, and senior grades shall be "dental surgeon", "sanitary engineer", "pharmacist", "nurse officer", "scientist", "veterinary officer", "dietitian", "therapist", "health services officer", or "sanitarian". The category titles of officers, other than medical officers, in the director grade shall be the term "director" preceded by the term "dental", "sanitary engineer", "pharmacist", "nurse", "scientist", "veterinary officer", "dietitian", "therapist", "health services", or "sanitarian". The title of officers, other than medical officers, in the grade of Assistant Surgeon General shall be "Assistant Surgeon General", except that following such grade designation there shall be added a parenthetical identification, such as "dental", or "sanitary engineer".

2. Section 21.21 is amended as follows:

§ 21.21 Meaning of terms.

The terms "approved school", "approved college", "approved postgraduate school", or "approved training course" means, except as otherwise provided by law:

(a) A school, college, postgraduate school, or training course which has been accredited or approved by a professional body or bodies recognized by the Surgeon General for such purpose, or which, in the absence of such a body, meets generally accepted professional standards as determined by the Surgeon General, or

(b) In the case of a candidate who is applying for appointment as a medical officer; any non-approved medical school provided that the candidate has passed examinations given by a professional body or bodies recognized by the Surgeon General for such purpose.

§ 21.32 [Amendment]

3. Section 21.32 is amended by deleting the words "6 months" wherever they appear in this section, and inserting in lieu thereof "one year".

§ 21.41 [Amendment]

4. Section 21.41 is amended (i) by deleting the phrase "to be held in such professions" and inserting in lieu thereof "to be held in such professions or specialties within professions", and (ii) by deleting the phrase "relating to each such profession" and substituting in lieu thereof the phrase "relating to each profession or specialty within such profession".

§ 21.42 [Amendment]

5. Section 21.42 is amended by inserting the words "or specialty within his profession" immediately following the words "the candidate's profession".

§ 21.46 [Amendment]

6. Section 21.46 is amended by inserting the phrase "or specialty within a profession" immediately following the word "profession" in each instance where such word appears.

§ 21.52 [Amendment]

7. Section 21.52 is amended by deleting the last sentence thereof.

§ 21.101 [Amendment]

8. Section 21.101 is amended by adding at the end thereof the following new paragraph:

(k) The health services category is that category to which are assigned all officers (1) who are appointed to the Regular Corps in one of the "related scientific specialties in the field of public health" within the meaning of section 207(a) (1) of the Act or to the Reserve Corps pursuant to section 207(a) (2) and (2) who are not otherwise qualified for assignment to any other category.

9. Section 21.110 is amended as follows:

§ 21.110 Division of Regular Corps into professional categories.

The Regular Corps shall be divided into the following professional categories for the purpose of establishing eligibility of officers of such corps for promotion: Medical, dental, sanitary engineer, scientist, nurse, pharmacist, veterinary, dietitian, therapist, health services, and sanitarian.

10. Section 21.115 is amended as follows:

§ 21.115 Restricted grades.

Officers of the Regular Corps in the nurse, dietitian, therapist, pharmacist, health services and sanitarian categories shall be permanently promoted to the senior grade only if vacancies exist in such grade.

(Sec. 215, 58 Stat. 690; 42 U.S.C. 216)

Dated: February 17, 1959.

[SEAL] JOHN D. PORTERFIELD,
Acting Surgeon General.

Dated: March 6, 1959.

ARTHUR S. FLEMMING,
Secretary.

[F.R. Doc. 59-2117; Filed, Mar. 11, 1959;
8:50 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12662; FCC 59-201]

PART 19—CITIZENS RADIO SERVICE

Permission to Class D Stations To Operate on Certain Frequency

In the matter of amendment of Part 19, Citizens Radio Service; to permit operation of Class D citizens radio stations on the frequency 27.255 Mc; Docket No. 12662.

At a session of the Federal Communications Commission at its offices in Washington, D.C., on the 4th day of March 1959:

The Commission having under consideration amendment of Part 19 of the rules to provide for the use of the frequency 27.255 Mc by Class D stations licensed in the Citizens Radio Service; and

It appearing that the Commission on November 5, 1958, adopted a Notice of Proposed Rule Making in this matter which was published in the FEDERAL REGISTER of November 13, 1958 (23 F.R. 8925); and

It further appearing that the period in which interested persons were afforded an opportunity to submit comments with respect thereto has expired and comments were filed in support of the Commission's proposal by the Kaar Engineering Corporation and no objection or adverse comments have been received; and

It further appearing that inasmuch as a change in § 19.2 is necessary by the action taken herein, other changes to clarify the titles of the definitions of the various classes of stations in the Citizens Radio Service appearing in that section are also desirable at this time; and

It further appearing that additional editorial amendments to Part 19 of the rules is desirable at this time to reflect the assumption by the Federal Aviation Agency (FAA) of certain administrative functions formerly under the cognizance of the Civil Aeronautics Administration (CAA); and

It further appearing that the additional amendments, being editorial in nature, may be made without prior notice of proposed rule making under the provisions of section 4(a) of the Administrative Procedure Act; and

It further appearing that the amendments ordered hereby are in the public interest and are issued pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended;

It is ordered, That effective April 15, 1959, Part 19 of the Commission's rules, Citizens Radio Service, is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Released: March 6, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

1. Substitute the following for the present definitions of "Class A citizens radio station", "Class B citizens radio station", "Class C citizens radio station" and "Class D citizens radio station" appearing in paragraph (b) of § 19.2:

Class A station. A station in the Citizens Radio Service operating on an assigned frequency available to that service in the 460-470 Mc frequency band, with an authorized plate input power of 60 watts or less. (Class A stations are authorized to be operated as mobile stations, as base stations, or as fixed stations.)

Class B station. A mobile station in the Citizens Radio Service operating on an authorized frequency available to that service in the 460-470 Mc frequency band, with an authorized plate input power of 5 watts or less. (Class B stations are authorized to be operated as mobile stations only; however, they may be operated at fixed locations in accordance with other provisions of this part.)

Class C station. A mobile station in the Citizens Radio Service operating on an authorized frequency in the 26.96-27.23 Mc frequency band, or on the frequency 27.255 Mc, for the remote control of objects or devices by radio, or for the remote actuation of devices which are used solely as a means of attracting attention. Class C stations are authorized to operate as mobile stations only; however, they may be operated at fixed locations in accordance with other provisions of this part.)

Class D station. A mobile station in the Citizens Radio Service operating on an authorized frequency in the 26.96-27.23 Mc frequency band, or on the frequency 27.255 Mc, with an authorized plate input power of 5 watts or less for radiotelephony only. (Class D stations are authorized to operate as mobile stations only; however, they may be operated at fixed locations in accordance with other provisions of this part.)

2. Amend the table of frequencies appearing in § 19.31(d) to read as follows:

Mc	Mc	Mc	Mc
26.965	27.035	27.115	27.185
26.975	27.055	27.125	27.205
26.985	27.065	27.135	27.215
27.005	27.075	27.155	27.225
27.015	27.085	27.165	27.255
27.025	27.105	27.175	

¹The frequency 27.255 Mc is shared with stations in other services.

3. Amend paragraph (b) of § 19.74 to read as follows:

(b) Any observed or otherwise known failure of a code or rotating beacon light or top light not corrected within thirty minutes, regardless of the cause of such failure, shall be reported immediately by telephone or telegraph to the nearest Air Traffic Communications Station or office of the Federal Aviation Agency. Further notification by telephone or telegraph shall be given immediately upon resumption of the required illumination.

4. Amend § 19.82(c) (4) and (5) to read as follows:

(4) Identification of the Air Traffic Communications Station (or office of the Federal Aviation Agency) notified of the failure of any code or rotating beacon light not corrected within thirty min-

utes, and the date and time such notice was given.

(5) Date and time notice was given to the Air Traffic Communications Station (or office of the Federal Aviation Agency) that the required illumination was resumed.

[F.R. Doc. 59-2118; Filed, Mar. 11, 1959; 8:51 a.m.]

[Docket No. 12684; FCC 59-196]

PART 31—UNIFORM SYSTEM OF ACCOUNTS, CLASS A AND CLASS B TELEPHONE COMPANIES

Accounting for Engineering and Plant Supervision Expenses

1. On November 19, 1958, the Commission adopted a Notice of Proposed Rule Making which was published in the FEDERAL REGISTER on November 26, 1958 (23 F.R. 9144) in accordance with section 4(a) of the Administrative Procedure Act. The proposals presented for comment were for elimination of account 602:9, "General supervision, engineering, and tool expenses;" associated changes and elimination of an unrelated inconsistency in a Note to each of accounts 602:1 to 602:7, inclusive, which are the accounts for repairs of outside plant; an associated change in account 702, "Vehicle and other work equipment expense;" and associated changes plus revisions of the text of paragraph (b) of accounts 705, "Engineering expense," and 706, "Plant supervision expense," to permit the clearance of engineering pay and expenses on some basis other than time devoted to particular jobs, where that basis is not practicable. The Commission also proposed an alternative version for comment in revision of accounts 705 and 706 which would allow only pay and expenses related to minor routine jobs to be apportioned on a basis other than time devoted to particular jobs.

2. The time for filing comments regarding the above-mentioned Proposed Rule Making has expired. The Commission received timely comments from American Telephone and Telegraph Company (AT&T), on its own behalf and on behalf of the Bell System telephone companies, United States Independent Telephone Association (USITA), General Telephone Service Corporation (General), Wyoming Public Service Commission (Wyoming) and Hawaiian Telephone Company (Hawaiian). No comments or briefs in reply to the original comments were received.

3. AT&T supported the proposals outlined above with the exception of the Commission's alternative proposal for the wording of accounts 705 and 706 which it considered too restrictive and not productive of the intended result. It feels that the alternative is even more restrictive than the existing wording and would not recognize the fact that it is impracticable to make direct assignment on the basis of time devoted to particular jobs of some engineering time spent on jobs which cannot be considered minor or routine. As an example, AT&T pointed out that it may not be practicable to assign the time of engineering em-

ployees directly to major jobs when they are engaged in such work as general and section supervision of the engineering department; clerical, reproduction and record work; and similar activities. Likewise, if such work is associated with minor jobs it may not be practicable to associate the time with the classes of work. It feels that under these circumstances other equitable bases of clearance are necessary. It is AT&T's belief that it should be sufficient to provide that the basis of clearance be equitable, where direct assignment is not practicable, as it proposed in its letter to the Commission of October 31, 1958, which led to this rule making proceeding.

4. General had no objections to the proposals outlined, except the Commission's alternative for comment, stating that its (General Telephone Corporation telephone operating subsidiaries) operating and accounting people were strongly in favor of the elimination of account 602:9. It also concurred in the related revisions to the Notes under accounts 602:1 through 602:7. In connection with the reporting and clearance procedures for engineering pay and expense, which would be affected by the proposed changes in the text of accounts 705 and 706, General recommended the adoption of the wording proposed by AT&T as modified slightly by the Commission for account 706. General agrees with AT&T that the wording proposed in the Commission's alternative is unduly restrictive.

5. USITA stated that its Accounting Committee was in favor of the elimination of account 602:9, adding the observation that the majority of the independent telephone companies were not making use of the account, with the exception of several of the large ones who use it primarily for the purpose of reporting to the Commission. The Accounting Committee favored the adoption of either AT&T's wording for accounts 705 and 706 or AT&T's wording as modified by the Commission for account 706. The Committee also felt that the alternative proposal for accounts 705 and 706 was too restrictive as it would require reporting and clearance procedures which are not susceptible to application in normal operations.

6. Hawaiian concurred in the proposal as submitted by AT&T. In regard to the language proposed by the Commission and AT&T for accounts 705 and 706 it felt that either was acceptable. Wyoming also approves of the proposed changes. It is not clear whether Wyoming preferred one or the other of the language alternatives for accounts 705 and 706.

7. Upon consideration of the objections raised by AT&T, General and USITA to the alternate proposal, but without conceding the validity of those objections in all cases, the Commission has decided to adopt the amendments in substantially the form proposed by AT&T. A change has been made in this proposal to specify certain conditions where time will be required as the basis for clearing expenses from accounts 705 and 706. Further, it is to be understood that this decision is without prejudice

to any future rule making action that the Commission may take in this regard should circumstances arise which indicate that such action may be necessary or desirable to the exercise of our regulatory functions.

8. The amendments being adopted herein provide that clearances from accounts 705 and 706 representing general engineering expenses and plant engineering expenses, respectively, related to other than minor or routine jobs, shall be on the basis of time devoted to particular jobs. Amounts remaining, including engineering overhead, may be cleared on such equitable basis as may be appropriate. We do not intend, by establishing minimum standards where actual time must be used as the basis of clearance, to say that this is the only time such basis is considered to be equitable. It is expected, even though the rule is silent on the point, that actual time will be used whenever practicable. The Commission intends to observe closely the bases of clearance used by subject telephone companies with particular attention directed to a determination as to whether the bases used are equitable and the results obtained are reliable and adequate from a regulatory standpoint.

It appearing that the proposed rule making proceeding in this matter has indicated the desirability of amendment of Part 31 of the Commission's rules and regulations with respect to the accounting prescribed for engineering and plant supervision expenses;

It is ordered, That under authority contained in sections 4(i) and 220 of the Communications Act of 1934, as amended, Part 31 (Uniform System of Accounts for Class A and Class B Telephone Companies) is hereby amended as set forth below;

It is further ordered, That the amendments ordered herein be effective January 1, 1960, provided; however, that any telephone company so desiring may make them effective in its accounts retroactively to January 1, 1959.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 220, 48 Stat. 1078, 47 U.S.C. 220)

Adopted: March 4, 1959.

Released: March 6, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

1. Amend the text of Note B to § 31.602:1 and the text of Note C to §§ 31.602:2 through 31.602:7 to read as follows: "The cost of shop repairs and of those salvage adjustments which cannot be practicably allocated hereto, shall be charged to account 602:8."

2. Delete § 31.602:9 in its entirety.

3. Amend paragraph (b) of § 31.702 by deleting the parenthetical expression "(Note also account 602:9.)" at the end of the paragraph. Paragraph (b), as amended, will read as follows:

(b) This account shall be cleared by adding to the cost of work performed such amounts as will distribute the total expense equitably.

4. Amend paragraph (b) of § 31.705 to read as follows:

(b) Amounts in this account representing pay and expenses of personnel while assigned to other than minor or routine jobs shall be cleared by apportionment to the appropriate accounts on the basis of the service rendered, as determined by the time devoted to particular jobs. Amounts remaining, including the pay and expenses of supervisory personnel, and of employees engaged in clerical, reproduction and record work and similar activities, may be cleared on such equitable basis as may be appropriate.

5. Amend paragraph (b) of § 31.706 to read as follows:

(b) Amounts in this account, other than charges for plant engineering, shall be cleared on the basis of labor supervised. Charges for plant engineering representing pay and expenses of personnel while assigned to other than minor or routine jobs shall be cleared by charges to the appropriate accounts on the basis of the time devoted to particular jobs. Charges for plant engineering remaining, including the pay and expenses of supervisory personnel, and of employees engaged in clerical, reproduction and record work and similar activities, may be cleared on such equitable basis as may be appropriate.

[F.R. Doc. 59-2119; Filed, Mar. 11, 1959; 8:51 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 1816]

[59648]

ALASKA

Partially Revoking Public Land Order No. 1233 of October 4, 1955

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952, and the act of May 31, 1938 (52 Stat. 593; 48 U.S.C. 353a), it is ordered as follows:

1. Public Land Order No. 1233 of October 4, 1955, so far as it withdrew the following-described public lands for use of the Bureau of Indian Affairs for school purposes is hereby revoked:

PORT GRAHAM

Beginning at a point located S. 66°30' W., 480 feet from witness corner located 25 links south of Corner No. 1 of U.S. Survey 510; thence

South, 156 feet to a point;
West, 35 feet to a point;
South, 844 feet to a point;
West, 310 feet to a point;
North, 700 feet to a point;
East, 75 feet to a point;
North, 300 feet to a point;
East, 270 feet to the point of beginning.

The tract described contains 6.7 acres.

2. Pursuant to section 6(g) of the Alaska Statehood Act of July 7, 1958

(72 Stat. 339), and to section 202(b) of the act of July 28, 1956 (70 Stat. 709, 711; 48 U.S.C. 46-3(b), and subject to the requirements of said acts and applicable regulations in 43 CFR Part 76, the State of Alaska shall be entitled until 10:00 a.m. on June 4, 1959, to a preferred right of selection of the restored lands except as against prior existing rights, or as against equitable claims subject to allowance and confirmation.

3. In the absence of an exercise by the State of Alaska of its preference rights of selection, the status of the lands described in paragraph 1 of this order shall not be changed until it is so provided by a further order issued by an authorized officer of the Bureau of Land Management opening such lands to disposal under the appropriate public land laws.

ROGER ERNST,

Assistant Secretary of the Interior.

MARCH 6, 1959.

[F.R. Doc. 59-2093; Filed, Mar. 11, 1959; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[Service Order 926]

PART 95—CAR SERVICE

Weatherford, Mineral Wells and Northwestern Railway Co.

At a session of the Interstate Commerce Commission, Division 3, held at its

office in Washington, D.C., on the 5th day of March A.D. 1959.

It appearing that The Weatherford, Mineral Wells and Northwestern Railway Company has asked the right to operate, as yard tracks and sidings, certain right-of-way and trackage of the Gulf, Colorado and Santa Fe Railway Company at Weatherford, Texas. The trackage, 9,056.1 feet, proposed to be operated, is a part of the terminal trackage of the Gulf, Colorado and Santa Fe Railway Company at Weatherford, Texas, on its branch line from Cresson, Texas, to Weatherford, Texas, for which authority to abandon was granted in Finance Docket No. 20373. The Commission is of the opinion that there is need for service over this line of railroad pending decision in Finance Docket No. 20558 and that operation of this line will best promote the service in the interest of the public and the commerce of the people; and that notice and public procedure are impracticable and contrary to the public interest and that good cause exists for making this order effective upon less than thirty days' notice: It is ordered, that:

§ 95.926 Weatherford, Mineral Wells and Northwestern Railroad Company.

(a) *Car service.* The Weatherford, Mineral Wells and Northwestern Railway Company be, and it is hereby, authorized to perform service over certain right-of-way and trackage of the Gulf, Colorado and Santa Fe Railway Company at Weatherford, Texas, consisting of 9,056.1 feet of trackage, a part of the terminal trackage of the Gulf, Colorado

and Santa Fe Railway Company at Weatherford, Texas, on its branch line from Cresson, Texas, to Weatherford, Texas, pending decision in Finance Docket No. 20558, in order to serve the public and the commerce of the people.

(b) *Application.* The provisions of this section shall apply to intrastate and foreign traffic as well as interstate traffic.

(c) *Effective date.* This order shall become effective at 12:01 a.m., March 6, 1959.

(d) *Expiration date.* The provisions of this section shall expire at 11:59 p.m., September 6, 1959, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

It is further ordered that copies of this order and direction shall be served upon the Railroad Commission of Texas and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; 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, Federal Register Division.

(40 Stat. 101, chap. 23; 41 Stat. 476, sec. 402; 485, sec. 418; 54 Stat. 901, sec. 4; 912, sec. 10; 49 U.S.C. 1(10)-(17), 15(4))

By the Commission, Division 3.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-2103; Filed, Mar. 11, 1959; 8:47 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his re-

quest, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

The regulations set forth in paragraph 1 below are hereby prescribed under subchapter S of chapter 1 of the Internal Revenue Code of 1954. The regulations set forth in paragraph 2 below are hereby prescribed under section 6037 of such Code. Section 1.442-1 of the Income Tax Regulations (26 CFR 1.442-1) is hereby amended as set forth in paragraph 3 below. Except as specifically provided otherwise, these regulations are applicable for taxable years beginning after December 31, 1957.

PARAGRAPH 1. The following regulations are hereby prescribed under subchapter S of chapter 1 of the Internal Revenue Code of 1954:

ELECTION OF CERTAIN SMALL BUSINESS CORPORATIONS AS TO TAXABLE STATUS

- | | |
|----------|--|
| Sec. | |
| 1.1371 | Statutory provisions; definitions. |
| 1.1371-1 | Definition of small business corporation. |
| 1.1371-2 | Definition of electing small business corporation. |
| 1.1372 | Statutory provisions; election by small business corporation. |
| 1.1372-1 | Election by small business corporation. |
| 1.1372-2 | Manner and time for making election and filing shareholders' consent. |
| 1.1372-3 | Shareholders' consent. |
| 1.1372-4 | Termination of election. |
| 1.1372-5 | Election after termination. |
| 1.1373 | Statutory provisions; corporation undistributed taxable income taxed to shareholders. |
| 1.1373-1 | Corporation undistributed taxable income taxed to shareholders. |
| 1.1374 | Statutory provisions; corporation net operating loss allowed to shareholders. |
| 1.1374-1 | Net operating losses involving electing small business corporations. |
| 1.1374-2 | Application with other provisions. |
| 1.1374-3 | Pre-1958 taxable years. |
| 1.1374-4 | Examples. |
| 1.1375 | Statutory provisions; special rules applicable to distributions of electing small business corporations. |

- Sec.
 1.1375-1 Special rules applicable to capital gains.
 1.1375-2 Dividends received exclusion and credit not allowed.
 1.1375-3 Treatment of family groups.
 1.1375-4 Distributions of previously taxed income.
 1.1376 Statutory provisions; adjustment to basis of stock of, and indebtedness owing, shareholders.
 1.1376-1 Adjustment to basis of stock of, and indebtedness to, shareholders.
 1.1376-2 Reduction in basis of stock and indebtedness.
 1.1377 Statutory provisions; special rules applicable to earnings and profits of electing small business corporations.
 1.1377-1 Reduction of earnings and profits for undistributed taxable income.
 1.1377-2 Current earnings and profits not reduced by any amount not allowable as a deduction.
 1.1377-3 Earnings and profits not affected by net operating loss.

ELECTION OF CERTAIN SMALL BUSINESS CORPORATIONS AS TO TAXABLE STATUS

§ 1.1371 Statutory provisions; definitions.

SEC. 1371. *Definitions*—(a) *Small business corporation*. For purposes of this subchapter, the term "small business corporation" means a domestic corporation which is not a member of an affiliated group (as defined in section 1504) and which does not—

- (1) Have more than 10 shareholders;
- (2) Have as a shareholder a person (other than an estate) who is not an individual;
- (3) Have a nonresident alien as a shareholder; and
- (4) Have more than one class of stock.

(b) *Electing small business corporation*. For purposes of this subchapter, the term "electing small business corporation" means, with respect to any taxable year, a small business corporation which has made an election under section 1372(a) which, under section 1372, is in effect for such taxable year.

[Sec. 1371 as added by sec. 64(a), Technical Amendments Act, 1958 (72 Stat. 1650)]

§ 1.1371-1 Definition of small business corporation.

(a) *In general*. For purposes of subchapter S of chapter 1 of the Code and §§ 1.1371 through 1.1377, the term "small business corporation" means a domestic corporation which is not a member of an affiliated group of corporations (as defined in section 1504) and which does not have—

- (1) More than 10 shareholders,
- (2) As a shareholder a person (other than an estate) who is not an individual,
- (3) A nonresident alien as a shareholder, and
- (4) More than one class of stock.

(b) *Domestic corporation*. The term "domestic corporation," as used in section 1371(a), means a corporation as defined in section 7701(a)(3) created or organized in the United States or under the law of the United States or of any State or Territory. The term does not include an unincorporated business enterprise electing to be taxed as a domestic corporation under section 1361.

(c) *Member of an affiliated group*. A corporation which is a member of an affiliated group of corporations, as de-

finied in section 1504, is not a small business corporation, whether or not such affiliated group has ever filed a consolidated return. However, under section 1504(b)(8) an electing small business corporation is excluded from the definition of "includible corporation." Thus, if a corporation which qualifies as a small business corporation under section 1371 makes the election provided in section 1372 and after the date on which the qualifications must be met acquires ownership of 80 percent or more of the voting stock and of each class of non-voting stock of another corporation, it will not be considered a member of an affiliated group and will not cease to be a small business corporation solely by virtue of its subsequent acquisition of the subsidiary corporation.

(d) *Number of shareholders*. A corporation does not qualify as a small business corporation if it has more than 10 shareholders. Ordinarily, the persons who would have to include in gross income dividends distributed with respect to the stock of the corporation are considered to be the shareholders of the corporation. For example, if stock is owned as community property or by tenants in common, joint tenants, or tenants by the entirety, each person having a community interest in such stock and each tenant in common, joint tenant, or tenant by the entirety is generally considered a shareholder. Persons for whom stock in a corporation is held by a nominee, agent, guardian, or custodian will generally be considered shareholders of the corporation. In the case of a voting trust which is not subject to the provisions of subchapter J of chapter 1 of the Code, the beneficial owners (rather than the trust) are considered the shareholders. However, if stock is owned by a trust which is subject to the provisions of subchapter J of chapter 1 of the Code, the trust is considered the shareholder even though the dividends paid to the trust are includible directly in the income of the grantor or some other person under subpart E of such subchapter J, and if stock is owned by a partnership, such partnership and not its partners is considered to be the shareholder.

(e) *Shareholders must be individuals or estates*. A corporation in which any shareholder is a corporation, trust, or partnership does not qualify as a small business corporation. The word "trust" as used in this paragraph means all trusts subject to the provisions of subchapter J of chapter 1 of the Code, including subpart E thereof. Thus, even though the grantor is treated as the owner of all or any part of a trust, the corporation in which such trust is a shareholder does not meet the qualifications of a small business corporation.

(f) *No nonresident alien shareholder*. A corporation having a nonresident alien shareholder does not qualify as a small business corporation.

(g) *Classes of stock*. A corporation having more than one class of stock does not qualify as a small business corporation. In determining whether a corporation has more than one class of stock, only stock which is issued and outstanding is considered. Therefore, treasury stock and unissued stock of a different

class than that held by the shareholders will not disqualify a corporation under section 1371(a)(4). If the outstanding shares of stock of the corporation (including stock which is improperly designated as a debt obligation) are not identical with respect to the rights and interest which they convey in the control, profits, and assets of the corporation, then the corporation is considered to have more than one class of stock. Thus, a difference as to voting rights, dividend rights, or liquidation preferences of outstanding stock will disqualify a corporation. However, if two or more groups of shares are identical in every respect except that each group has the right to elect members of the board of directors in a number proportionate to the number of shares in each group, they are considered one class of stock.

§ 1.1371-2 Definition of electing small business corporation.

Section 1371(b) defines an electing small business corporation in terms of a particular taxable year. If a small business corporation, as defined in section 1371(a), has made an election under section 1372(a), and such election is in effect for the taxable year in question, then the corporation is an electing small business corporation for such taxable year. A corporation is not an electing small business corporation as to a particular taxable year if it was ineligible to make the election or if a termination under section 1372(e) is effective as to such taxable year.

§ 1.1372 Statutory provisions; election by small business corporation.

SEC. 1372. *Election by small business corporation*—(a) *Eligibility*. Except as provided in subsection (f), any small business corporation may elect, in accordance with the provisions of this section, not to be subject to the taxes imposed by this chapter. Such election shall be valid only if all persons who are shareholders in such corporation—

- (1) On the first day of the first taxable year for which such election is effective, if such election is made on or before such first day, or
- (2) On the day on which the election is made, if the election is made after such first day.

consent to such election.

(b) *Effect*. If a small business corporation makes an election under subsection (a), then—

- (1) With respect to the taxable years of the corporation for which such election is in effect, such corporation shall not be subject to the taxes imposed by this chapter and, with respect to such taxable years and all succeeding taxable years, the provisions of section 1377 shall apply to such corporation, and
- (2) With respect to the taxable years of a shareholder of such corporation in which or with which the taxable years of the corporation for which such election is in effect end, the provisions of sections 1373, 1374, and 1375 shall apply to such shareholder, and with respect to such taxable years and all succeeding taxable years, the provisions of section 1376 shall apply to such shareholder.

(c) *Where and how made*—(1) *In general*. An election under subsection (a) may be made by a small business corporation for any taxable year at any time during the first month of such taxable year, or at any time during the month preceding such first month. Such election shall be made in such

manner as the Secretary or his delegate shall prescribe by regulations.

(2) *Taxable years beginning before date of enactment.* An election may be made under subsection (a) by a small business corporation for its first taxable year which begins after December 31, 1957, and on or before the date of the enactment of this subchapter, and ends after such date at any time—

(A) Within the 90-day period beginning on the day after the date of the enactment of this subchapter, or

(B) If its taxable year ends within such 90-day period, before the close of such taxable year.

An election may be made pursuant to this paragraph only if the small business corporation has been a small business corporation (as defined in section 1371(a)) on each day after the date of the enactment of this subchapter and before the day of such election.

(d) *Years for which effective.* An election under subsection (a) shall be effective for the taxable year of the corporation for which it is made and for all succeeding taxable years of the corporation, unless it is terminated, with respect to any such taxable year, under subsection (e).

(e) *Termination—(1) New shareholders.* An election under subsection (a) made by a small business corporation shall terminate if any person who was not a shareholder in such corporation—

(A) On the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

(B) On the day on which the election is made, if such election is made after such first day,

becomes a shareholder in such corporation and does not consent to such election within such time as the Secretary or his delegate shall prescribe by regulations. Such termination shall be effective for the taxable year of the corporation in which such person becomes a shareholder in the corporation and for all succeeding taxable years of the corporation.

(2) *Revocation.* An election under subsection (a) made by a small business corporation may be revoked by it for any taxable year of the corporation after the first taxable year for which the election is effective. An election may be revoked only if all persons who are shareholders in the corporation on the day on which the revocation is made consent to the revocation. A revocation under this paragraph shall be effective—

(A) For the taxable year in which made, if made before the close of the first month of such taxable year,

(B) For the taxable year following the taxable year in which made, if made after the close of such first month, and for all succeeding taxable years of the corporation. Such revocation shall be made in such manner as the Secretary or his delegate shall prescribe by regulations.

(3) *Ceases to be small business corporation.* An election under subsection (a) made by a small business corporation shall terminate if at any time—

(A) After the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

(B) After the day on which the election is made, if such election is made after such first day,

the corporation ceases to be a small business corporation (as defined in section 1371(a)). Such termination shall be effective for the taxable year of the corporation in which the corporation ceases to be a small business corporation and for all succeeding taxable years of the corporation.

(4) *Foreign income.* An election under subsection (a) made by a small business cor-

poration shall terminate if for any taxable year of the corporation for which the election is in effect, such corporation derives more than 80 percent of its gross receipts from sources outside the United States. Such termination shall be effective for the taxable year of the corporation in which it derives more than 80 percent of its gross receipts from sources outside the United States, and for all succeeding taxable years of the corporation.

(5) *Personal holding company income.* An election under subsection (a) made by a small business corporation shall terminate if, for any taxable year of the corporation for which the election is in effect, such corporation has gross receipts more than 20 percent of which is derived from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities (gross receipts from such sales or exchanges being taken into account for purposes of this paragraph only to the extent of gains therefrom). Such termination shall be effective for the taxable year of the corporation in which it has gross receipts of such amount, and for all succeeding taxable years of the corporation.

(f) *Election after termination.* If a small business corporation has made an election under subsection (a) and if such election has been terminated or revoked under subsection (e), such corporation (and any successor corporation) shall not be eligible to make an election under subsection (a) for any taxable year prior to its fifth taxable year which begins after the first taxable year for which such termination or revocation is effective, unless the Secretary or his delegate consents to such election.

[Sec. 1372 as added by sec. 64(a), Technical Amendments Act 1958 (72-Stat. 1650)]

§ 1.1372-1 Election by small business corporation.

(a) *Eligibility.* (1) Under section 1372 an eligible small business corporation may elect not to be subject to the taxes imposed by chapter 1 of the Code. The qualifications of a small business corporation must be met as of the first day of the first taxable year of the corporation for which the election is to be effective and on the date of election, unless the election is made after such first day, in which case the qualifications need not exist prior to the date of election. For example, the existence of a corporate shareholder or a nonresident alien as a shareholder prior to the date of election does not preclude qualification. However, if the election is made for a taxable year beginning before September 3, 1958, the qualifications must be met on such date and on each day after such date and before the date of election. The election by a small business corporation is valid only if all the shareholders in the corporation on the first day of the first taxable year for which the election is to be effective, or on the date of election, whichever is later, consent to such election. See § 1.1372-3, relating to shareholders' consents.

(2) A corporation is not eligible to make an election under section 1372(a) if it is in the process of complete or partial liquidation, if it has adopted a plan of such liquidation, or if it contemplates such liquidation or the adoption of a plan of such liquidation in the near future.

(b) *Effect of election—(1) Effect on corporation.* The effect on a small business corporation of a valid election under

section 1372 is to exempt such corporation from the taxes imposed by chapter 1 of the Code with respect to taxable years of the corporation for which the election is in effect and to subject the corporation with respect to such taxable years and all its subsequent taxable years to section 1377, relating to special rules for computing the earnings and profits of an electing small business corporation.

(2) *Effect on shareholders.* The effect of a valid election by the corporation is to subject the shareholders to the provisions of section 1373 (providing for the taxation of the corporation's undistributed taxable income to the shareholders), section 1374 (allowing the net operating loss of the electing corporation to the shareholders), section 1375 (relating to special rules applicable to distributions of an electing small business corporation), and section 1376 (relating to adjustment to basis of stock of, and indebtedness owing, shareholders). The provisions of sections 1373, 1374, and 1375 apply only to a taxable year of the shareholder affected by the election. Section 1376 applies to such taxable year and all succeeding taxable years of the shareholder. A person who ceased to be a shareholder during the first month of the corporation's taxable year in which a valid election is made, but prior to the date of election, is subject to the provisions of sections 1374, 1375, and 1376 even though such person is not an individual or an estate.

(c) *Other chapter 1 rules applicable.* To the extent that other provisions of chapter 1 of the Code are not inconsistent with those under subchapter S thereof and the regulations thereunder, such provisions will apply with respect to both the electing small business corporation and its shareholders in the same manner that they would apply had no election been made. For example:

(1) Taxable income of an electing small business corporation is computed in the same manner that it would have been had no election been made except as otherwise provided in section 1373(d);

(2) Section 301, relating to distributions of property, applies to distributions of an electing small business corporation in the same manner that it would apply had no election been made.

(3) Sections 302, 303, 304, and 331 are applicable to distributions by an electing small business corporation that are treated as distributions in exchange for stock;

(4) Section 305 applies to distributions by an electing small business corporation of its own stock;

(5) Section 311 applies to distributions by an electing small business corporation;

(6) Except as provided in section 1377, earnings and profits of an electing small business corporation are computed in the same manner that they would have been computed had no election been made;

(7) Section 316, relating to the definition of a dividend, applies to distributions by an electing small business corporation except as provided in section 1375 (d)(1), relating to distributions of previously taxed income (see paragraphs (d) and (e) of § 1.1372-1 for rules re-

lating to allocation of current earnings and profits to distributions during the taxable year); and

(8) Section 341, relating to collapsible corporations, may apply to gain on the sale or exchange of, or a distribution which is in exchange for, stock in an electing small business corporation.

§ 1.1372-2 Manner and time for making election and filing shareholders' consent.

(a) *Manner of making election.* The election of a small business corporation should be made by the corporation by filing Form 2553, containing the information required by such form, and by filing, in the manner provided in § 1.1372-3, a statement of the consent of each shareholder of the corporation. The election form shall be signed by any person who is authorized to sign the return required under section 6037 and shall be filed with the district director with whom such return is to be filed.

(b) *Time of making election—(1) Taxable years beginning on or after September 3, 1958.* For taxable years beginning on or after September 3, 1958, the election shall be filed either (i) during the first month of such taxable year, or (ii) during the month preceding such first month. In the case of a new corporation whose taxable year begins after the first day of a particular month, the term "month" means the period commencing with the beginning of the first day of the taxable year and ending with the close of the day preceding the numerically corresponding day of the succeeding calendar month or, if there is no such corresponding day, with the close of the last day of such succeeding calendar month.

(2) *Taxable years beginning on or before September 2, 1958.* For taxable years beginning on or before September 2, 1958, but after December 31, 1957, and ending after September 2, 1958, the election shall be made on or before December 1, 1958, or on or before the last day of the corporation's taxable year, whichever is earlier. An election for such taxable year may be made, however, only if the corporation has been a small business corporation on each day after September 2, 1958, and before the date of election.

(3) *Election prior to expiration of period.* An election under section 1372(a) which is made prior to the expiration of the period for making the election is binding and may not be withdrawn even though the time within which the election could have been made has not elapsed.

(c) *Years for which election is effective.* An election under section 1372 may be made only with respect to taxable years beginning after December 31, 1957, and ending after September 2, 1958. An election is effective for the entire taxable year of the corporation for which it is made and for all succeeding taxable years of the corporation, unless it is terminated with respect to any taxable year. Thus, the election has a continuing effect and need not be renewed annually, although annual returns of information must be filed under section 6037.

§ 1.1372-2 Shareholders' consent.

(a) *In general.* The consent of a shareholder to an election by a small business corporation shall be in the form of a statement signed by the shareholder in which such shareholder consents to the election of the corporation. Such shareholder's consent is binding and may not be withdrawn after a valid election is made by the corporation. The consent of a minor shall be made by the minor or by his legal guardian, or his natural guardian if no legal guardian has been appointed. The consent of an estate shall be made by the executor or administrator thereof. The statement shall set forth the name and address of the corporation and of the shareholder, the number of shares of stock owned by him, and the date (or dates) on which such stock was acquired. The consents of all shareholders may be incorporated in one statement. The consents of all shareholders shall be attached to the election of the corporation. If the election is made before the first day of the corporation's taxable year for which it is effective, the consents of persons who become shareholders after the date of election and are shareholders on such first day shall be filed with the district director with whom the election was filed as soon as practicable after such first day. Where a consent is filed after the date of election, a copy of the consent shall also be filed with the return required to be filed under section 6037. Except as provided by paragraph (b) of this section, an election under section 1372 will not be valid if any of the consents are filed after the last day prescribed for making the election. However, an election timely filed on or before December 1, 1958, and which would be valid but for the fact that a consent was timely filed by only one of the spouses in a community-property State, will not be invalid solely by virtue of the failure of both spouses to consent, provided a consent is filed by the other spouse on or before February 2, 1959.

(b) *New shareholders.* If a person becomes a shareholder of an electing small business corporation after the first day of the taxable year for which the election is effective, or after the day on which the election is made (if such day is later than the first day of the taxable year), the consent of such shareholder shall be made in a statement filed (with the district director with whom the election is filed) within the period of 30 days beginning with the day on which such person becomes a new shareholder. A copy of such consent should be furnished to the corporation by the new shareholder. If the new shareholder is an estate, the 30-day period shall not begin until the executor or administrator has been appointed, but in no event shall such period begin later than 30 days following the close of the corporation's taxable year in which the estate became a shareholder. The statement of consent shall set forth the name and address of the corporation and of such new shareholder, the number of shares of stock owned by such shareholder, the date on which such shares were acquired, and the name and address of each person

from whom such shares were acquired. A copy of the consent of such new shareholder shall be filed with the return required to be filed under section 6037 for the taxable year to which such consent applies. For the effect of the failure of a new shareholder to consent, see paragraph (b) (1) of § 1.1372-4.

§ 1.1372-4 Termination of election.

(a) *In general.* An election under section 1372(a) can be terminated in any one of the five ways described in section 1372(e) (1) through (5) and paragraph (b) of this section. For years affected by termination, see paragraph (c) of this section.

(b) *Methods of termination—(1) Failure of new shareholder to consent.* An election under section 1372(a) shall terminate if any person who was not a shareholder on the first day of the first taxable year for which the election is effective, or on the day on which the election is made (if such day is later than the first day of the taxable year), becomes a shareholder and does not consent to the election under section 1372(a) within the time prescribed by paragraph (b) of § 1.1372-3. In the event of a termination caused by the failure of a new shareholder to consent to the election within the required time, the corporation shall notify the district director with whom the election under section 1372(a) was filed.

(2) *Revocation.* An election under section 1372(a) may be revoked by the corporation for any taxable year of the corporation after the first taxable year for which the election is effective. A revocation can be made only with the consent of all the persons who are shareholders at the beginning of the day of revocation. Such revocation shall be made by the corporation by filing a statement that the corporation revokes the election made under section 1372(a), which statement shall indicate the first taxable year of the corporation for which the revocation is intended to be effective. The statement shall be signed by any person authorized to sign the return of the corporation under section 6037 and shall be filed with the district director with whom the election was filed. In addition, there shall be attached to the statement of revocation a statement of consent, signed by each person who is a shareholder of the corporation at the beginning of the day on which such statement of revocation is filed, in which each such shareholder consents to the revocation by the corporation of the election under section 1372(a). For the time within which a revocation must be made to be effective for a particular taxable year of the corporation, see paragraph (c) of this section.

(3) *Ceases to be small business corporation.* An election under section 1372(a) terminates if at any time after the first day of the first taxable year of the corporation for which the election is effective, or after the day on which the election is made (if such day is later than the first day of the taxable year), the corporation ceases to be a small business corporation as defined in section 1371(a). Thus, the election is terminated if an eleventh person, a nonresident alien, or a

trust, partnership, or corporation becomes a shareholder, or if another class of stock is issued by the corporation. In the event of a termination under this subparagraph the corporation shall immediately notify the district director with whom the election under section 1372(a) was filed. Such notification shall set forth the cause of the termination and the date thereof. In addition, if the termination was caused by the transfer of stock to an eleventh shareholder, to a nonresident alien, or to a trust, partnership, or corporation, the notification shall specify the number of shares transferred to such person, the name of such person (or in the case of a trust the names of the trustees and beneficiaries), and the name of the shareholder who transferred such stock to such person. If the termination was caused by the issuance of a second class of stock, the notification shall indicate the number of shares of such new class issued and shall describe the differentiating characteristics of the new class of stock.

(4) *Foreign income.* (i) An election terminates if for any taxable year of the corporation the corporation has gross receipts, more than 80 percent of which are derived from sources outside the United States. For the meaning of the term "gross receipts," see subparagraph (5) (ii) of this paragraph. In determining the source of gross receipts under section 1372(e) (4), the principles of sections 861 through 864, relating to determination of sources of gross income, shall apply.

(ii) The rules of this subparagraph may be illustrated by the following example:

Example. A corporation has gross receipts from the sale of personal property produced (in whole or in part) by the corporation within the United States and sold within a foreign country. An independent factory or production price has not been established as provided in example (1) of paragraph (b) (2) of § 1.863-3. One-half of the gross receipts from the sale of such property shall be apportioned in accordance with the value of the corporation's property within the United States and within the foreign country, the portion attributable to sources within the United States being determined by multiplying such one-half by a fraction the numerator of which consists of the value of the corporation's property within the United States, and the denominator of which consists of the value of the taxpayer's property both within the United States and within the foreign country. The remaining one-half of such gross receipts shall be apportioned in accordance with the gross sales of the corporation within the United States and within the foreign country, the portion attributable to sources within the United States being determined by multiplying such one-half by a fraction the numerator of which consists of the corporation's gross sales for the taxable year within the United States, and the denominator of which consists of the taxpayer's gross sales for the taxable year both within the United States and within the foreign country.

(5) *Personal holding company income*—(1) *In general.* An election shall terminate if for any taxable year of the corporation the corporation has gross receipts more than 20 percent of which is derived from royalties, rents, dividends, interest, annuities, and sales or ex-

changes of stock or securities, as determined in accordance with the rules of this subparagraph.

(ii) *Gross receipts.* (a) The term "gross receipts" as used in section 1372(e) is not synonymous with "gross income". The test under section 1372(e) (4) and (5) shall be made on the basis of total gross receipts, except that, for purposes of section 1372(e) (5), gross receipts from the sales or exchanges of stock or securities shall be taken into account only to the extent of gains therefrom. The term "gross receipts" means the total amount received or accrued under the method of accounting used by the corporation in computing its taxable income. Thus, the total amount of receipts is not reduced by returns and allowances, cost, or deductions. For example, gross receipts will include the total amount received or accrued during the corporation's taxable year from the sale or exchange of any kind of property, from investments, and for services rendered by the corporation. However, gross receipts does not include amounts received in nontaxable sales or exchanges, except to the extent that gain is recognized by the corporation, nor does that term include amounts received as a loan, as a repayment of a loan, as a contribution to capital, or on the issuance by the corporation of its own stock.

(b) The meaning of the term "gross receipts" as used in section 1372(e) (4) and (5) may be further illustrated by the following examples:

Example (1). A corporation on the accrual basis sells property and receives payment partly in money and partly in the form of a note payable at a future time. The amount of the money and the face amount of the note would be considered gross receipts in the taxable year of the sale and would not be reduced by the adjusted basis of the property, the costs of sale, or any other amount.

Example (2). A corporation has a long-term contract as defined in paragraph (a) of § 1.451-3 with respect to which it reports income according to the percentage-of-completion method as described in paragraph (b) (1) of § 1.451-3. The portion of the gross contract price which corresponds to the percentage of the entire contract which has been completed during the taxable year shall be included in gross receipts for such year.

Example (3). A corporation which regularly sells personal property on the installment plan elects to report its taxable income on the installment basis in accordance with section 453. The installment payments actually received in a given taxable year of the corporation shall be included in gross receipts for such year.

(iii) *Royalties.* The term "royalties" as used in section 1372(e) (5) means all royalties, including mineral, oil, and gas royalties (whether or not the aggregate amount of such royalties constitutes 50 percent or more of the gross income of the corporation for the taxable year), and amounts received for the privilege of using patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property. The provisions of sections 631 (b) and (c) and 1235 have no application in determining whether payments with respect to timber, coal, or patents are royalties for purposes of this subdivision. For the definition of

"mineral, oil, or gas royalties" see paragraph (b) (11) (ii) and (iii) of § 1.543-1. For purposes of this subdivision, the gross amount of royalties shall not be reduced by any part of the cost of the rights under which they are received or by any amount allowable as a deduction in computing taxable income.

(iv) *Rents.* The term "rents" as used in section 1372(a) (5) means amounts received for the use of, or right to use, property (whether real or personal) of the corporation, whether or not such amounts constitute 50 percent or more of the gross income of the corporation for the taxable year. The term "rents" does not include payments for the use or occupancy of rooms or other space where significant services are also rendered to the occupant, such as for the use or occupancy of rooms or other quarters in hotels, boarding houses, or apartment houses furnishing hotel services, or in tourist homes, motor courts, or motels. Generally, services are considered rendered to the occupant if they are primarily for his convenience and are other than those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only. The supplying of maid service, for example, constitutes such services; whereas the furnishing of heat and light, the cleaning public entrances, exits, stairways and lobbies, the collection of trash, etc., are not considered as services rendered to the occupant. Payments for the use or occupancy of entire private residences or living quarters in duplex or multiple housing units, of offices in an office building, etc., are generally "rents" under section 1372(a) (5). Payments for the parking of automobiles ordinarily do not constitute rents. Payments for the warehousing of goods or for the use of personal property do not constitute rents if significant services are rendered in connection with such payments.

(v) *Dividends.* The term "dividends" as used in section 1372(e) (5) includes dividends as defined in section 316, amounts required to be included in gross income under section 551 (relating to foreign personal holding company income taxed to United States shareholders), and consent dividends determined as provided in section 565.

(vi) *Interest.* The term "interest" as used in section 1372(e) (5) means any amounts includible in gross income received for the use of money (including tax-exempt interest).

(vii) *Annuities.* The term "annuities" as used in section 1372(e) (5) means the entire amount received as an annuity under an annuity, endowment, or life insurance contract, regardless of whether only part of such amount would be includible in gross income under section 72.

(viii) *Gross receipts from the sale of stock or securities.* For purposes of section 1372(e) (5), gross receipts from the sales or exchanges of stock or securities are taken into account only to the extent of gains therefrom. Thus, the gross receipts from the sale of a particular share of stock will be the excess of the amount realized over the adjusted basis of such share. If the adjusted

basis should equal or exceed the amount realized on the sale or exchange of a certain share of stock, bond, etc., there would be no gross receipts resulting from the sale of such security. Losses on sales or exchanges of stock or securities do not offset gains on the sales or exchanges of other stock or securities for purposes of computing gross receipts from such sales or exchanges. Gross receipts from the sale or exchange of stocks and securities include gains received from such sales or exchanges by a corporation even though such corporation is a regular dealer in stocks and securities. For the meaning of the term "stocks or securities" see paragraph (b) (5) (i) of § 1.543-1.

(c) *Years affected by termination.* The termination of an election resulting from the occurrences described in subparagraph (1), (3), (4), or (5) of paragraph (b) of this section is effective for the taxable year of the corporation in which occur the events causing the termination and for all succeeding taxable years of the corporation. Thus, if an electing small business corporation which is on a calendar year ending December 31, 1960, should issue a second class of stock on December 1, 1960, the election under section 1372(a) would terminate as of January 1, 1960, and the termination would remain in effect for all future years unless and until a new election is made by the corporation. Generally, a termination by revocation described in paragraph (b) (2) of this section is effective for the taxable year in which it is made and for all subsequent taxable years if it is made during the first month of that year. However, a termination by revocation cannot be made effective for the first taxable year of the corporation for which the election is made. If the revocation is not made during the first month of a taxable year, it is effective for the taxable year following the year in which it is made, and for all subsequent years.

§ 1.1372-5 Election after termination.

(a) *In general.* If a corporation has made a valid election and such election has been terminated, such corporation (or any successor corporation) is not eligible to make a new election for any taxable year prior to its fifth taxable year which begins after the first taxable year for which such termination is effective, unless consent to such new election is given by the Commissioner. The burden will be on the corporation to establish that under the relevant facts the commissioner should consent to a new election. The fact that more than 50 percent of the stock in the corporation is owned by persons who did not own any stock in the corporation during the first taxable year for which the termination is applicable will tend to establish that consent should be granted. In the absence of such fact, consent will ordinarily be denied unless it can be shown that the event causing the termination was not reasonably within the control of the corporation or shareholders having a substantial interest in the corporation, and was not part of a plan to terminate the election in which plan such shareholders participated.

(b) *Successor corporation.* The term "successor corporation" as used in section 1372(f) means any corporation—

(1) 50 percent or more of the stock of which is owned, directly or indirectly, by the same persons who, at any time during the first taxable year for which such termination was effective, owned 50 percent or more of the stock of the small business corporation with respect to which the election was terminated, and

(2) (i) Which acquires a substantial portion of the assets of such small business corporation, or

(ii) A substantial portion of the assets of which were assets of such small business corporation.

§ 1.1373 Statutory provisions; corporation undistributed taxable income taxed to shareholders.

Sec. 1373. *Corporation undistributed taxable income taxed to shareholders—(a) General rule.* The undistributed taxable income of an electing small business corporation for any taxable year shall be included in the gross income of the shareholders of such corporation in the manner and to the extent set forth in this section.

(b) *Amount included in gross income.* Each person who is a shareholder of an electing small business corporation on the last day of a taxable year of such corporation shall include in his gross income, for his taxable year in which or with which the taxable year of the corporation ends, the amount he would have received as a dividend, if on such last day there had been distributed pro rata to its shareholders by such corporation an amount equal to the corporation's undistributed taxable income for the corporation's taxable year. For purposes of this chapter, the amount so included shall be treated as an amount distributed as a dividend on the last day of the taxable year of the corporation.

(c) *Undistributed taxable income defined.* For purposes of this section, the term "undistributed taxable income" means taxable income (computed as provided in subsection (d)) minus the amount of money distributed as dividends during the taxable year, to the extent that any such amount is a distribution out of earnings and profits of the taxable year as specified in section 316(a) (2).

(d) *Taxable income.* For purposes of this subchapter, the taxable income of an electing small business corporation shall be determined without regard to—

(1) The deduction allowed by section 172 (relating to net operating loss deduction), and

(2) The deductions allowed by part VIII of subchapter B (other than the deduction allowed by section 248, relating to organization expenditures).

[Sec. 1373 as added by sec. 64(a), Technical Amendments Act 1958 (72 Stat. 1652)]

§ 1.1373-1 Corporation undistributed taxable income taxed to shareholders.

(a) *In general—(1) Inclusion in gross income.* Each person who is a shareholder of an electing small business corporation on the last day of a taxable year of such corporation shall include in his gross income, for his taxable year in which or with which the taxable year of the corporation ends, the amount he would have received as a dividend if on such last day the corporation distributed pro rata to its shareholders an amount of money equal to its undistributed taxable income for the corporation's taxable year. The amount so included in the gross income of the shareholders is treated, for purposes of chapter 1 of

the Code, as if it had been distributed as a dividend on the last day of the corporation's taxable year. See, however, section 1375 for special rules applicable to distributions.

(2) *Shareholders affected by rule of section 1373.* Only those persons who are shareholders of the corporation on the last day of the taxable year of the corporation are required to include in their gross income the amounts specified in section 1373. In determining who are the shareholders of the corporation on the last day of the taxable year for purposes of section 1373, the rules of paragraph (d) of § 1.1371-1 shall apply. If stock is transferred on the last day of the taxable year of the corporation, the transferee (and not the transferor) will be considered the shareholder of such stock for purposes of section 1373. A donee or purchaser of stock in the corporation is not considered a shareholder unless such stock is acquired in a bona fide transaction and the donee or purchaser is the real owner of such stock. The circumstances, not only as of the time of the purported transfer but also during the periods preceding and following it, will be taken into consideration in determining the bona fides of the transfer. Transactions between members of a family will be closely scrutinized.

(b) *Determination of amount included by shareholders.* To determine the amount each shareholder must include in his gross income as provided in paragraph (a) of this section, it is necessary to—

(1) Compute the taxable income of the electing small business corporation for its taxable year in accordance with the provisions of paragraph (c) of this section,

(2) Determine in accordance with paragraph (d) of this section the amount of money distributed as dividends during the taxable year out of earnings and profits of such taxable year,

(3) Subtract the amount determined in subparagraph (2) of this paragraph from the amount computed in subparagraph (1) of this paragraph. The result is the undistributed taxable income for the taxable year,

(4) Determine in accordance with paragraph (e) of this section the amount that would be treated as a dividend to such shareholder if an amount of money equal to such undistributed taxable income were distributed pro rata to the shareholders of the corporation on the last day of the taxable year of the corporation in a distribution which is not in exchange for stock.

(c) *Computation of taxable income.* The taxable income of an electing small business corporation is computed in the same manner as it would be computed if no election had been made, with the following exceptions:

(1) The deduction allowed by section 172 (relating to net operating loss deductions) is disregarded, and

(2) The special corporate deductions allowed by part VIII of subchapter B of chapter 1 of the Code (other than the deduction allowed by section 248, relat-

ing to organization expenditures) are disregarded.

(d) *Determination of dividends in money out of earnings and profits of the taxable year.* In applying section 316(a) to distributions by an electing small business corporation, earnings and profits of the taxable year are first allocated to actual distributions of money made during such taxable year which are not in exchange for stock. Therefore, such distributions of money are dividends from earnings and profits of the taxable year to the extent of such earnings and profits even though there may be distributions of property other than money during such taxable year or constructive distributions pursuant to section 1373(b) at the end of such taxable year. If such distributions of money made during the taxable year exceed the earnings and profits of such year, then that proportion of each such distribution which the total of the earnings and profits of the year bears to the total of such distributions made during the year shall be regarded as out of the earnings and profits of that year. For purposes of section 1373(c) a distribution of money does not include a distribution of an obligation of the corporation or a distribution of property other than money in satisfaction of a dividend declared in money. See section 1377(b) for special rule relating to computation of earnings and profits of an electing small business corporation for any taxable year.

(e) *Dividend resulting from constructive distribution of undistributed taxable income.* The amount which would be treated as a dividend if the undistributed taxable income were distributed on the last day of the taxable year is determined in accordance with section 316. In determining the extent to which distributions of an electing small business corporation are out of earnings and profits of the taxable year, the following rules apply:

(1) Earnings and profits of the taxable year are first allocated to the actual distributions of money described in paragraph (d) of this section.

(2) The excess of such earnings and profits over such actual distributions of money is allocated ratably to the constructive distribution of undistributed taxable income and actual distributions of property other than money (taken into account at fair market value for purposes of this allocation) which are not in exchange for stock, and

(3) The remainder of such earnings and profits is available to be allocated to distributions in exchange for stock of the corporation such as distributions under section 302 or 331.

(f) *When distributions are considered made.* An actual distribution by an electing small business corporation will be considered to be made only at the time it is received by the shareholder, and earnings and profits of such corporation shall not be reduced with respect to such distribution before such time.

(g) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). An electing small business corporation has taxable income and current earnings and profits of \$100,000 for its tax-

able year. During that year it distributes \$80,000 in money among its 10 equal shareholders. The \$8,000 received by each shareholder in that year is included in his gross income (for his taxable year in which it was received) as a dividend from current earnings and profits. The undistributed taxable income of the corporation for the taxable year is \$20,000 (\$100,000 minus \$80,000 dividends in money). Since each shareholder would have received a dividend of \$2,000 if the undistributed taxable income had been distributed pro rata, that amount must be included as a dividend in the gross income of each shareholder for his taxable year in which or with which the taxable year of the corporation ends.

Example (2). Assume the same facts as in example (1) except that the corporation has only \$70,000 of taxable income. The difference between taxable income and current earnings and profits of \$100,000 is attributable to the fact that certain deductions allowable in computing taxable income (such as percentage depletion in excess of cost depletion) do not decrease earnings and profits. The distributions of \$80,000 during the taxable year are still included as dividends in the gross income of the shareholders since they are distributions out of earnings and profits. However, there is no amount to be included under section 1373(b) since the corporation has no undistributed taxable income for the taxable year.

Example (3). An electing small business corporation has taxable income and earnings and profits of \$10,000 for its taxable year. The corporation has no accumulated earnings and profits as of the beginning of the taxable year. During the taxable year it distributes property other than money with a basis of \$10,000 and a fair market value of \$20,000. The undistributed taxable income of the corporation is \$10,000 since the property distribution does not reduce taxable income for purposes of that computation. However, the current earnings and profits are allocated ratably to the constructive distribution of undistributed taxable income and the distribution of property, taken into account at fair market value; that is, \$3,333 to the constructive distribution and \$6,667 to the distribution of property. Therefore, although undistributed taxable income is \$10,000, only \$3,333 would be treated as a dividend on a distribution of undistributed taxable income, and that is the amount the shareholders include pro rata in gross income pursuant to section 1373(b). The distribution of property is a dividend only to the extent of \$6,667.

Example (4). Assume the facts are the same as in example (3) except that the corporation has accumulated earnings and profits of \$20,000 as of the beginning of the taxable year. The \$20,000 accumulated earnings and profits at the beginning of the taxable year are sufficient to cover that portion of the distribution of property which is not out of current earnings and profits (\$13,333) and that portion of the constructive distribution which is not out of current earnings and profits (\$6,667). Therefore, both distributions will be fully taxable as dividends.

Example (5). An electing small business corporation has taxable income and current earnings and profits of \$100,000 for the taxable year. There are no accumulated earnings and profits as of the beginning of the taxable year. During the taxable year the corporation distributes \$50,000 in a redemption that qualifies under section 302(a). The undistributed taxable income of the corporation is \$100,000. Since the current earnings and profits of \$100,000 are first allocated to the constructive distribution of \$100,000, that amount is includible in the gross income of the persons who were shareholders on the last day of the taxable year.

Example (6). Corporation X of which A and B are each 50-percent shareholders has been an electing small business corporation for several years. Shortly before its taxable year 1962, corporation X adopts a plan of complete liquidation. During 1962 it has \$3,000 of taxable income and earnings and profits. The only distributions made during 1962 are distributions in liquidation. The final distribution is made on October 15, 1962, after which corporation X retains no assets and is no longer in existence for tax purposes. Corporation X has \$3,000 of undistributed taxable income for its taxable year ended October 15, 1962, and A and B must each include \$1,500 for his taxable year in which ends the taxable year of corporation X. Under section 1376(a), A and B both increase the basis of their respective shares in corporation X by \$1,500, and this increase is taken into account in determining gain or loss on the liquidation of corporation X.

§ 1.1374 Statutory provisions; corporation net operating loss allowed to shareholders.

Sec. 1374. Corporation net operating loss allowed to shareholders—(a) General rule. A net operating loss of an electing small business corporation for any taxable year shall be allowed as a deduction from gross income of the shareholders of such corporation in the manner and to the extent set forth in this section.

(b) *Allowance of deduction.* Each person who is a shareholder of an electing small business corporation at any time during a taxable year of the corporation in which it has a net operating loss shall be allowed as a deduction from gross income, for his taxable year in which or with which the taxable year of the corporation ends, an amount equal to his portion of the corporation's net operating loss (as determined under subsection (c)).

(c) *Determination of shareholder's portion—(1) In general.* For purposes of this section, a shareholder's portion of the net operating loss of an electing small business corporation is his pro rata share of the corporation's net operating loss (computed as provided in section 172(c), except that the deductions provided in part VIII (except section 248) of subchapter B shall not be allowed) for his taxable year in which or with which the taxable year of the corporation ends. For purposes of this paragraph, a shareholder's pro rata share of the corporation's net operating loss is the sum of the portions of the corporation's daily net operating loss attributable on a pro rata basis to the shares held by him on each day of the taxable year. For purposes of the preceding sentence, the corporation's daily net operating loss is the corporation's net operating loss divided by the number of days in the taxable year.

(2) *Limitation.* A shareholder's portion of the net operating loss of an electing small business corporation for any taxable year shall not exceed the sum of—

(A) The adjusted basis (determined without regard to any adjustment under section 1376 for the taxable year) of the shareholder's stock in the electing small business corporation, determined as of the close of the taxable year of the corporation (or, in respect of stock sold or otherwise disposed of during such taxable year, as of the day before the day of such sale or other disposition), and

(B) The adjusted basis (determined without regard to any adjustment under section 1376 for the taxable year) of any indebtedness of the corporation to the shareholder, determined as of the close of the taxable year of the corporation (or, if the shareholder is not a shareholder as of the close of such taxable year, as of the close of the last day in such taxable year on which the shareholder was a shareholder in the corporation).

(d) *Application with other provisions—*
 (1) *In general.* The deduction allowed by subsection (b) shall, for purposes of this chapter, be considered as a deduction, attributable to a trade or business carried on by the shareholder.

(2) *Adjustment of net operating loss carrybacks and carryovers of shareholders.* For purposes of determining, under section 172, the net operating loss carrybacks to taxable years beginning before January 1, 1958, from a taxable year of the shareholder for which he is allowed a deduction under subsection (b), such deduction shall be disregarded in determining the net operating loss for such taxable year. In the case of a net operating loss for a taxable year in which a shareholder is allowed a deduction under subsection (b), the determination of the portion of such loss which may be carried to subsequent years shall be made without regard to the preceding sentence and in accordance with section 172(b)(2), but the sum of the taxable incomes for taxable years beginning before January 1, 1958, shall be deemed not to exceed the amount of the net operating loss determined with the application of the preceding sentence.

[Sec. 1374 as added by sec. 64(a), Technical Amendments Act 1958 (72 Stat. 1653)].

§ 1.1374-1 Net operating losses involving electing small business corporations.

(a) *Deduction not allowed to corporation.* Under section 1373(d), an electing small business corporation is not allowed a deduction for a net operating loss. Under section 172(h), a net operating loss sustained in taxable years in which a corporation is an electing small business corporation is disregarded in computing the net operating loss deduction of the corporation for taxable years in which it is not an electing small business corporation. In applying section 172(b)(1) and (2) to a net operating loss sustained in a taxable year in which the corporation was not an electing small business corporation, a taxable year in which the corporation was an electing small business corporation is counted as a taxable year to which such net operating loss is carried back or over. However, the taxable income for such year as determined under section 172(b)(2) is treated as if it were zero for purposes of computing the balance of the loss available to the corporation as a carryback or carryover to other taxable years in which the corporation is not an electing small business corporation.

(b) *Deduction allowed to shareholders—*(1) *In general.* Under section 1374(a), the net operating loss of an electing small business corporation is allowed as a deduction from gross income of the shareholders of such corporation. Each person who is a shareholder in such corporation at any time during a taxable year of the corporation in which a net operating loss is sustained by the corporation is entitled to a deduction for his pro rata share of such loss. The net operating loss of an electing small business corporation for any taxable year is computed as provided in section 172(c), except that the deductions provided in part VIII of subchapter B of chapter 1 of the Code (except section 248) are not allowed.

(2) *Year of shareholder in which deduction allowable.* The deduction al-

lowed shareholders by section 1374(b) is a deduction for the taxable year of the shareholder in which or with which the taxable year of the corporation ends. Therefore, if a shareholder dies before the end of the taxable year of the corporation, neither he nor any other person is entitled to a deduction for his pro rata share of the corporation's net operating loss for such taxable year.

(3) *Pro rata share.* A shareholder's pro rata share of the net operating loss of an electing small business corporation is computed as follows:

(i) Divide the corporation's net operating loss by the number of days in the taxable year of the corporation, thus determining the daily net operating loss of the corporation.

(ii) Determine for each day the shareholder's portion of such daily net operating loss by applying to such loss the ratio which the stock owned by the shareholder on that day bears to the total stock outstanding on that day.

(iii) Total the shareholder's daily portions of such daily net operating loss of the corporation for its taxable year.

For purposes of the rule in this subparagraph, shares of stock which are transferred during the year are considered to be held by the transferee (and not the transferor) as of the day of the transfer.

(4) *Limitation on deduction—*(i) *In general.* Under section 1374(c)(2), the amount of the net operating loss of the electing small business corporation for any taxable year which may be deducted by any shareholder under section 1374(c)(1) shall not exceed the sum of:

(a) The adjusted basis of the shareholder's stock in the electing small business corporation, and

(b) The adjusted basis of any indebtedness of the corporation to the shareholder.

(ii) *Time for determining basis of stock and indebtedness.* The adjusted basis of the stock of, or indebtedness to, the shareholder for purposes of subdivision (i) of this subparagraph is determined as of the close of the taxable year of the corporation, except that—

(a) The adjusted basis of stock which is sold or otherwise disposed of during the taxable year of the corporation is determined as of the close of the day before the day of such sale or other disposition, and

(b) If the shareholder is not a shareholder as of the close of the taxable year of the corporation, the adjusted basis of any indebtedness of the corporation to the shareholder is determined as of the close of the last day in such taxable year on which he was a shareholder.

(iii) *Computation of basis of stock and indebtedness.* In computing the adjusted basis of stock and indebtedness for purposes of determining how much of a net operating loss may be deducted by a shareholder, any decrease in basis required by section 1376(b) because of such loss shall be disregarded. However, adjustments to the basis of stock and indebtedness under section 1376 for prior years are to be considered.

§ 1.1374-2 Application with other provisions.

The deduction allowed shareholders by section 1374 shall, for purposes of chapter 1 of the Code, be considered as a deduction attributable to a trade or business carried on by the shareholder. Thus, it is allowable in computing adjusted gross income, and is not subject to the limitations of section 172(d)(4) (relating to nonbusiness deductions) in computing the net operating loss of a shareholder. Also, it is a deduction of the type on which a limitation may be imposed under section 270 (relating to "hobby losses"),

§ 1.1374-3 Pre-1958 taxable years.

The deduction allowed by section 1374(b) is disregarded in determining the amount of the shareholder's net operating loss for purposes of determining the net operating loss carrybacks to taxable years beginning prior to January 1, 1958. The deduction is to be given effect, however, in computing the amount of the shareholder's net operating loss for purposes of carrying the same over or back to any year other than a year beginning prior to January 1, 1958. For purposes of determining the amount of the net operating loss which may be carried to such years, the loss shall not be diminished by taxable income for years beginning before January 1, 1958, except to the extent that it was allowed to offset income of those years.

§ 1.1374-4 Examples.

The operation of section 1374 may be illustrated by the following examples:

Example (1). Corporation X, an electing small business corporation, has a net operating loss of \$10,000 for its taxable year ending December 31, 1960. At all times during its taxable year 1960 the corporation had as shareholders the same 10 individuals, each of whom owned one-tenth of the stock on each day of the corporation's taxable year. As a result of the corporation's net operating loss, each of the 10 shareholders has a \$1,000 deduction for his taxable year in which or with which the taxable year of the corporation ends, assuming that such amount does not exceed the limitation of section 1374(c)(2).

Example (2). Assume the same facts as in example (1) except that A, one of the shareholders of the corporation, sells his stock to B on July 2, 1960, and B holds the stock for the remainder of the year. A and B would each have a \$500 deduction resulting from the corporation's net operating loss, assuming that such amount does not exceed the limitation of section 1374(c)(2). If A's taxable year ends November 30, 1960, the \$500 item will be a deduction in his taxable year ending November 30, 1961. See paragraph (a) of § 1.1376-2 for rule requiring A to reduce basis of his stock in determining gain or loss on the sale to B.

Example (3). B is entitled under section 1374 to a deduction in his taxable year 1958 of \$6,000 as his share of the net operating loss of an electing small business corporation. During 1958 he has a net operating loss, computed without regard to such \$6,000 deduction, of \$20,000. In each of his taxable years 1955, 1956, and 1957, he had taxable income of \$9,000. In each of his taxable years 1959 and 1960 he had taxable income of \$3,000. Under section 1374(d)(2), the net operating loss carryback from 1958 to 1955, 1956, and 1957 does not include the \$6,000 deduction resulting from the loss of the small business corporation, so that there is \$7,000

of taxable income remaining in the year 1957 after the carryback. For purposes of carrying the 1958 net operating loss forward to 1959 and 1960, the \$6,000 amount is included in the net operating loss, and is not reduced by taxable income of years prior to 1958. Therefore, the taxable income for the taxable years 1959 and 1960 is reduced to zero by the carryover.

§ 1.1375 Statutory provisions; special rules applicable to distributions of electing small business corporations.

SEC. 1375. *Special rules applicable to distributions of electing small business corporations*—(a) *Capital gains*—(1) *Treatment in hands of shareholders.* The amount includible in the gross income of a shareholder as dividends (including amounts treated as dividends under section 1373(b)) from an electing small business corporation during any taxable year of the corporation, to the extent that such amount is a distribution of property out of earnings and profits of the taxable year as specified in section 316(a)(2), shall be treated as a long-term capital gain to the extent of the shareholder's pro rata share of the excess of the corporation's net long-term capital gain over its net short-term capital loss for such taxable year. For purposes of this paragraph, such excess shall be deemed not to exceed the corporation's taxable income computed as provided in section 1373(d) for the taxable year.

(2) *Determination of shareholder's pro rata share.* A shareholder's pro rata share of such excess for any taxable year shall be an amount which bears the same ratio to such excess as the amount of dividends described in paragraph (1) includible in the shareholder's gross income bears to the entire amount of dividends described in paragraph (1) includible in the gross income of all shareholders.

(b) *Dividends received credit not allowed.* The amount includible in the gross income of a shareholder as dividends from an electing small business corporation during any taxable year of the corporation (including any amount treated as a dividend under section 1373(b)) shall not be considered a dividend for purposes of section 34, section 37, or section 116 to the extent that such amount is a distribution of property out of earnings and profits of the taxable year as specified in section 316(a)(2). For purposes of this subsection, the earnings and profits of the taxable year shall be deemed not to exceed the corporation's taxable income (computed as provided in section 1373(d)) for the taxable year.

(c) *Treatment of family groups.* Any dividend received by a shareholder from an electing small business corporation (including any amount treated as a dividend under section 1373(b)) may be apportioned or allocated by the Secretary or his delegate between or among shareholders of such corporation who are members of such shareholder's family (as defined in section 704(e)(3)), if he determines that such apportionment or allocation is necessary in order to reflect the value of services rendered to the corporation by such shareholders.

(d) *Distributions of undistributed taxable income previously taxed to shareholders*—(1) *Distributions not considered as dividends.* An electing small business corporation may distribute, in accordance with regulations prescribed by the Secretary or his delegate, to any shareholder all or any portion of the shareholder's net share of the corporation's undistributed taxable income for taxable years prior to the taxable year in which such distribution is made. Any such distribution shall, for purposes of this chapter, be considered a distribution which is not a dividend, but the earnings and profits of the corporation shall not be reduced by reason of any such distribution.

(2) *Shareholder's net share of undistributed taxable income.* For purposes of this subsection, a shareholder's net share of the undistributed taxable income of an electing small business corporation is an amount equal to—

(A) The sum of the amounts included in the gross income of the shareholder under section 1373(b) for all prior taxable years (excluding any taxable year to which the provisions of this section do not apply and all taxable years preceding such year), reduced by

(B) The sum of—

(i) The amounts allowable under section 1374(b) as a deduction from gross income of the shareholder for all prior taxable years (excluding any taxable year to which the provisions of this section do not apply and all taxable years preceding such year), and

(ii) All amounts previously distributed during the taxable year and all prior taxable years (excluding any taxable year to which the provisions of this section do not apply and all taxable years preceding such year) to the shareholder which under paragraph (1) were considered distributions which were not dividends.

[Sec. 1375 as added by sec. 64(a), Technical Amendments Act 1958 (72 Stat. 1654)]

§ 1.1375-1 Special rules applicable to capital gains.

(a) *In general.* The amount includible by a shareholder in gross income as dividends received from an electing small business corporation during any taxable year of such corporation shall be treated as long-term capital gain to the extent, if any, of such shareholder's pro rata share of the excess of the corporation's net long-term capital gain over its net short-term capital loss for such taxable year. For this purpose such excess shall not exceed the taxable income (as defined in section 1373(d)) of the corporation for the taxable year. This capital gain treatment applies both to actual distributions of dividends and to amounts treated as dividends pursuant to section 1373(b); however, it applies only to the extent that a dividend is out of earnings and profits of the current taxable year of the corporation.

(b) *Determination of pro rata share.* To compute a shareholder's pro rata share of capital gain it is necessary to determine—

(1) The excess of the corporation's long-term capital gain over its short-term capital loss for the taxable year;

(2) The corporation's taxable income (as defined in section 1373(d)) for the taxable year;

(3) The amount of dividends from earnings and profits of the current taxable year included in such shareholder's gross income, determined in accordance with paragraphs (d) and (e) of § 1.1373-1; and

(4) The amount of dividends from earnings and profits of the current taxable year included in the gross income of all shareholders of the corporation during such taxable year.

The pro rata share is the amount which bears the same ratio to the lesser of the amounts determined in subparagraphs (1) and (2) of this paragraph as the amount determined in subparagraph (3) of this paragraph bears to the amount determined in subparagraph (4) of this paragraph.

(c) *Allocation of capital gains to various distributions.* If distributions of dividends (including amounts treated as dividends under section 1372(b)) out of the earnings and profits of the taxable year of an electing small business corporation are made to a shareholder at different times during the corporation's taxable year, the amount treated as capital gain to the shareholder pursuant to section 1375(a) shall be allocated ratably to the various distributions of such dividends. Thus, if the taxable year of the corporation includes portions of two taxable years of the shareholder, and in both of such years of the shareholder there are distributions treated as dividends out of earnings and profits of the corporation's taxable year, part of the capital gain is allocated to the earlier taxable year of the shareholder and part to the later taxable year.

(d) *Level for determining character of gain.* Ordinarily, for purposes of determining whether gain on the sale or exchange of an asset by an electing small business corporation is capital gain, the character of the asset is determined at the corporate level. However, if an electing small business corporation is availed of by any shareholder or group of shareholders owning a substantial portion of the stock of such corporation for the purpose of selling property which in the hands of such shareholder or shareholders would not have been an asset, gain from the sale of which would be capital gain, then the gain on the sale of such property by the corporation shall not be treated as a capital gain. For this purpose, in determining the character of the asset in the hands of the shareholder, the activities of other electing small business corporations in which he is a shareholder shall be taken into consideration.

(e) *Examples.* The application of this section may be illustrated by the following examples:—

Example (1). An electing small business corporation which has three equal shareholders has net long-term capital gain in excess of net short-term capital loss of \$9,000 for its taxable year 1959. In that year it has taxable income (as defined in section 1373(d)) and current earnings and profits in excess of \$9,000, but makes no distributions. Of the undistributed taxable income includible in the gross income of each of the three shareholders pursuant to section 1373(b) as dividends deemed received, \$3,000 is treated as long-term capital gain.

Example (2). An electing small business corporation which has four equal shareholders has taxable income (as defined in section 1373(d)) and current earnings and profits of \$80,000 for the taxable year. It has an excess of \$100,000 of net long-term capital gain over net short-term capital loss for the taxable year. The corporation distributes \$100,000 in money during the taxable year, \$25,000 to each shareholder, all of which is treated as a dividend since the corporation had a substantial amount of accumulated earnings and profits at the beginning of the taxable year. However, since the amount which will be treated as long-term capital gain in the hands of the shareholders cannot exceed the corporation's taxable income for the taxable year, and is limited to distributions out of earnings and profits of the taxable year, the amount which can be treated as a long-term capital gain by each shareholder is \$20,000.

Example (3). An electing small business corporation on the calendar year has two equal shareholders on fiscal years ending June 30. For the taxable year 1959 the corporation has taxable income and current earnings and profits of \$200,000 (including a long-term capital gain of \$80,000). The corporation distributes cash dividends of \$75,000 to each of its shareholders on March 15, 1959, and \$25,000 to each on September 15, 1959. Each shareholder's pro rata share of the corporation's capital gain is \$40,000 ($\frac{1}{2}$ of \$80,000). Of this share of the capital gain, \$30,000 ($\frac{\$75,000}{\$100,000} \times \$40,000$) is includible by each shareholder in his taxable year ending June 30, 1959, and \$10,000 thereof in his taxable year ended June 30, 1960.

§ 1.1375-2 Dividends received exclusion and credit not allowed.

(a) *In general.* Under section 1375 (b), the amounts includible in the gross income of a shareholder as dividends from an electing small business corporation (including amounts treated as dividends under section 1373 (b)) are not considered dividends for purposes of section 34 (dividends received credit), section 37 (retirement income credit), and section 116 (partial dividends exclusion) to the extent that such amounts are distributions out of the earnings and profits of the taxable year. For purposes of the preceding sentence, the earnings and profits of the taxable year are deemed not to exceed the corporation's taxable income (as defined in section 1373 (d)). For rules as to the allocation of the earnings and profits of the taxable year to distributions made during the year, see paragraphs (d) and (e) of § 1.1373-1.

(b) *Examples.* The following examples illustrate the application of section 1375 (b) and paragraph (a) of this section:

Example (1). An electing small business corporation has taxable income (as defined in section 1373 (d)) and earnings and profits of \$10,000 for the taxable year and accumulated earnings and profits of \$20,000 at the beginning of the taxable year. During the taxable year the corporation distributes a dividend of \$15,000 in money. Of the amount distributed, \$10,000 is not entitled to the dividends received exclusion under section 116 or the credits under section 34 or 37, since it is paid out of the earnings and profits of the corporation's taxable year. The \$5,000 paid out of accumulated earnings and profits is considered a dividend for purposes of the exclusion and credits.

Example (2). Assume the same facts as in example (1), except that the taxable income for the taxable year is \$9,000 and the corporation also received \$1,000 of tax-exempt interest on certain governmental obligations. Of the \$15,000 distributed, only \$9,000 would not be considered a dividend for purposes of the dividends received exclusion under section 116 or the credits under section 34 or 37, since, for purposes of section 1375 (b), the earnings and profits for the taxable year are deemed not to exceed taxable income (as defined in section 1373 (d)).

§ 1.1375-3 Treatment of family groups.

(a) *In general.* Pursuant to section 1375 (c) any dividend received by a shareholder from an electing small business corporation (including any amount treated as a dividend under section 1373 (b)) may be apportioned or allocated by the district director between or among shareholders of such corporation

who are members of such shareholder's family, if he determines that such apportionment or allocation is necessary in order to reflect the value of services rendered to the corporation by such shareholders. In determining the value of services rendered by a shareholder, consideration shall be given to all the facts and circumstances of the business, including the managerial responsibilities of the shareholder, and the amount that would ordinarily be paid in order to obtain comparable services from a person not having an interest in the corporation. The taxable income of the corporation shall be neither increased nor decreased because of the reallocation of dividends under section 1375 (c). The amount reallocated shall be considered a dividend to the shareholder to whom it is reallocated.

(b) *Family defined.* For purposes of section 1375 (c), the family of an individual shall include only his spouse, ancestors, and lineal descendants.

(c) *Example.* The provisions of section 1375 (c) may be illustrated by the following example:

Example. The stock of an electing small business corporation is owned 50 percent by F and 50 percent by S, a minor son of F. For the taxable year the corporation has \$80,000 of taxable income and earnings and profits. During the year the corporation distributes dividends (including amounts treated as dividends under section 1373 (b)) of \$35,000 to F and \$35,000 to S. Compensation of \$10,000 is paid by the corporation to F for services rendered during the year, and no compensation is paid to S, who rendered no services. Based on the relevant facts, a reasonable compensation for the services rendered by F would be \$30,000. In the discretion of the district director, up to \$10,000 of the \$25,000 dividend received by S may, for tax purposes, be allocated to F.

(d) *Effect of waiver of dividends resulting in disproportionate distributions among members of family.* If a non-pro rata distribution of dividends is made to members of a family group, the member of such group who receives less than his pro rata share of such distribution will be deemed to have waived his right to dividends to the extent that his distribution is less than his pro rata share, unless he can establish that the distribution was made disproportionately without his consent. In the case of such a waiver, the amount distributed to members of the family group shall be reallocated among all the members of the group in accordance with the number of shares owned by each member.

§ 1.1375-4 Distributions of previously taxed income.

(a) *In general.* Under section 1375 (d) (1), a distribution by an electing small business corporation to a shareholder of all or any portion of his net share of previously taxed income is considered a distribution which is not a dividend. Such a distribution reduces the basis of the shareholder's stock in the corporation in accordance with section 301 (c) (2), and, if it exceeds such basis, is subject to the provisions of section 301 (c) (3). The earnings and profits of the corporations are not reduced by reason of such a distribution. If an election is terminated under section 1372 (e), the corporation may not, during the first taxable year to which the termination applies or during any subsequent taxable year, distribute previously taxed income

of taxable years prior to the termination as a nondividend distribution pursuant to this section.

(b) *Source of distribution.* Except as provided in paragraph (c) of this section, any actual distribution of money by an electing small business corporation to a shareholder which, but for the operation of this section, would be a dividend out of accumulated earnings and profits shall be considered a distribution of previously taxed income to the extent of the shareholder's net share of previously taxed income immediately before the distribution. Thus, a distribution of property other than money or a distribution in exchange for stock, or a constructive distribution under section 1373 (b), is never a distribution of previously taxed income. Since current earnings and profits are first applied to distributions of money which are not in exchange for stock (see paragraphs (d) and (e) of § 1.1373-1), a distribution of previously taxed income may occur only if during its taxable year the corporation makes such money distributions in excess of its earnings and profits for such taxable year.

(c) *Election.* An electing small business corporation may, with the consent of all of its shareholders, elect to treat distributions as out of accumulated earnings and profits rather than as distributions of previously taxed income. Such election must be filed with the return required under section 6037. Such election applies only with respect to distributions made by the corporation during the taxable year to which such return relates.

(d) *Shareholder's net share of previously taxed income.* A shareholder's net share of previously taxed income as of the time of a distribution is—

(1) The sum of the amounts included in the gross income of the shareholder under section 1373 (b) for all of his taxable years ending before the distribution, less

(2) The sum of—

(i) The amounts allowable under section 1374 (b) as a deduction from gross income of the shareholder for all of his taxable years ending before the distribution, and

(ii) The amounts previously distributed to the shareholder during his current taxable year and all of his prior taxable years, which, under section 1375 (d) (1), were not considered dividends.

In computing the sum of the amounts included in gross income under section 1373 (b), only the amount included on the shareholder's income tax return for a prior taxable year is taken into account, unless the shareholder is not required to file a return for such prior taxable year. The amounts allowable under section 1374 (b) as a deduction means all allowable deductions whether or not claimed on the income tax return of the shareholder and whether or not resulting in any tax benefit. If a new election is made subsequent to a termination under section 1372 (e) of a prior election, a shareholder's net share of previously taxed income is determined solely by reference to taxable years which are subject to the new election.

(e) *Benefits not transferable.* A shareholder's right to nondividend distributions under this section is personal and cannot in any manner be transferred to another. If a shareholder transfers part but not all of his stock in an electing small business corporation his net share of previously taxed income is not reduced by reason of the transfer and the transferee does not acquire any part of such net share. If a shareholder transfers all of his stock in an electing small business corporation, any right which he may have had to nondividend treatment upon the receipt of distributions lapses entirely unless he again becomes a shareholder in the corporation while it is subject to the same election.

(f) *Record requirement.* A record of the net share of previously taxed income of each shareholder shall be maintained by the electing small business corporation. In addition, each shareholder of such corporation shall keep a record of his own net share of previously taxed income and shall make such record available to the corporation for its information.

(g) *Examples.* The operation of this section may be illustrated by the following examples:

Example (1). (i) Corporation X, of which A (a calendar year taxpayer) is the sole stockholder is an electing small business corporation for its taxable years ended December 31, 1958, 1959, and 1960. For its taxable year 1958 it has a net operating loss of \$10,000. For its taxable year 1959 it has undistributed taxable income of \$50,000. Assuming that A included in his return the undistributed taxable income for 1959 and assuming that the 1958 net operating loss did not exceed the limitation imposed by section 1374(c)(2), A's net share of previously taxed income as of January 1, 1960, is \$40,000.

(ii) Assume the additional fact that for the taxable year 1960 Corporation X has a net operating loss of \$40,000, which is fully allowable to A as a deduction. This net operating loss does not affect A's share of previously taxed income for purposes of determining the nature of distributions during 1960, since such net share is reduced only by the deductions allowable for taxable years of the shareholder ending before the distribution. However, in computing his net share of previously taxed income for years subsequent to 1960, A must take the \$40,000 deduction for 1960 into account.

(iii) If in 1960, at a time when his net share of previously taxed income is \$40,000, A sold his stock in the corporation to B, who was not previously a shareholder. B's net share of previously taxed income as of the date of purchase would be zero. The result would be the same if, for example, B had received the stock by gift or by bequest from A.

Example (2). Corporation Y, an electing small business corporation, is on a fiscal year ending January 31. C, a shareholder in the corporation, is on a calendar year. For its fiscal year ending January 31, 1960, corporation Y has \$50,000 of undistributed taxable income, half of which is included in C's gross income for his taxable year 1960. The amount so included does not increase C's net share of previously taxed income for purposes of distributions at any time during 1960, since his net share of previously taxed income is increased only by amounts included in gross income for his taxable years ending before the distribution.

Example (3). Corporation Z, an electing small business corporation, has two equal shareholders, A and B (both calendar year

taxpayers), during its taxable year ended December 31, 1960. No election is made under paragraph (c) of this section. As of the beginning of 1960 the corporation has \$20,000 of accumulated earnings and profits. For the taxable year 1960, corporation Z has current earnings and profits and taxable income of \$8,000. In June 1960, it makes money distributions of \$5,000 to A and \$5,000 to B, and in November 1960, it distributes the same amount in money to each. Immediately before the distribution in June, A's net share of previously taxed income was \$6,000 and B's net share was \$4,000. Current earnings and profits are allocated ratably to each of the four distributions. (See paragraphs (d) and (e) of § 1.1373-1.) Therefore, each distribution to A and B is a dividend from current earnings and profits to the extent of \$2,000. As to the June distribution, the \$3,000 distributed to A and B which is not out of current earnings and profits is a distribution of previously taxed income and therefore not a dividend, since immediately before the distribution the net share of each is in excess of \$3,000. As to the November distribution, the \$3,000 distributed to A which is not out of current earnings and profits is a nondividend distribution since his net share of previously taxed income at that date is \$3,000 (\$6,000 less \$3,000 absorbed by the June distribution); however, the \$3,000 distribution to B which is not out of current earnings and profits is a nondividend distribution to the extent of \$1,000 and a dividend from accumulated earnings and profits to the extent of \$2,000, since his net share of previously taxed income at that date is \$1,000 (\$4,000 less \$3,000 absorbed by the June distribution).

Example (4). Corporation N, an electing small business corporation, has current earnings and profits and taxable income of \$30,000 for 1960. As of the beginning of that taxable year it has \$20,000 of accumulated earnings and profits. During the year the corporation distributes \$28,000 in money to its shareholders and makes a distribution of property other than money with a fair market value and basis of \$10,000. Since current earnings and profits are applied first to the distributions of money (see paragraphs (d) and (e) of § 1.1373-1), the entire distribution of \$28,000 is a dividend out of current earnings and profits. In addition, since a distribution of previously taxed income cannot be made in property other than money, the property distribution is a dividend to the full extent of its value, \$10,000, partly from current and partly from accumulated earnings and profits.

§ 1.1376 Statutory provisions; adjustment to basis of stock of, and indebtedness owing, shareholders.

Sec. 1376. Adjustment to basis of stock of, and indebtedness owing, shareholders—(a) Increase in basis of stock for amounts treated as dividends. The basis of a shareholder's stock in an electing small business corporation shall be increased by the amount required to be included in the gross income of such shareholder under section 1373(b), but only to the extent to which such amount is included in his gross income in his return, increased or decreased by any adjustment of such amount in any redetermination of the shareholder's tax liability.

(b) *Reduction in basis of stock and indebtedness for shareholder's portion of corporation net operating loss—(1) Reduction in basis of stock.* The basis of a shareholder's stock in an electing small business corporation shall be reduced (but not below zero) by an amount equal to the amount of his portion of the corporation's net operating loss for any taxable year attributable to such stock (as determined under section 1374(c)).

(2) *Reduction in basis of indebtedness.* The basis of any indebtedness of an electing small business corporation to a shareholder

of such corporation shall be reduced (but not below zero) by an amount equal to the amount of the shareholder's portion of the corporation's net operating loss for any taxable year (as determined under section 1374(c)), but only to the extent that such amount exceeds the adjusted basis of the stock of such corporation held by the shareholder.

[Sec. 1376 as added by sec. 64(a), Technical Amendments Act 1958 (72 Stat. 1655)]

§ 1.1376-1 Adjustment to basis of stock of, and indebtedness to, shareholders.

Increase in basis of stock. Under section 1376(a) the basis of a shareholder's stock in an electing small business corporation is increased by the amount required to be included in the gross income of such shareholder under section 1373(b), but only to the extent to which such amount is actually included in his gross income in his income tax return (unless under section 6012(a)(1) the shareholder is not required to file a return), increased or decreased by any adjustment of such amount in any redetermination of the shareholder's tax liability. The effect of this rule is the same as if, on the last day of the corporation's taxable year, such amount had actually been distributed as a dividend and then reinvested by such shareholder. This increase in basis will affect only those shares of stock of the electing small business corporation which the shareholder owned at the end of the corporation's taxable year and is apportioned in equal amounts to each such share. The increase is effective as of such last day, and survives a termination of the corporation's election. See section 1372(b)(2).

§ 1.1376-2 Reduction in basis of stock and indebtedness.

(a) *Reduction in basis of stock—(1) In general.* Under section 1376(b)(1), the basis of a shareholder's stock in an electing small business corporation is reduced by an amount equal to his portion of the corporation's net operating loss for any taxable year attributable to such stock. However, the basis of such stock is not to be reduced below zero.

(2) *Amount of reduction in basis of individual shares.* (i) The amount of the reduction in the basis of each share of stock shall be that portion of the shareholder's pro rata share of the corporation's net operating loss which is attributable to each such share under the rule in section 1374(c). In the event that the basis reduction applicable to a share of stock under the rule in the preceding sentence exceeds the basis of such share, the excess shall be applied in reduction of the basis of all other shares of stock owned by the same shareholder in proportion to the basis of such shares remaining after the application of the rule in the preceding sentence.

(ii) The application of this subparagraph may be illustrated by the following example:

Example. A's pro rata share of the corporation's net operating loss for the taxable year is \$100. This amount is attributable, under the rule of section 1374(c), to three shares of stock held by A during the taxable year; one of which was owned by him during the entire year and the other two of which were acquired by him in the middle of the

year. The amount of the pro rata share of the loss attributable to each share is as follows:

Share No. 1 (owned for entire year) ..	\$50
Share No. 2 (owned for one-half year) ..	25
Share No. 3 (owned for one-half year) ..	25

The reduction in basis of share No. 1 is \$50, and the reduction in basis of shares No. 2 and No. 3 is \$25 each. Assume that the adjusted basis of the three shares of stock prior to this reduction is as follows:

Share No. 1	\$40
Share No. 2	45
Share No. 3	35

After the reduction in basis by the amount of the loss attributable to each share, the basis of the shares is as follows:

Share No. 1	\$0
Share No. 2	20
Share No. 3	10

The \$10 excess of the basis reduction allocable to share No. 1 over the basis of that share is applied to reduce the basis of shares No. 2 and No. 3 in proportion to their remaining basis. Therefore, \$6.67 of such excess reduces the basis of share No. 2, and \$3.33 of such excess reduces the basis of share No. 3. After this reduction the shares have the following basis:

Share No. 1	\$0
Share No. 2	13.33
Share No. 3	6.67

(3) *Time of reduction.* (i) The reduction in the basis of stock provided under section 1376(b)(1) shall be effective as of the close of the corporation's taxable year in which the net operating loss was incurred as to stock which is held at such time and as of the close of the day before disposition if the stock was disposed of prior to that time.

(ii) The application of this subparagraph may be illustrated by the following example:

Example. Corporation X, an electing small business corporation, is on a calendar year. On June 2, 1960, A, a shareholder in corporation X, sells 50 shares of stock which, without regard to section 1376(b)(1), have a basis of \$10,000. At the end of 1960 it is determined that corporation X has a net operating loss for the year, and \$1,000 of A's pro rata share of such loss is attributable to the 50 shares sold in June. The reduction in basis required by section 1376(b)(1) is effective as of the close of June 1, 1960, the day before the sale, and A's basis for purposes of determining gain or loss on the sale is \$9,000.

(b) *Reduction in basis of indebtedness—(1) In general.* Under section 1376(b)(2), the basis of any indebtedness of an electing small business corporation to a shareholder is reduced by an amount equal to the shareholder's portion of the corporation's net operating loss for the taxable year, but only to the extent that such amount exceeds the basis of the shareholder's stock in the corporation. Thus, the amount of the shareholder's portion of the net operating loss is first applied in reduction of the basis of his stock in accordance with the rules of paragraph (a) of this section, and only the remainder, if any, reduces the basis of the indebtedness.

(2) *Indebtedness affected by basis reduction.* The reduction in the basis of indebtedness provided by section 1376(b)(2) shall apply to the indebtedness to the shareholder as of the close of the

corporation's taxable year in which the net operating loss was incurred if the shareholder held stock in the corporation at such time, or, if the shareholder was not a shareholder at such time, then as of the close of the last day on which he was a shareholder.

(3) *Amount of reduction in basis of more than one indebtedness.* If more than one indebtedness is affected by the basis reduction provided by section 1376(b)(2), the reduction shall be applied to each such indebtedness in proportion to the basis of the various debts.

(4) *Time of reduction.* The reduction in the basis of indebtedness provided by section 1376(b)(2) shall be effective as of the close of the corporation's taxable year in which the net operating loss was incurred if the shareholder held stock in the corporation at that time, or, if the shareholder was not a shareholder at that time, then as of the last day on which he was a shareholder.

§ 1.1377 Statutory provisions; special rules applicable to earnings and profits of electing small business corporation.

SEC. 1377. *Special rules applicable to earnings and profits of electing small business corporations—(a) Reduction for undistributed taxable income.* The accumulated earnings and profits of an electing small business corporation as of the close of its taxable year shall be reduced to the extent that its undistributed taxable income for such year is required to be included in the gross income of the shareholders of such corporation under section 1373(b).

(b) *Current earnings and profits not reduced by any amount not allowable as deduction.* The earnings and profits of an electing small business corporation for any taxable year (but not its accumulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction in computing its taxable income (as provided in section 1373(d)) for such taxable year.

(c) *Earnings and profits not affected by net operating loss.* The earnings and profits and the accumulated earnings and profits of an electing small business corporation shall not be affected by any item of gross income or any deduction taken into account in determining the amount of any net operating loss (computed as provided in section 1374(c)) of such corporation.

[Sec. 1377 as added by sec. 64(a), Technical Amendments Act 1958 (72 Stat. 1656)]

§ 1.1377-1 Reduction of earnings and profits for undistributed taxable income.

Section 1377(a) provides that the accumulated earnings and profits of an electing small business corporation as of the close of its taxable year shall be reduced to the extent that its undistributed taxable income for such year is required to be included in the gross income of shareholders under section 1373(b). See section 1375(d) and paragraph (a) of § 1.1375-4 for the correlative rule that distributions of previously taxed income do not reduce earnings and profits.

§ 1.1377-2 Current earnings and profits not reduced by any amount not allowable as a deduction.

(a)(1) The earnings and profits of an electing small business corporation for any taxable year (but not its accu-

mulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction in computing its taxable income for such taxable year.

(2) The application of this paragraph may be illustrated by the following examples:

Example (1). Corporation X has \$300,000 of accumulated earnings and profits as of the beginning of the taxable year. It would have had earnings and profits of \$400,000 for the taxable year (taking into account a net capital loss of \$100,000, which amount was not deductible in determining its taxable income) but because it is an electing small business corporation it has earnings and profits of \$500,000 for the taxable year. If the corporation makes a dividend distribution during the year in the amount of \$500,000, all of such amount will be considered a distribution of current earnings and profits. However, the corporation will have only \$200,000 of accumulated earnings and profits as of the beginning of the following taxable year.

Example (2). Assume the same facts as in example (1), except that the corporation does not have any accumulated earnings and profits as of the beginning of the taxable year. The entire \$500,000 distribution is a distribution of current earnings and profits. As of the beginning of the year following the taxable year in which the \$500,000 distribution was made, the corporation has neither accumulated earnings and profits nor a deficit in accumulated earnings and profits. It would begin such year with its paid-in capital reduced by \$100,000.

(b) Except as otherwise provided in section 1377, the earnings and profits of the taxable year of an electing small business corporation are computed in the same manner as the earnings and profits of corporations generally. Therefore, such earnings and profits can exceed the taxable income of the corporation, as in the case of a corporation which uses percentage depletion in computing its taxable income or which receives tax-exempt interest on certain governmental obligations.

§ 1.1377-3 Earnings and profits not affected by net operating loss.

(a) Under section 1377(c), the current earnings and profits and the accumulated earnings and profits of an electing small business corporation are not affected by any item of gross income or any deduction taken into account in determining the amount of any net operating loss (computed as provided in section 1374(c)(1)) of such corporation.

(b) The application of this section may be illustrated by the following example:

Example. At the beginning of its calendar year 1960 corporation X, an electing small business corporation, has accumulated earnings and profits of \$50,000. During 1960 the corporation has \$5,000 of gross income and deductible expenses of \$15,000, which produce a \$10,000 net operating loss for the taxable year. If corporation X were not an electing small business corporation, its accumulated earnings and profits as of January 1, 1961, would have been \$40,000. However, since corporation X was an electing small business corporation for 1960, its accumulated earnings and profits are not affected by the income and deductions for 1960, because they are taken into account in determining the net operating loss. Accordingly, the accumulated earnings and profits of corporation X as of January 1, 1961, are \$50,000.

PAR. 2. The following regulations are hereby prescribed under section 6037 of the Internal Revenue Code of 1954:

§ 1.6037 Statutory provisions; return of electing small business corporation.

SEC. 6037. *Return of electing small business corporation.* Every electing small business corporation (as defined in section 1371 (a) (2)) shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the corporation during the taxable year to each shareholder, the date of each such distribution, and such other information, for the purpose of carrying out the provisions of subchapter S of chapter 1, as the Secretary or his delegate may by forms and regulations prescribe. Any return filed pursuant to this section shall, for purposes of chapter 66 (relating to limitations), be treated as a return filed by the corporation under section 6012.

[Sec. 6037 as added by sec. 64(c), Technical Amendments Act, 1958 (72 Stat. 1656)]

§ 1.6037-1 Return of electing small business corporation.

(a) *In general.* Every small business corporation (as defined in section 1371 (a)) which has made an election under section 1372(a) not to be subject to the tax imposed by chapter 1 of the Code shall file, with respect to each taxable year for which the election is in effect, a return of income on Form 1120-S. The return shall set forth the items of gross income and the deductions allowable in computing taxable income as required by the return form or in the instructions issued with respect thereto. The return shall also set forth the following information concerning the electing small business corporation:

- (1) The names and addresses of all persons owning stock in the corporation at any time during the taxable year;
- (2) The number of shares of stock owned by each shareholder at all times during the taxable year;
- (3) The amount of money and other property distributed by the corporation during the taxable year to each shareholder;
- (4) The date of each distribution of money and other property; and
- (5) Such other information as is required by the form or by the instructions issued with respect to such form.

(b) *Time and place for filing return.* The return shall be filed on or before the 15th day of the third month following the close of the taxable year with the district director for the internal revenue district in which the corporation's principal place of business or principal office or agency is located. (See section 6072.)

(c) *Other provisions.* The return on Form 1120-S will be treated as a return filed by the corporation under section 6012, relating to persons required to make returns of income, for purposes of the provisions of chapter 66 of the Code, relating to limitations. Thus, for example, the period of limitation on assessment and collection of any corporate tax found to be due upon a subsequent de-

termination that the corporation was not entitled to the benefits of subchapter S of chapter 1 of the Code will run from the date of filing the return under section 6037, or from the date prescribed for filing such return, whichever is the later.

(d) *Penalties.* For criminal penalties for failure to file a return, supply information, or pay tax, and for filing a false or fraudulent return, statement, or other document, see sections 7203, 7206, and 7207.

PAR. 3. Section 1.442-1 of the Income Tax Regulations (26 CFR 1.442-1) is amended by inserting a principal heading for such section, by revising the heading for paragraph (a), by revising paragraphs (b) (1), (c) (1), and (f), and by inserting paragraph (c) (4), so that such headings and paragraphs under § 1.442-1 will read as follows:

§ 1.442-1 Change of annual accounting period.

(a) *Manner of effecting such change.*

(b) *Prior approval of the Commissioner—(1) In general.* In order to secure prior approval of a change of a taxpayer's annual accounting period, the taxpayer must file an application on Form 1128 with the Commissioner of Internal Revenue, Washington 25, D.C., on or before the last day of the month following the close of the short period for which a return is required to effect the change of accounting period. In general, a change of annual accounting period will be approved where the taxpayer establishes a substantial business purpose for making the change. In determining whether a taxpayer has established a substantial business purpose for making the change, consideration will be given to all the facts and circumstances relating to the change, including the tax consequences resulting therefrom. If the effect of the change is to defer a substantial portion of the taxpayer's income, or to shift a substantial portion of deductions, from one year to another so as to reduce substantially the tax liability of the taxpayer, the change will ordinarily not be approved. Further, approval will ordinarily be denied if the effect of the change is to cause a similar deferral or shifting in the case of another taxpayer, such as a partner, beneficiary, shareholder in an electing small business corporation as defined in section 1371 (b), etc., so as to reduce substantially such other taxpayer's tax liability. In addition, a change will ordinarily not be approved if the short period resulting from the change is one in which there is a net operating loss or, in the case of an electing small business corporation, if a substantial portion of the income of such corporation for the short period consists of amounts treated as long-term capital gain. Among the nontax factors that will be considered in determining whether a substantial business purpose has been established is the effect of the change on the taxpayer's annual cycle of business activity. However, even though a substantial business purpose is not established, the Commissioner in appropriate cases may permit

a husband and wife to change his or her taxable year in order to secure the benefits of section 2 (relating to tax in the case of joint returns). See paragraph (c) of this section for special rule for newly married couples.

* * * * *

(c) *Special rule for certain corporations.* (1) A corporation (other than a corporation to which subparagraph (4) of this paragraph applies) may change its annual accounting period without the prior approval of the Commissioner if all the conditions in subparagraph (2) of this paragraph are met, and if the corporation files a statement with the district director of internal revenue with whom the returns of the corporation are filed at or before the time (including extensions) for filing the return for the short period required by such change. This statement shall indicate that the corporation is changing its annual accounting period under § 1.442-1(c) and shall contain information indicating that all of the conditions in subparagraph (2) of this paragraph have been met.

* * * * *

(4) A corporation which is an electing small business corporation during the short period required to effect the change of annual accounting period may change its taxable year only if it secures the prior approval of the Commissioner in accordance with paragraph (b) (1) of this section. This subparagraph shall apply only if such short period ends after February 28, 1959.

* * * * *

(f) *Effective date.* The provisions of this section (other than paragraphs (c) (4) and (e) thereof) are effective for any change of annual accounting period where the last day of the short period to effect the change ends on or after March 1, 1957, the date the regulations under section 442 are published in the FEDERAL REGISTER.

[F.R. Doc. 59-2102; Filed, Mar. 11, 1959; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 902 I]

[Docket No. AO-293]

MILK IN WASHINGTON, D.C., MARKETING AREA

Notice of Extension of Time for Filing Exceptions to Revised Recommended Decision With Respect to Proposed Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the revised recommended decision with respect to the proposed marketing agreement and order regulating the han-

ding of milk in the Washington, D.C., marketing area, which was issued January 30, 1959 (24 F.R. 767), is hereby extended to March 25, 1959.

Dated: March 9, 1959.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-2125; Filed, Mar. 11, 1959;
8:51 a.m.]

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230 I

ASSESSABLE STOCK

Notice of Proposed Rule Making

On March 5, 1958, the Securities and Exchange Commission published notice of certain proposed rule changes relating to assessable stock. The proposed changes would have made clear that the levying of assessments on assessable stock involves the offering and sale of a security within the meaning of the Securities Act of 1933. The Commission subsequently announced that it was deferring action on the proposed rule changes pending consideration of certain additional proposed rules which would provide a conditional exemption from registration for the levying of limited amounts of assessments on assessable stock. The Commission received numerous helpful comments. Based upon a careful consideration of these comments and a review of the entire matter, these proposals have been somewhat modified in a proposed new regulation which would exempt from registration the levying of assessments and the subsequent sale of securities at auction in accordance with local law and custom in amounts not exceeding \$300,000 in any one year.

The proposed new Rule 136 (§ 230.136), previously published, would define the term "offer", "offer to sell", "offer for sale" and "sale" to include specifically the levying of assessments on assessable stock. To make clear on the face of the rules the Commission's views as to each aspect of the transaction flowing from the levying of an assessment, the proposed rule has been revised to state that the offer or sale of assessable stock at public auction or otherwise, where the holder of such stock has failed to pay an assessment thereon, involves an offer or sale of such stock by the issuer within the meaning of the Act. The revised proposal would also provide that any person who acquires assessable stock at such a forfeiture sale with a view to its distribution is to be deemed an underwriter of the stock. A similar amendment has been proposed to Rule 140 (§ 230.140).

The proposed new exemption regulation (designated Regulation F) would provide a conditional exemption for assessments and for delinquent assessment sales. A condition to the availability of an exemption under the proposed regulation would be the filing of a comparatively simple notification giv-

ing brief information as to the issuer, its management and its recent and proposed assessments. Any notice or advertisement of the assessment or any delinquent assessment sale would have to include or be accompanied by a reasonably detailed statement of the purposes for which the proceeds from the assessment or assessment sales are to be used. Any literature used in connection with the levying of the assessment or the delinquent assessment sales would have to be filed with the Commission. The exemption could be suspended under certain circumstances, such as a finding by the Commission that fraud is involved.

The amended text of proposed new Rule 136 (§ 230.136) and of the proposed amendment of Rule 140 (§ 230.140) is set forth below. The text of the proposed new Regulation F is set forth below (§§ 230.651 to 230.656. The foregoing action is proposed pursuant to the Securities Act of 1933, particularly sections 2(3), 2(11), 3(b), 4(1) and 19(a) thereof.

§ 230.136 Definition of certain terms in relation to assessable stock.

(a) On "offer", "offer to sell" or "offer for sale" of securities shall be deemed to be made to the holders of assessable stock of a corporation when such corporation shall give notice of an assessment to the holders of such assessable stock. A "sale" shall be deemed to occur when a stockholder shall pay or agree to pay all or any part of such an assessment.

(b) The term "transactions by any person other than an issuer, underwriter or dealer" in section 4(1) of the Act shall not be deemed to include the offering or sale of assessable stock, at public auction or otherwise, upon the failure of the holder of such stock to pay an assessment levied thereon by the issuer, where the offer or sale is made for the purpose of realizing the amount of the assessment and the proceeds of such sale are to be received by the issuer. However, any person whose functions are limited to acting as auctioneer at such an auction sale shall not be deemed to be an underwriter of the securities offered or sold at the auction sale. Any person who acquires assessable stock at any such public auction or other sale with a view to the distribution thereof shall be deemed to be an underwriter of such assessable stock.

(c) The term "assessable stock" means stock which is subject to resale by the issuer pursuant to statute or otherwise in the event of a failure of the holder of such stock to pay any assessment levied thereon.

§ 230.140 Definition of "distribution" in section 2(11) for certain transactions.

A person, the chief part of whose business consists of the purchase of the securities of one issuer, or of two or more affiliated issuers and the sale of its own securities, including the levying of assessments on its assessable stock and the resale of such stock upon the failure of the holder thereof to pay any assessment levied thereon, to furnish the proceeds with which to acquire the securities of such issuer or affiliated issuers, is to be regarded as engaged in the

distribution of the securities of such issuer or affiliated issuers within the meaning of section 2(11) of the Act.

REGULATION F: EXEMPTION FOR ASSESSMENTS ON ASSESSABLE STOCK AND FOR ASSESSABLE STOCK OFFERED OR SOLD TO REALIZE AMOUNT OF ASSESSMENT THEREON

§ 230.651 Scope of exemption.

(a) The following shall be exempt from registration under the Act, subject to the terms and conditions of §§ 230.651 to 230.656.

(1) Assessments on assessable stock of any corporation incorporated under the laws of, and having its principal business operations in, any State or Territory of the United States, or the District of Columbia;

(2) Assessable stock of any such corporation offered or sold at public auction or otherwise for the purpose of realizing the amount of an assessment levied thereon.

(b) The amount of the following shall not exceed \$300,000 in any calendar year commencing on or after January 1, 1959:

(1) The aggregate amount of all assessments levied on assessable stock of the issuer;

(2) The aggregate offering price of all securities of the issuer offered under §§ 230.651 to 230.656 or any other rule or regulation adopted pursuant to section 3(b) of the Act; and

(3) The aggregate sale price of all securities of the issuer sold in violation of section 5(a) of the Act.

(c) Notwithstanding the foregoing, no exemption under §§ 230.651 to 230.656 shall be available to an issuer so long as the issuer is subject to a suspension order issued pursuant to § 230.656 (Rule 656), or any similar order issued pursuant to any other rule or regulation under the Act, unless the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied. Any such determination by the Commission shall be without prejudice to any other action by the Commission in any other proceeding or matter with respect to the issuer or any other person.

§ 230.652 Filing of notification.

At least 10 days (Saturdays, Sundays and holidays excluded) prior to the date on which the initial offering of any securities is to be made under §§ 230.651 to 230.656, there shall be filed with the Regional Office of the Commission for the region in which the issuer conducts its principal business operations four copies of a notification on Form 1-F¹ containing the information specified in that form. The Commission may, in its discretion, authorize the commencement of the offering prior to the expiration of such ten-day period upon a written request for such authorization.

§ 230.653 Information to be given stockholders and others.

Every notice or advertisement of the assessment or of any delinquent assessment sale which is sent to holders of the issuer's assessable stock or otherwise

¹ Filed as part of the original document.

published shall include or be accompanied by a reasonably detailed statement of the purposes for which the proceeds from the assessment and from any delinquent assessment sales are to be used.

§ 230.654 Sales material to be filed.

Four copies of each of the following communications prepared or authorized by the issuer or anyone associated with the issuer or any of its affiliates or by any underwriter, for use in connection with the offering of any securities under §§ 230.651 to 230.656 shall be filed, with the Office of the Commission with which the notification is filed, at least ten days (exclusive of Saturdays, Sundays and holidays) prior to any use thereof, or such shorter period as the Commission, in its discretion, may authorize:

(a) Every notice or advertisement proposed to be published in any newspaper, magazine or other periodical;

(b) The script of every radio or television broadcast; and

(c) Every letter, circular or other written communication proposed to be sent, given or otherwise communicated to more than ten persons.

§ 230.655 Prohibition of certain statements.

No written or oral communication used in connection with any offering under §§ 230.651 to 230.656 shall contain any language stating or implying that the Commission has in any way passed upon the merits of, or given approval to, any securities of the issuer, has determined that the assessment or proposed assessment is necessary or desirable or that the offering is exempt from registration, or has made any finding that the state-

ments contained in such communication are accurate or complete.

§ 230.656 Suspension of exemption.

(a) The Commission may, at any time after the filing of a notification, issue an order temporarily suspending the exemption if it has reason to believe that:

(1) No exemption is available under §§ 230.651 to 230.656 for the securities proposed or purported to be offered hereunder, or any of the terms or conditions of §§ 230.651 to 230.656 have not been complied with;

(2) Any written communication or radio or television broadcast used or proposed to be used in connection with the offering contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;

(3) The offering is being made or would be made in violation of section 17 of the Act;

(4) The issuer or any promoter, director or officer thereof has failed to cooperate, or has obstructed or refused to permit the making of any investigation by the Commission in connection with any offering made or proposed to be made hereunder.

(b) Upon the issuance of an order under paragraph (a) of this section, the Commission will promptly give notice to the issuer (1) that such order has been issued, together with a brief statement of the reasons for the issuance of the order, and (2) that the Commission, upon receipt of a written request within 30 days after the issuance of such order, will within 20 days after the receipt of

such request, set the matter down for hearing at a place to be designated by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its issuance and shall remain in effect unless or until it is modified or vacated by the Commission. Where a hearing is requested or is ordered by the Commission, the Commission will, after notice of an opportunity for such hearing, either vacate the order or issue an order permanently suspending the exemption.

(c) The Commission may at any time after notice of an opportunity for hearing, issue an order permanently suspending the exemption for any reason upon which it could have issued a temporary suspension order under paragraph (a) of this section. Any such order shall remain in effect until vacated by the Commission.

(d) All notices required by this section shall be given to the issuer by person service, registered mail or confirmed telegraphic notice at the address of the issuer given in the offering circular.

All interested persons are invited to submit views and comments in regard to the above proposals in writing, to the Securities and Exchange Commission, Washington 25, D.C., on or before March 31, 1959. Except where it is requested that such communications not be disclosed, they will be considered available for public inspection.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

MARCH 4, 1959.

[F.R. Doc. 59-2101; Filed, Mar. 11, 1959; 8:47 a.m.]

NOTICES

DEPARTMENT OF DEFENSE

Office of the Secretary

DEPARTMENT OF DEFENSE CONCESSIONS COMMITTEE

The Deputy Secretary of Defense approved the following on August 29, 1958:

I. *Introduction.* Pursuant to the authority vested in the Secretary of Defense by the National Security Act of 1947, as amended, and in order to provide for the administration of such services as are deemed necessary to the proper functioning of Department of Defense activities at the seat of government, there is hereby established the Department of Defense Concessions Committee (hereinafter referred to as the "Concessions Committee"), with membership, duties, and responsibilities as stated herein.

II. *Membership.* The Concessions Committee shall be composed of a civilian chairman appointed by the Secretary of Defense and two representatives from each of the military departments to be appointed by the Secretary of the Department concerned, one of which may

be military. Alternates shall not be designated to act in the absence of a principal.

III. *Authority.* Within its jurisdiction as defined in this directive or as may be further directed by the Secretary of Defense, the Concessions Committee shall be responsible for performing the duties set forth in Section IV below. As such, the Concessions Committee is authorized, on matters within its jurisdiction, to enter into, make, amend, and perform contracts as agent of the United States of America. This authority may be delegated to the Chairman and/or the Executive Secretary (if there be one) of the Concessions Committee: *Provided*, That any delegation of authority will be in writing for a fixed and definite period and shall not be redelegated. Contractual instruments of the Concessions Committee shall not become binding and effective until approved in writing by the Administrative Assistant to the Secretary of Defense, or his authorized representative, and shall contain a clause to this effect. The Committee shall operate under the general supervision of the Administrative Assistant to the Secretary of Defense.

IV. *Duties.* 1. The Concessions Committee, in order to provide for the administration, operation, and control of services deemed essential to the health, welfare, and morale of employees and Department of Defense activities at the seat of government and for the convenience of the Government, shall:

a. Operate directly or through an independent contractor restaurants, cafeterias, snack bars, and dining rooms in the Pentagon Building.

b. Provide such commercial-type concessions as come within the purpose stated in section I hereof.

c. Provide for the payment to General Services Administration for space occupied, an amount agreed upon by the Concessions Committee and General Services Administration based upon a fixed percentage of gross sales in food service operations and an annual charge per square foot of floor space occupied by concessions which are obligated in contract to recompense the Concessions Committee for the privilege of doing business. Such payment shall be for deposit in the Treasury of the United States to the credit of Miscellaneous Receipts.

2. The Concessions Committee may make payments out of surplus from concessions operations not otherwise required in the conduct of the affairs of the Concessions Committee to authorized welfare funds of the Office of the Secretary of Defense, Department of the Army, Department of the Navy, Department of the Air Force, and to such other agencies designated by the Secretary of Defense.

3. The Concessions Committee shall provide for the deposit in the Treasury of the United States of all monies not required in the conduct of the business of the Concessions Committee or otherwise paid out as described above.

V. *Administration.* The Concessions Committee shall provide for its internal organization and staffing and shall establish its rules of procedure, subject to the approval of the Administrative Assistant to the Secretary of Defense. The Concessions Committee is authorized to employ such administrative and clerical assistants as may be required in the conduct of the affairs of the Committee to be compensated from funds available to the Concessions Committee.

If any personnel paid from appropriated funds are employed on a full-time basis in the conduct of the affairs of the Concessions Committee, there will be deposited in the Treasury of the United States of America to the credit of Miscellaneous Receipts an amount equivalent to the salaries and allowances received by such personnel while so employed.

VI. *Accounts.* The Concessions Committee shall cause true accounts to be kept of the sums of money received and expended in the course of business, and the matters in respect of which such receipts and expenditures take place, and of the assets, credits, and liabilities of the business.

The system of accounts shall be of the double-entry principle maintained according to generally accepted commercial accounting practice.

Accounts and records of the Concessions Committee shall be audited not less often than every three (3) months with such audits conducted by independent accountants, and such audit reports shall be transmitted direct to the Secretary of Defense.

VII. *Reports.* A report of the financial condition and of operations shall be made semi-annually by the Concessions Committee to the Secretary of Defense through the Administrative Assistant to the Secretary of Defense.

Copies of the regularly recurring financial statements of the Concessions Committee shall be furnished to the Administrative Assistant to the Secretary of Defense.

VIII. *Cancellation.* DoD Directive 5120.18, "Establishment of Concessions Committee and Delegation of Authority", published at 16 F.R. 11240, is superseded and cancelled.

MAURICE W. ROCHE,
Administrative Secretary.

[F.R. Doc. 59-2115; Filed, Mar. 11, 1959;
8:50 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The Department of the Army has filed an application for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws, but excluding provisions of the mineral leasing laws. The applicant desires the land for armory sites for local National Guard units.

For a period of sixty days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 1050, Fairbanks, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

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:

[Fairbanks 022950]

AKIACHAK

A tract of land in vicinity of Akiachak village, at approximate latitude 60°54' N., longitude 161°28' W., 4th Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the most westerly southeast corner of school building within BIA school reserve; thence S. 55° E. 175 feet, more or less, to the east boundary of said school reserve; thence following said boundary line N. 35° E. 100 feet to the true point of beginning for this description; thence continuing N. 35° E. along said boundary line 200 feet; thence S. 55° E. 140 feet; thence S. 35° W. 200 feet; thence N. 55° W. 140 feet to the true point of beginning. Containing 0.64 acre, more or less.

[Fairbanks 022951]

ALAKANUK

A tract of land in the vicinity of Alakanuk Village, at approximate latitude 62°41' N., longitude 164°38' W., 2d Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the Southwest corner of John T. Emel Trade & Manufacturing Site; thence N. 18° W. 130 feet; thence S. 74° W. 580 feet to the True Point of Beginning for this description; thence S. 15° W. 80 feet; thence N. 75° W. 150 feet; thence N. 15° E. 90 feet, more or less, to the south bank of a slough; thence following said bank at a course approximately S. 79° E. 150 feet, more or less, to a point lying N. 15° E. of the True Point of Beginning; thence S. 15° W. 20 feet, more or less, to the True Point of Beginning. Containing 0.34 acre, more or less.

[Fairbanks 022952]

EK

A tract of land in the vicinity of Ek Village at approximate latitude 60°13' N., longitude 162°02' W., 4th Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the southwest corner, being corner No. 2, of School Reserve, U.S. Survey No. 2021; thence S. 20°19' W. 44 feet; thence N. 67° W. 670 feet to the True Point of Beginning for this description; thence S. 20° W. 250 feet; thence N. 70° W. 200 feet; thence N. 20° E. 250 feet; thence S. 70° E. 200 feet to the True Point of Beginning. Containing 1.15 acres, more or less.

[Fairbanks 022953]

KASIGLUK

A tract of land in the vicinity of Kasigliuk Village, at approximately latitude 60°55' N., longitude 162°35' W., 4th Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the South corner of School Withdrawal, Serial No. 62787; Fairbanks Land Office; thence S. 50° E. 7 feet; thence S. 40° W. 100 feet; thence N. 50° W. 200 feet; thence N. 40° E. 100 feet to boundary of said school withdrawal; thence along said boundary S. 50° E. 193 feet to the Point of Beginning. Containing 0.46 acre, more or less.

[Fairbanks 022954]

KIANA

A tract of land in the vicinity of Kiana Village, east of Kotzebue, on north side of Kobuk River, at approximate latitude 67°00' N., longitude 160°30' W., in the 2d Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the South corner of Tract A of proposed townsite as platted in Townsite Petition, Serial No. Fairbanks 09170; thence northwesterly along the southwest boundary of townsite 370 feet; thence S. 43° W. 510 feet to the True Point of Beginning; thence continuing south 43° W. 300 feet; thence N. 47° W. 200 feet; thence N. 43° E. 300 feet; thence S. 47° E. 200 feet to the True Point of Beginning. Containing 1.38 acres, more or less.

[Fairbanks 022955]

KIPNUK

A tract of land in the vicinity of Kipnuk Village, at approximate latitude 59°56' N., longitude 164°02' W., in the 4th Judicial Division, State of Alaska, bounded and described as follows:

Beginning at a point marked by an iron pipe set on the east bank of the Kuguklik River, which point marks the west boundary of BIA School Withdrawal, Serial Fairbanks 62942, unsurveyed; thence south along said boundary line 340 feet; thence west 300 feet; thence north to the east bank of said river 200 feet, more or less; thence following said bank, at approximate course N. 65° E., 335 feet, more or less, to the Point of Beginning. Containing 1.86 acres, more or less.

[Fairbanks 022956]

KIVALINA

A tract of land in the vicinity of Kivalina Village, at approximate latitude 67°43' N., longitude 164°33' W., 2d Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the Northwest corner (Corner No. 2) of School Reserve, being U.S. Survey No. 2246; thence along an extension of the north line of such survey N. 48°29' W. 280 feet; thence N. 41°31' E. 100 feet to the True Point of Beginning; thence N. 48°29' W. 120 feet; thence N. 41°31' E. 190 feet, more or less, to mean high water line of Corwin Lagoon; thence along said mean high waterline at a course approximately S. 48°29' E. 120 feet; thence S. 41°31' W. 190 feet, more or less, to the True Point of Beginning. Containing 0.52 acre, more or less.

[Fairbanks 022957]

KOTZEBUE

A tract of land in the vicinity of Kotzebue townsite, lying within the boundaries of U.S. Survey No. 2407, in the 2d Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the East corner of U.S. Survey 2407, being Corner No. 1 thereof; thence along the 1-2 line of said survey at a course S. 44°05' W. 110 feet; thence N. 45°55' W. 140 feet; thence N. 44°05' E. 110 feet to the 1-6 line of U.S. Survey 2407; thence following said 1-6 line S. 45°55' E. 140 feet to the Point of Beginning. Containing 0.35 acre, more or less.

[Fairbanks 022958]

KOYUK

A tract of land in the vicinity of Koyuk Village, near the north shore of Norton Bay, 2d Judicial Division, State of Alaska, bounded and described as follows:

Beginning at Corner No. 3 of U.S. Survey No. 2035; thence along an extension of the 2-3 line of said survey, at a course S. 46°51' W., 160 feet; thence N. 43°09' W. 140 feet; thence N. 46°51' E. 160 feet to a point on the 3-4 line of said U.S. Survey; thence along said 3-4 line S. 43°09' E. 140 feet to the Point of Beginning. Containing 0.51 acre, more or less.

[Fairbanks 022959]

KWETHLUK

A tract of land in the vicinity of Kwethluk Village, at approximate latitude 60°49' N., longitude 161°26' W., in the 4th Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the southeast corner (Corner No. 3) of U.S. Survey No. 2043; thence East 400 feet; thence South 40 feet to the True Point of Beginning; thence East 240 feet; thence South 200 feet; thence West 240 feet; thence North 200 feet to the True Point of Beginning. Containing 1.10 acres, more or less.

[Fairbanks 022960]

NAPAKIAK

A tract of land in the vicinity of Napakiak Village, south of Bethel on the west side of the Kuskokwim River, at approximate latitude 60°41' N., longitude 162°07' W., in the 4th Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the northwest corner of school building located within School Withdrawal (unsurveyed), Serial 63035, Fairbanks Land Office; thence west 108 feet to a point on the west line of said school withdrawal; thence continuing west 400 feet; thence south 275 feet to the True Point of Beginning; thence continuing S. 300 feet; thence W. 300 feet; thence N. 300 feet; thence E. 300 feet to the True Point of Beginning. Containing 2.07 acres, more or less. (NOTE: The school building above referred to is the one existing in 1958, and not the one proposed for construction during 1959.)

[Fairbanks 022961]

NAPAKIAK

A tract of land in the vicinity of Napakiak Village, near Kuskokwim River, at approximate latitude 60°41' N., longitude 161°54' W., in the 4th Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the most westerly southwest corner of school building located within School Withdrawal (unsurveyed), Serial No. 60312, Fairbanks Land Office; thence west 108 feet to an iron pipe set on the west boundary of said withdrawal; thence southerly along said west line 350 feet to the True Point of Beginning; thence continuing southerly along said west line 250 feet; thence at right angles westerly 200 feet; thence at right

angles northerly 250 feet; thence at right angles easterly 200 feet to the Point of Beginning. Containing 1.15 acres, more or less.

[Fairbanks 022962]

NEWTOK

A tract of land in the vicinity of Newtok Village, on the shore of Bering Sea north of Nelson Island, at approximate latitude 60°56' N., longitude 164°37' W., in the 4th Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the northeast corner of school building existing in 1958, thence N. 22° W. 700 feet to the True Point of Beginning; thence S. 68° W. 250 feet; thence N. 22° W. 220 feet; thence N. 68° E. 250 feet; thence S. 22° E. 220 feet to the True Point of Beginning, containing 1.26 acres, more or less.

[Fairbanks 022963]

NOATAK

A tract of land in the vicinity of Noatak Village, on the Noatak River, north of Kotzebue, at approximate latitude 67°35' N., longitude 163°00' W., in the 2d Judicial Division, State of Alaska, bounded and described as follows:

Beginning at Corner No. 1 of U.S. Survey No. 2037, being the Northwest corner thereof; thence along an extension of the west line of such survey N. 78°51' E. 29 feet; thence N. 71°09' W. 180 feet to the True Point of Beginning; thence continuing N. 71°09' W. 220 feet; thence N. 18°51' E. 200 feet; thence S. 71°09' E. 220 feet; thence S. 18°51' W. 200 feet to the True Point of Beginning, containing 1.01 acres, more or less.

[Fairbanks 022964]

ST. MICHAEL

A tract of land in the vicinity of St. Michael Village, on the shore of Norton Sound, at approximate latitude 63°27' N., longitude 162°03' W., in the 2d Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the Southwest corner of new school building; thence south to north line of the board sidewalk which runs east-west between the gymnasium and the community hall; thence westerly along the north line of sidewalk 526 feet to the True Point of Beginning for this description; thence continuing westerly along the north line of sidewalk 200 feet; thence at right angles northerly 250 feet; thence at right angles easterly 200 feet; thence at right angles southerly 250 feet to the True Point of Beginning. Containing 1.15 acres, more or less.

[Fairbanks 022965]

SHISHMAREF

A tract of land in the vicinity of Shishmaref Village, on the north side of Seward Peninsula, in the 2d Judicial Division, State of Alaska, bounded and described as follows:

Beginning at Corner No. 2 of U.S. Survey 2249 (School Reserve); thence following the east line of said survey at a course N. 13°17' W. 440 feet to the True Point of Beginning; thence continuing along said east line 120 feet; thence N. 76°43' E. 200 feet; thence S. 13°17' E. 120 feet; thence S. 76°43' W. 200 feet to the True Point of Beginning. Containing 0.55 acre, more or less.

[Fairbanks 022966]

SHUNGNAK

A tract of land in the vicinity of Shungnak Village, on the Kobuk River east of Kotzebue, in the 2d Judicial Division, State of Alaska, bounded and described as follows:

Beginning at Corner No. 9 of School Reserve, U.S. Survey No. 2047; thence S. 23°59' W. 200 feet; thence N. 66°01' W. 220 feet; thence N. 23°59' E. 200 feet to the 1-9 line (south boundary) of U.S. Survey 2047; thence following said boundary line S. 66°01' E. 220

feet to the Point of Beginning. Containing 1.01 acres, more or less.

[Fairbanks 022967]

TULUKSAK

A tract of land in the vicinity of Tuluksak Village, at approximate latitude 61°06' N., longitude 160°58' W., in the 4th Judicial Division, State of Alaska, bounded and described as follows:

Beginning at a point on the south bank of the Tuluksak River which point is 300 feet easterly from the intersection of said bank with the east line of U.S. Survey 875, Moravian Mission Reserve; thence easterly at approximate course S. 53° E. along said river bank 270 feet; thence at right angles S. 37° W. 240 feet; thence at right angles N. 53° W. 270 feet; thence at right angles N. 37° E. to the Point of Beginning. Containing 1.49 acres, more or less.

[Fairbanks 022968]

TUNUNAK (OR TANUNAK)

A tract of land in the vicinity of Tununak (or Tanunak) Village, on Nelson Island, at approximate latitude 60°35' N., longitude 165°15' W., in the 4th Judicial Division, State of Alaska, bounded and described as follows:

Beginning at southeast corner of village store; thence S. 35° W. to a point on the south line of School Withdrawal, Serial No. Fairbanks 59975, being the True Point of Beginning; thence along said boundary line at a course S. 55° E. 150 feet; thence S. 35° W. 200 feet; thence N. 55° W. 150 feet; thence N. 35° E. 200 feet to the Point of Beginning. Containing .69 acre, more or less.

[Fairbanks 022969]

TUNTUTULIAK

A tract of land in the vicinity of Tuntutuliak Village, at approximate latitude 60°22' N., longitude 162°38' W., on west side of Kuskokwim River, in the 4th Judicial Division, State of Alaska, bounded and described as follows:

Beginning at the southeast corner of new school building under construction during 1958; thence S. 70° E. 225 feet, more or less to a point on the west bank of the Kinak River; thence following the river bank southerly 710 feet to the True Point of Beginning for this description; thence continuing along said river bank at a course approximately S. 18° E. 200 feet; thence at right angles S. 72° W. 250 feet; thence at right angles N. 18° W. 200 feet; thence at right angles N. 72° E. 250 feet to Point of Beginning. Containing 1.15 acres, more or less.

RICHARD L. QUINTUS,

Operations Supervisor, Fairbanks.

[F.R. Doc. 59-2107; Filed, Mar. 11, 1959; 8:48 a.m.]

NEVADA

Notice of Proposed Withdrawal and Reservation of Lands

MARCH 4, 1959.

The Bureau of Land Management proposes to withdraw under Serial No. Nevada-051062, the land described below from all forms of appropriation, including the mining and mineral leasing laws. The Bureau desires the land as an administrative site for storage facilities of fire equipment in furtherance of an improved range fire protection system.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objec-

tions in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, P.O. Box 1551, Reno, Nevada.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

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 land involved in the application is:

MOUNT DIABLO, MERIDIAN, NEVADA

T. 20 N., R. 19 E.,
Sec. 21, S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$.

The area described contains 5 acres.

BOYD S. HAMMOND,
Acting State Supervisor.

[F.R. Doc. 59-2094; Filed, Mar. 11, 1959;
8:46 a.m.]

IDAHO

Notice of Hearing on Proposed Withdrawal of Public Lands

MARCH 6, 1959.

Notice is hereby given that a public hearing will be held at 10:00 a.m., Thursday, March 19, 1959, in the courtroom, County Courthouse, Grangeville, Idaho, pertaining to the request by the Department of Agriculture, Department of the Interior (Idaho 09772), for withdrawal from all forms of appropriation under the United States Mining Laws, but not the mineral leasing laws of the lands described hereafter for use by the Forest Service as recreation areas, streamside and roadside zones as set forth in the Notice of Proposed Withdrawal and Reservation of lands, published in the FEDERAL REGISTER on December 25, 1958, Vol. 251, page 10388. The lands are described as follows:

BOISE MERIDIAN, IDAHO

Cotter Bar Recreation Area

T. 29 N., R. 3 E.,
Sec. 1: E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$.
Total area 40 acres.

Prospector Bar Recreation Area

T. 29 N., R. 3 E.,
Sec. 1: S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$.
Total area 5 acres.

Boundary Recreation Area

T. 30 N., R. 3 E.,
Sec. 36: SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$
NW $\frac{1}{4}$.
Total area 15 acres.

Earthquake Creek Recreation Area

T. 29 N., R. 4 E.,
Sec. 18: E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$
NW $\frac{1}{4}$ SE $\frac{1}{4}$.
Total area 10 acres.

Sheep Creek Recreation Area

T. 29 N., R. 4 E.,
Sec. 20: NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$
NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$.
Total area 17.5 acres.

Bivouac Recreation Area

T. 29 N., R. 4 E.,
Sec. 20: W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$
SE $\frac{1}{4}$.
Total area 10 acres.

Nelson Creek Recreation Area

T. 29 N., R. 4 E.,
Sec. 20: NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.
Total area 10 acres.

Meadow Creek Recreation Area

T. 29 N., R. 4 E.,
Sec. 26: NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$
NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.
Total area 12.5 acres.

Mill Creek Streamside Zone and Recreation Area

A strip of land 5 chains wide being 2.5 chains wide on each side of the thread of Mill Creek beginning at the mouth of Mill Creek and extending 1.0 mile upstream and located wholly within the following described subdivisions:

T. 29 N., R. 4 E.,
Sec. 26: W $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 27: SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$.
Total area 40 acres.

Cougar Creek Streamside Zone and Recreation Area

A strip of land 5 chains wide being 2.5 chains wide on each side of the thread of Cougar Creek beginning at the mouth of Cougar Creek and extending 10 chains upstream and located wholly within the following described subdivisions of unsurveyed land which will be when surveyed:

T. 29 N., R. 5 E.,
Sec. 29: NE $\frac{1}{4}$.
Total area 5 acres.

Silver Creek Streamside and Scenic Spot

A strip of land 2 chains wide being 1 chain wide on each side of the thread of Silver Creek beginning at the mouth of Silver Creek and extending 5 chains upstream and located wholly within the following described subdivisions of unsurveyed land which will be when surveyed:

T. 29 N., R. 5 E.,
Sec. 36: NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$.
Total area 1 acre.

Moose Creek Streamside Zone and Recreation Area

A strip of land 5 chains wide being 2.5 chains wide on each side of the thread of Moose Creek beginning at the mouth of Moose Creek and extending 5 chains upstream and located wholly within the following subdivisions of unsurveyed land which will be when surveyed:

T. 29 N., R. 7 E.,
Sec. 22: SW $\frac{1}{4}$.
Total area 2.5 acres.

Dutch Oven Creek Streamside Zone and Recreation Area

A strip of land 3 chains wide being 1.5 chains wide on each side of the thread of Dutch Oven Creek beginning at the mouth of Dutch Oven Creek and extending 5 chains upstream and located wholly within the following described subdivisions of unsurveyed land which will be when surveyed:

T. 29 N., R. 7 E.,
Sec. 23: S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 26: N $\frac{1}{2}$ N $\frac{1}{2}$.
Total area 1.5 acres.

Crooked Creek Roadside Zone and Recreation Area

A strip of land 6 chains wide on the northwesterly side and 2 chains wide on the southeasterly side and contiguous to the centerline of Forest Development Road No. 222 beginning at the point where Forest Development Road No. 222 leaves the northerly end of the Dixie Landing Field and extending southwesterly for 1.25 miles along Forest Development Road No. 222 and located wholly within the following described subdivisions

of unsurveyed land which will be when surveyed:

T. 25 N., R. 8 E.,
Sec. 7: S $\frac{1}{2}$;
Sec. 18: N $\frac{1}{2}$.
Total area 80 acres.

Ditch Creek Recreation Area

A strip of land 4 chains wide contiguous to the east side of the thread of Ditch Creek and 1 chain wide contiguous to the west side of the thread of Ditch Creek beginning at the mouth of Ditch Creek and ending 20 chains upstream and located wholly within the following described subdivisions of unsurveyed land which will be when surveyed:

T. 28 N., R. 9 E.,
Sec. 23: NE $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 24: NW $\frac{1}{4}$ SW $\frac{1}{4}$.
Total area 10 acres.

This area includes 260 acres in Idaho County, Idaho.

The hearing will be open to attendance of opponents to the withdrawal who may state their views and to proponents of the withdrawal who may explain its purpose, intent, and extent; and to all interested persons who desire to be heard on the subject. Those who desire to be heard in person at the hearing and those who desire to submit written statements should file notice thereof not later than March 17, 1959, with the State Supervisor, Bureau of Land Management, Federal Building, Room 323, Boise, Idaho.

MICHAEL T. SOLAN,
Acting State Supervisor.

[F.R. Doc. 59-2095; Filed, Mar. 11, 1959;
8:46 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

ISTHMIAN LINES, INC., ET AL.

Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

(1) Agreement No. 8352, between Isthmian Lines, Inc., Matson Navigation Company, and Pacific Far East Lines, Inc., covers a through billing arrangement on cargo from certain specified Atlantic and Gulf ports of the United States to Wake Island, with transshipment at Honolulu, T.H.

(2) Agreement No. 8354, between the carriers comprising the A. P. Moller-Maersk Line joint service and Farrell Lines Incorporated, covers a through billing arrangement in the trade between Harbel, Liberia, and Cape Palmas, Liberia, on the one hand, and U.S. Atlantic Coast ports, on the other hand, with transshipment at Monrovia, Liberia.

(3) Agreement No. 8430, between the member lines of the Pacific Coast European Conference (No. 5200, as amended), and the member lines of the Hawaii-Europe Rate Agreement (No. 8410, as amended), covers the establishment and maintenance of rates, rules and regulations for the transportation of cargo from Hawaii to destinations within the scope of Agreement No. 5200, as

amended, when transhipped at U.S. Pacific Coast ports or transhipped at ports or places within the scope of Agreement No. 5200, as amended, other than the Pacific Coast of the United States. Agreement No. 5200, as amended, covers the trade from U.S. Pacific Coast ports to Great Britain, Northern Ireland, Irish Free State, Continental, Baltic and Scandinavian ports, and to base ports in the Mediterranean Sea, and to transshipment ports in the Mediterranean, Adriatic and Black Seas, West, South and East Africa, British India and Iraq, and Agreement No. 8410, as amended, covers the trade from Hawaii to the United Kingdom, Europe, Mediterranean and East and West Africa.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to any of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: March 9, 1959.

By order of the Federal Maritime Board.

[SEAL] JAMES L. PIMPER,
Secretary.

[F. R. Doc. 59-2109; Filed, Mar. 11, 1959;
8:48 a.m.]

OAHU RAILWAY AND LAND CO. ET AL.

Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

(1) Agreement No. 8375, between Oahu Railway and Land Company (OR&L) and Matson Navigation Company (Matson), provides that OR&L will grant to Matson a priority right to use Piers and Terminals 19, 20, 28, 29-A, 29, 31-32 and 33, and two lots, one in the rear of Terminal 33 and the other adjacent to Terminal 19, in the Port of Honolulu; that Matson shall not unreasonably interfere with the use of the priority piers by other vessels; that Matson guarantees to OR&L, an annual revenue of \$1,003,000 for the priority right to use Piers and Terminals 19, 28, 29-A, 29, 31-32 and 33 and the above mentioned lots; that Matson guarantees to OR&L, an annual revenue of \$106,000 for the priority right to use Pier and Terminal 20; that the above mentioned guaranteed annual revenues will be paid to OR&L by Matson through dockage, wharfage and other terminal charges at the rates established and published by OR&L and lawfully in effect; and that Matson or its designee shall have the exclusive right to conduct operations at the container freight station provided by OR&L at a fixed charge per square foot per month for the space used. This

agreement, when approved, will cancel Agreement No. 8255, whereby OR&L grants to Matson the right to use Piers 31, 32 and 33.

(2) Agreement No. 8385, between Oahu Railway and Land Company (OR&L) and Castle & Cooke Terminals, Limited (C&CT), provides that OR&L shall cause to be constructed in Honolulu, Hawaii, a building suitable as a container freight station and a public warehouse; that C&CT will operate the container freight station for container cargoes of vessels owned, operated, and chartered by Matson Navigation Company (Matson) and of vessels which Matson acts as agent in Honolulu; that C&CT shall make reasonable charges to Matson for the services and equipment utilized in operating the container freight station as provided in the agreement between C&CT and Matson, any changes in said charges shall be approved by OR&L; that C&CT shall pay to OR&L a fixed charge per square foot per month for the space used for container freight operations and the amount of C&CT's profit from said operations shall be divided equally between the parties; that C&CT will operate a public warehouse, and with the approval of OR&L, shall determine its warehousing charges, which charges shall be competitive, compensatory and reasonable, and will publish or post appropriate schedules or tariffs; and that the profit or loss from the warehousing operations shall be divided equally between the parties.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: March 9, 1959.

By order of the Federal Maritime Board.

[SEAL] JAMES L. PIMPER,
Secretary.

[F.R. Doc. 59-2110; Filed, Mar. 11, 1959;
8:49 a.m.]

KAWASAKI KISEN KAISHA, LTD., AND SEAFORD SHIPPING CO.

Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 8356, between Kawasaki Kisen Kaisha, Ltd., and Seaford Shipping Co. (Pty. Ltd.), covers the establishment of a joint cargo service, with limited passenger accommodations, under the trade name Kawasaki-Africa Line in the trade from U.S. Pacific Coast ports to ports in South and East Africa, and under the trade name Africa-Pacific Line in the trade from ports in South

and East Africa to U.S. Pacific Coast ports.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: March 9, 1959.

By order of the Federal Maritime Board.

[SEAL] JAMES L. PIMPER,
Secretary.

[F.R. Doc. 59-2111; Filed, Mar. 11, 1959;
8:49 a.m.]

MEMBER LINES OF THE HAWAII- EUROPE RATE AGREEMENT

Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 43 U.S.C. 814):

Agreement No. 8410-2, between the member lines of the Hawaii-Europe Rate Agreement, modifies the basic agreement of that conference (No. 8410, as amended), to provide that new conference members will automatically become parties to, and members withdrawing from the conference will cease to be parties to, any agreement entered into between the members (jointly) and any other carrier or other person subject to the Shipping Act, 1916, as amended, and approved pursuant to section 15 of said Act.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: March 9, 1959.

By order of the Federal Maritime Board.

[SEAL] JAMES L. PIMPER,
Secretary.

[F.R. Doc. 59-2112; Filed, Mar. 11, 1959;
8:49 a.m.]

Maritime Administration

TRADE ROUTE NO. 33—GREAT LAKES/CARIBBEAN

Notice of Adoption of Conclusions and Determinations Regarding Essentiality and United States Flag Service Requirements

Notice is hereby given that the Maritime Administrator has adopted as final

his tentative conclusions and determinations regarding the essentiality and United State flag service requirements of Trade Route No. 33 as published in the FEDERAL REGISTER issue of February 10, 1959 (24 F.R. 988).

Dated: March 9, 1959.

By Order of the Maritime Administrator.

[SEAL] JAMES L. PIMPER,
Secretary.

[F.R. Doc. 59-2108; Filed, Mar. 11, 1959;
8:48 a.m.]

Office of the Secretary
LAWRENCE L. MELICK

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER.

- A. Deletions: No changes.
B. Additions: No changes.

This statement is made as of March 4, 1959.

LAWRENCE L. MELICK.

MARCH 4, 1959.

[F.R. Doc. 59-2116; Filed, Mar. 11, 1959;
8:50 a.m.]

[Dept. Order 90 (Revised)]

NATIONAL BUREAU OF STANDARDS
Organization and Functions

The material appearing in 23 F.R. 4110-4112 of June 11, 1958, is superseded by the following:

SECTION 1. Purpose. The purpose of this order is to describe the organization and define the functions of the National Bureau of Standards.

SEC. 2. Organization. .01 The National Bureau of Standards, established by the Act of March 3, 1901 (31 Stat. 1449; 15 U.S.C. 271), is a primary organization unit within and under the jurisdiction of the Department of Commerce. The Bureau shall be headed by a Director appointed by the President with the advice and consent of the Senate. The Director shall report and be immediately responsible to the Assistant Secretary of Commerce for Domestic Affairs.

.02 The National Bureau of Standards shall be constituted as follows:

1. Office of the Director:

Director.
Deputy Director.
Associate Director for Physics.
Associate Director for Engineering.
Associate Director for Chemistry.
Associate Director for Planning.
Associate Director for Administration.
Associate Director for the Boulder Laboratories.

2. Scientific divisions in Washington, D.C.:

Electricity and Electronics.
Optics and Metrology.
Heat.
Atomic and Radiation Physics.
Chemistry.
Mechanics.
Organic and Fibrous Materials.
Metallurgy.
Mineral Products.
Building Technology.
Applied Mathematics.
Data Processing Systems.

3. Divisions of Boulder Laboratories:

Cryogenic Engineering.
Radio Propagation Physics.
Radio Propagation Engineering.
Radio Standards.
Radio Communication and Systems.
Administrative.

4. Technical Staff Offices:

Office of Weights and Measures.
Office of Basic Instrumentation.
Office of Technical Information.
National Bureau of Standards Library.

5. Administrative divisions:

Accounting.
Personnel.
Administrative Services.
Shops.
Supply.
Management Planning.
Budget.
Internal Audit.
Plant.

A chart depicting the organization is attached.

SEC. 3. Delegation of authority. .01 Pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 5 of 1950, and subject to such policies and directives as the Secretary of Commerce may prescribe, the Director is hereby authorized to perform the functions and exercise the authorities vested in the Secretary by Title 15, Chapters 6 and 7, U.S. Code, or by any subsequent legislation with respect to physical science activities within the special competence of the National Bureau of Standards.

.02 The Director of the National Bureau of Standards may redelegate and authorize the successive redelegation of the authority granted herein to any employee of the Bureau and may prescribe such limitations, restrictions and conditions in the exercise of such authority as he deems appropriate.

SEC. 4. General functions. .01 The basic functions of the National Bureau of Standards are (a) development and maintenance of the national standards of measurement, and the provision of means for making measurements consistent with those standards; (b) determination of physical constants and properties of materials; (c) development of methods for testing materials, mechanisms, and structures, and the making of such tests as may be necessary, particularly for Government agencies; (d) cooperation in the establishment of standard practices, incorporated in codes and specifications; (e) advisory service to Government agencies on scientific and technical problems; and (f) inven-

tion and development of devices to serve special needs of the Government.

.02 In carrying out these functions the Bureau is authorized to undertake the activities enumerated in section 6.02 and similar activities for which the need may arise in the operation of Government agencies, scientific institutions and industrial enterprises.

SEC. 5. Functions of the Office of the Director. .01 The Director, subject to legal requirements and policy direction from the Secretary, determines the policies of the National Bureau of Standards and directs the development and execution of its programs.

.02 The Deputy Director shares generally in the direction of the Bureau and, during the Director's absence, assumes the responsibilities and authority of the Director.

.03 The Associate Directors for Physics, Engineering, Chemistry, and Boulder Laboratories have the following combination of responsibilities:

1. Advise the Director and the Deputy Director on the planning and coordination of the scientific program;
2. Provide specialized staff assistance in designated subject areas; and
3. Carry line responsibility for designated divisions and offices as indicated on the attached chart.

.04 The Associate Director for Planning is the Director's principal staff adviser on program development, coordination and evaluation, giving special attention to the long-range responsibilities of the Bureau in relation to the needs of science and technology.

.05 The Associate Director for Administration is responsible for the planning and operation of administrative functions in support of technical programs and serves as the Director's principal staff adviser on management matters.

.06 The Associate Director for the Boulder Laboratories supervises the Bureau's major establishment outside Washington, D.C. He may, when appropriate, use the abbreviated title, Director, Boulder Laboratories.

SEC. 6. Functions of Scientific Divisions. .01 The general functions of the Bureau are carried out primarily by the scientific divisions with the technical offices and services assisting them.

.02 Each scientific division is authorized to engage in such of the following activities as are appropriate to its special functions; as indicated generally by division titles (see section 2.02).

1. Research in engineering, mathematics, and physical sciences;
2. Construction of physical standards;
3. Testing, calibration and certification of standards and standard measuring apparatus;
4. Improvement of instruments and means of measurement;
5. Investigation and testing of scales for weighing commodities for interstate shipment;
6. Cooperation with States in securing uniformity in weights and measures laws and methods;
7. Provision of standard samples for checking basic properties of materials

and provision of standard instruments for calibration of measuring equipment;

8. Development of methods of chemical analysis and synthesis of materials, and investigation of properties of rare substances;

9. Study of methods of producing and measuring high and low temperatures and the behavior of materials at such temperatures;

10. Investigation of radiation, radioactive substances, and X-rays, together with their uses and means of protecting persons from their harmful effects;

11. Study of the atomic and molecular structure of chemical elements;

12. Broadcasting of radio signals of standard frequency;

13. Investigation of conditions which affect the transmission of radio waves; and distribution of information for choice of frequencies to be used in radio operations;

14. Study of new technical processes of fabricating materials in which the Government has a special interest; also, study of processes and methods of measurement used in manufacture of optical glass, pottery, tile and other clay products;

15. Determination of properties of building materials and structural elements and encouragement of their standardization and most effective use, including fire prevention aspects;

16. Metallurgical research, including study of alloy steel and light metal alloys; investigation of foundry and related practices; prevention of corrosion of metals and alloys; behavior of bearing metals; and development of standards for metals and sands;

17. Operation of a laboratory of applied mathematics; and

18. Provision of general scientific and technical data resulting from the above activities or derived from other sources when such data are important to scientific or manufacturing interests or the general public and are not readily available elsewhere; and, demonstration of the results of the Bureau's work by exhibits and other means.

Sec. 7. Functions of Technical Staff Offices. .01 While many technical services are obtained by scientific divisions from one another, certain service and coordinating activities are carried out by technical offices which report to the Director or to Associate Directors as assigned.

.02 The Office of Weights and Measures develops model laws, rules, regulations, specifications, tolerances, and general administrative procedures, including testing apparatus and test methods and promotes adoption of these by State and local weights and measures jurisdictions. As a part of this activity, that Office serves as liaison between the States and technical staff of the National Bureau of Standards, and conducts an annual National Conference on Weights and Measures.

.03 The Office of Basic Instrumentation analyzes methods and devices for measurements of physical magnitude, coordinates Bureau projects in basic instrumentation; surveys all work in progress at the Bureau with regard to its

applicability to existing or proposed instrumentation projects; arranges for the testing and evaluation of new instrument developments; stimulates and directs experimental studies of original ideas for improved means of measurements; and, arranges for preparation and dissemination of articles relating to instrumentation.

.04 The Office of Technical Information fosters and assists in the outward communication of scientific findings and related information to science, industry, and the general public.

.05 The National Bureau of Standards Library furnishes diversified library services to Bureau staff members and arranges exchanges and loans with other organizations.

Sec. 8. Functions of the administrative divisions. .01 The central administrative divisions are responsible for their special functions and also for providing staff assistance to the Associate Director for Administration in carrying out his functions.

.02 The Accounting Division administers the official system of central fiscal records, payments and reports, and provides staff assistance on accounting and related matters.

.03 The Personnel Division advises on personnel policy and utilization and administers recruitment, placement, classification, training, and employee relations activities, assisting operating officials on these and other aspects of personnel management.

.04 The Administrative Services Division has staff responsibility for security, safety, emergency relocation planning, and civil defense activities, and administers custodial functions, communication services, records management, duplicating service, test administration service, and local transportation service.

.05 The Shops Division designs, constructs, and repairs precision scientific instruments and auxiliary equipment.

.06 The Supply Division performs or facilitates procurement and distribution of material, keeps records and promotes effective utilization of property, and acts as the contracting office for all research, construction, supply, and lease contracts entered into by the Bureau.

.07 The Management Planning Division advises on all aspects of management not otherwise assigned, and provides staff assistance on the maintenance and improvement of organization and methods.

.08 The Budget Division advises on financial management and provides staff assistance in the preparation of estimates and the utilization of funds.

.09 The Internal Audit Division assists the Director and other Bureau officials by conducting independent, objective, and constructive appraisals of the effectiveness and efficiency with which the Bureau's operating, administrative, and financial programs are being carried out and reporting its findings and recommendations for consideration and action.

.10 The Plant Division maintains the physical plant at Washington, and performs staff work in planning and pro-

viding grounds, buildings, and improvements at all Bureau locations.

Sec. 9. Operations outside Washington, D.C. .01 The Bureau's major activity outside Washington, D.C. is Boulder Laboratories whose divisional organization is given in section 2.02. The titles of these divisions are descriptive of the functions performed.

.02 In addition several scientific divisions have field establishments. For the most part, these contribute to the specific programs and projects of their corresponding headquarters divisions rather than perform special services for the public. Activities include concreting materials testing, lamp inspection, development and application of visual range meters, development of uniform standards for railway freight car weighing, and radio frequency and propagation testing and monitoring.

[SEAL]

LEWIS L. STRAUSS,
Secretary of Commerce.

[F.R. Doc. 59-2127; Filed, Mar. 11, 1959;
8:52 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 5713, et al.]

PIEDMONT LOCAL SERVICE AREA INVESTIGATION

Notice of Hearing

In the matter of the proceeding known as the Piedmont Local Service Area Investigation.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that the first session of the above-entitled proceeding is assigned to be held on April 6, 1959, at 10:00 a.m., e.s.t., in the Charlotte Public Library, 310 North Tryon Street, Charlotte, North Carolina, before Examiner James S. Keith. The second session is assigned to be held on April 27, 1959, at 10:00 a.m., e.d.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C.

Without limiting the scope of the issues presented in said proceeding, particular attention will be directed to the question of whether the public convenience and necessity require:

(a) The establishment of new and additional air service;

(b) The renewal of temporary air service; and

(c) The suspension or abandonment of air service to or at the cities in the area of the country commonly referred to as the Piedmont area (more specifically described in order No. E-12956, adopted September 9, 1958) as proposed by any one or more of the following applications, petitions or Board Investigations:

Allegheny Airlines, Inc., Dockets Nos. 8492, 9126 and 9127.

Capital Airlines, Inc., Dockets Nos. 8549 and 9083.

Delta Air Lines, Inc., Dockets Nos. 9116, 9117 and 9119.

Eastern Air Lines, Inc., Docket No. 4092.

Lake Central Airlines, Inc., Docket No. 8561.

Ozark Airlines, Inc., Docket No. 8116.

Piedmont Aviation, Inc., Dockets Nos. 5713, 6059, 9100, 9101, 9102, 9103, 9104, 9105, 9106, 9107, 9108 and 9109.

Southern Airways, Inc., Dockets Nos. 8896, 9113, 9114, 9115, 9124, 9125, 9128 (except that portion relating to the suspension of Delta's service on route 54 at Charleston and Columbia, S.C.) and 9130.

Trans-Texas Airways, Docket No. 9123.

City of Goldsboro, North Carolina, Docket No. 9087 (except those portions relating to New York and Miami).

Town of Blackburg, Virginia, Docket No. 8486.

Greater Baltimore Committee, Inc., Docket No. 8452.

City and Chamber of Commerce of Hickory, North Carolina, Docket No. 9071.

Pitt County-City of Greenville Airport Commission, Docket No. 9133.

South Carolina Aeronautics Commission, et al., Docket No. 9081.

South Carolina Aeronautics Commission, Docket No. 9082.

Shenandoah Valley Airport Commission, Docket No. 8915.

Kinston, North Carolina, Docket No. 9032.

City of Seymour, Indiana, Docket No. 9136.

Rowan County, North Carolina, Docket No. 8845.

City and Chamber of Commerce of Wilson, North Carolina, Docket No. 8659.

City of Lumberton, North Carolina, Docket No. 8424.

State of Kentucky, Department of Aeronautics, et al., Dockets Nos. 6065, 8111, 8112, 8114, 9050 and 8564.

City of Florence, South Carolina, Docket No. 7335.

Fayetteville Area Industrial Development Board, North Carolina, Docket No. 8507.

City of Rocky Mount, North Carolina, et al., Docket No. 9080.

City of Nashville, Tennessee (that portion of application in Docket No. 5814 which seeks single plane service between Nashville on the one hand and cities in North and South Carolina on the other).

New River Valley Airport Commission, Docket No. 9852.

Mercer County Court and the cities of Bluefield and Princeton, West Virginia, Docket No. 9766.

Board Investigation, Dockets Nos. 9261, 9851 and 9852.

For further details regarding the services proposed and the issues involved in this proceeding, including conditions under which any of the aforesaid applications or petitions are to be considered, reference should be made to the prehearing conference report served November 26, 1957, and orders Nos. E-12182, adopted February 13, 1958, E-12956, adopted September 9, 1958, and E-13184, adopted November 21, 1958, and any subsequent orders which may be issued herein. Notice is further given that any person other than parties of record desiring to be heard in support or in opposition to issues involved must file with the Board, on or before April 6, 1959, a statement setting forth the matters of fact or law which he desires to advance. Any person filing such a statement may appear at the hearing in accordance with Rule 14 of the Board's Rules of Practice, Economic Proceedings.

Dated at Washington, D.C., March 5, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-2128; Filed, Mar. 11, 1959; 8:52 a.m.]

[Docket No. 9184]

LINEAS AEREAS DE NICARAGUA, S.A.

Notice of Cancellation of Hearing

In the matter of the application of Lineas Aereas de Nicaragua, S.A., for an amendment of its foreign air carrier permit authorizing it to engage in foreign air transportation of persons, property, and mail between the terminal points of Managua, Nicaragua, and Miami, Florida, so as to include as an intermediate point San Salvador, El Salvador.

By letter dated February 27, 1959, Lineas Aereas de Nicaragua, S.A., has given notice that it has decided to withdraw its application in this proceeding.

Accordingly, notice is hereby given that the hearing in the above-entitled proceeding heretofore scheduled to be held on April 8, 1959, is hereby cancelled.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-2129; Filed, Mar. 11, 1959; 8:52 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12318, 12319; FCC 59M-286]

TELEMUSIC CO. AND SOUTHWEST BROADCASTING CO., INC.

Order Scheduling Hearing

In re applications of Richard C. Simonon, d/b as Telemusic Co., San Bernardino, California, Docket No. 12318, File No. BPH-2188; Southwest Broadcasting Company, Inc., Redlands, California, Docket No. 12319, File No. BPH-2215; for construction permits.

The Hearing Examiner having under consideration the above-entitled proceeding and agreements reached by the parties at the prehearing conference held herein on March 4, 1959;

It is ordered, This 4th day of March 1959, that a hearing is scheduled herein for June 15, 1959, at 10:00 a.m.

Released: March 5, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-2120; Filed, Mar. 11, 1959; 8:51 a.m.]

[Docket No. 12785; FCC 59-158]

KERN COUNTY BROADCASTING CO.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of Edward E. Urner et al. db/as Kern County Broadcasting Company, Bakersfield, California, Docket No. 12785, File No. BPCT-2480; for construction permit for a new television broadcast station.

1. The Commission has before it for consideration (a) a "Protest and Petition

For Reconsideration", and (b) a "Petition for Reconsideration of Denial of Motion to Stay and Request to Stay Action" filed on January 28, 1959, by Bakersfield Broadcasting Company (hereinafter referred to as protestant) against the Commission's action of December 30, 1958, granting without hearing the above-captioned application of Edward E. Urner et al., db/as Kern County Broadcasting Company (Kern County), for a permit to construct a new television broadcast station on Channel 17 in Bakersfield, California, and denying protestant's Motion for Stay; (c) an "Opposition to Protest and Petition for Reconsideration and to Request for Stay of Action" filed on February 9, 1959, by Kern County; and (d) a "Reply" thereto by the protestant filed on February 16, 1959.

2. Protestant claims standing as a "party in interest" and "a person aggrieved or whose interests are adversely affected" within the meaning of sections 309(c) and 405 of the Communications Act of 1934, as amended, as the licensee of an existing television broadcast station in Bakersfield. The protestant contends it will be in direct competition with Kern County for local and national advertising in Bakersfield and the surrounding area; that Kern County's gross revenues must be drawn from existing stations; and that since protestant is an existing UHF operator and the other operating station is a VHF, the protestant will receive the major impact of such competition, with a concomitant loss of revenues to its economic detriment.

3. Protestant requests that the Commission reconsider its action of December 30, 1958, denying protestant's Motion for Stay; that the grant be set aside or its effectiveness be stayed; and that the above-captioned application be designated for evidentiary hearing upon the following specified issues:

(a) The full facts with respect to the number of receivers in the Bakersfield area which would require conversion if the random drop in of additional UHF stations, particularly 17, is made final.

(b) To determine the cost to members of the public of conversion of receivers to Channel 17 and the extent of the burden and waste in that connection in the event the Commission should hereafter decide to deintermix Bakersfield on a VHF basis.

(c) To obtain full information with respect to the cost and burdens on the public of obtaining all channel receivers in order to be able to receive Channel 17 in the light of undetermined questions as to whether the area should be all VHF or all UHF.

(d) To determine whether, in the event the area is made all VHF, enough VHF channels are available to substitute for existing and proposed UHF facilities at Bakersfield.

(e) To obtain full information with respect to other adverse effects upon the public which would result from the addition of more UHF stations in Bakersfield, while the basic policy question as to whether the area is to become all VHF remains unsettled.

(f) To determine whether the public interest would be better served by deferring grant of application for additional UHF channels in Bakersfield pending (1) final action on the Petition for Review of Commission action in allocating these channels in Bakersfield; or (2) Commission determination as to the kind of allocation, i.e., VHF, UHF, or mixed, which is to prevail in Bakersfield in the future.

4. The protestant claims that the grant in question was improperly made and in support thereof alleges that on April 9, 1957, it sought relief from the burdensome competition of Channel 10 in Bakersfield by requesting deletion of Channel 10 so that the San Joaquin Valley might become an all UHF area, which petition is still pending; that the Commission, by Report and Order adopted January 6, 1958, in Docket 11785, added UHF Channels 17 and 39 at Bakersfield, without reference to any principle and without any substantial reasons for its action; that protestant then amended its proposal to provide an alternative allocations plan, whereby Channels 8 and 12 could be added to Bakersfield making it all VHF, both assignments being prima facie feasible; that the assignment of Channel 17 to Bakersfield without action on its request is now under appeal to the United States Court of Appeals (D.C. Cir.);¹ that the conditions attached to the Kern County construction permit² are meaningless in the absence of a finding or indication of the availability of other suitable channels. Furthermore, protestant contends that condition (b) is ambiguous in that it does not limit or qualify the Commission's apparent promise to substitute a channel, since it is not known whether, if Bakersfield is made all VHF, the Commission would give Kern County one such channel and, if so, from what source, there having been no finding made that enough VHF channels are available.

5. The protestant also contends that the Commission's action is not in the public interest because it places a financial burden upon the public, since about half of the receivers in the area are VHF only, which had to be converted in order to receive protestant's station; that to receive Kern County's station and other new stations additional strip tuners would be required; that such expenditures are unwarranted in view of the possibility that the area will ultimately be all VHF. Moreover, protestant asserts that if it is determined that Bakersfield will be all VHF there will be no need for the public to purchase all-channel receivers which cost more. In this con-

nection, protestant asserts that there are no engineering proposals pending before the Commission which would make possible 4 VHF channels in Bakersfield and consequently, the instant grant coming on top of the existing situation, makes it impossible to convert Bakersfield to VHF. Finally, protestant argues that before any promise to substitute channels legally may be made, the Commission must make a factual determination of the availability of such channels. In its petition requesting reconsideration of the denial of its Motion for Stay, protestant makes substantially the same arguments it advances in its Protest and Petition for Reconsideration.

6. The substance of the Kern County opposition is that the protestant has failed to allege facts and relies on no principles which are material to the public interest question which protestant seeks to raise; that if there are any relevant allegations, it is only with respect to the assignment of Channel 17 to Bakersfield, rather than the grant in question; that the injury to the protestant, if any, stemmed from the rule making order; and that relief, if protestant is entitled to relief, will be forthcoming as a result of the pending appeal in U.S. Court of Appeals (D.C. Cir. (Case No. 14,541)). Kern County concludes, therefore that the protest and petition for reconsideration should be denied for failure to allege matters which require a hearing pursuant to sections 309(c) and 405 of the Communications Act.

7. Protestant's reply, in substance, urges that Kern County's contention, that the injury to protestant, if any, flows from the action assigning Channel 17 to Bakersfield, and not the grant in question, is erroneous; that protestant has been injured by both actions, which are different and for which the Communications Act provides specific remedies; that seeking relief in court under section 402(a) of the Act does not bar the protestant from seeking the relief provided by sections 309(c) and 405 of the Act; that Kern County's claim that protestant will receive all the relief it is entitled to as a result of the court appeal is not correct, since the grant in question results in new and specific injuries which adversely affect the public; and that even though these matters are related to the allocation problem, they are appropriate for development in an adjudicatory proceeding. In view thereof, the protestant reiterates its prayer for relief heretofore requested.

8. Inasmuch as protestant is the licensee of Station KBAK-TV, Channel 29, Bakersfield, California, and has alleged that it will be adversely affected by the grant in question by virtue of the competition for local and national advertising revenues, we find protestant to be a "party in interest" and "a person aggrieved or whose interests are adversely affected" within the meaning of sections 309(c) and 405, respectively, of the Communications Act of 1934, as amended, Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470; In re T. E. Allen & Sons, Inc., 9 Pike & Fischer RR 197. We further find that protestant has specified with sufficient particularity the

facts relied upon to warrant designating the above-captioned application for hearing upon the issues specified. The initial question to be determined is the type of hearing required by the issues specified.

9. Upon examination of the issues proposed by protestant, in the light of the facts stated in support thereof, we believe that all or most of these issues relate to the basic questions already resolved in the rule making proceedings assigning Channels 17 and 39 to Bakersfield over the objections of the protestant. The validity of this determination is now being challenged in court (see Bakersfield Broadcasting Co. v. United States, Case No. 14,541 C.A.D.C.), and of course the grants we have made on these channels are subject to the outcome of this appeal as we expressly stated in conditioning such grants. We have grave doubts, however, that assuming the validity of the rule making action, any of the facts or factual questions presented in the protest set forth grounds which would show that the grants were improperly made or otherwise contrary to the public interest. See Coastal Bend Television Co. v. Federal Communications Commission, 98 U.S. App. D.C. 251, 234 F. 2d 686. We shall therefore designate the protest for oral argument as on demurrer, to afford the protestant an opportunity to show that resolution of any of the factual matters upon which it seeks evidentiary hearing are relevant to the questions as to whether the grants upon the channels we have recently assigned to Bakersfield would serve the public interest. Upon the basis of such argument, we shall determine whether the subject grant may be reaffirmed or whether an evidentiary hearing on one or more of the issues is required.

10. We turn now to the question of whether we should stay the effective date of the grant in question. Section 309(c) provides in pertinent part that "the effective date of the Commission's action to which the protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service, or unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect . . ." It is obvious that the authorization in question is not essential to the conduct of an existing service. Moreover, the Commission is of the view that the reasons advanced by Kern County in opposition to the stay do not suffice to warrant an affirmative finding that the public interest requires the grant remain in effect in view of the fact that there are two television stations currently in operation in Bakersfield. Consequently, the effective date of the Commission's action here in question will be postponed pending a final decision in the oral argument hereinafter ordered.

In view of the foregoing: *It is ordered.* That, effective immediately, the effective date of the grant of the above-captioned application is postponed pending a final determination by the Commission in the oral argument described below; that the subject Protest and Petition for recon-

¹ Bakersfield Broadcasting Co. v. United States and Federal Communications Commission (Case No. 14,541).

² These conditions are as follows:

(a) That such grant is without prejudice to such action as the Commission may take as a result of a decision of the U.S. Court of Appeals for the District of Columbia Circuit Bakersfield Broadcasting Co. v. United States and F.C.C. (Case No. 14,541).

(b) That the Commission may, without further proceedings, substitute for Channel 17 such other channel as may be assigned to Bakersfield, California as a result of rule making proposals currently pending before the Commission.

sideration is granted to the extent provided for below and is denied in all other respects; that the Petition for Reconsideration of Denial of Motion to Stay and Request to Stay Action is denied; and that, pursuant to section 309(c) of the Communications Act of 1934, as amended, the above-captioned application is designated for oral argument, at the offices of the Commission at Washington, D.C., at 3:30 p.m., on April 16, 1959, to consider whether any of the questions set forth by protestant in its proposed issues set forth in paragraph 3, supra present matters of fact or law which would warrant setting aside the grant.

It is further ordered, That Bakersfield Broadcasting Company is hereby made a party to the proceeding herein, and that the appearances by the parties intending to participate in the above oral argument shall be filed not later than March 11, 1959.

Adopted: February 25, 1959.

Released: March 6, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-2121; Filed, Mar. 11, 1959;
8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-12709 etc.]

SUN OIL CO. ET AL.

Notice of Severance

MARCH 5, 1959.

In the matter of Sun Oil Company, et al., Docket Nos. G-12709, et al.; Carter Jones Drilling Company, Inc., Operator, Docket No. G-13033.

Take notice that the application of Carter Jones Drilling Company, Inc., Operator, in Docket No. G-13033, which was heretofore consolidated for hearing to be held on March 24, 1959, with other dockets in the proceeding entitled "In the Matters of Sun Oil Company, et al., Docket Nos. G-12709, et al.," is hereby severed from said consolidated proceeding, and the hearing in said Docket No. G-13033 is postponed to a date to be hereafter fixed by notice of the Secretary.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-2089; Filed, Mar. 11, 1959;
8:45 a.m.]

GENERAL SERVICES ADMINISTRATION

[Delegation of Authority No. 362]

POSTMASTER GENERAL

Negotiation of Contracts for
Professional Services

1. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63

Stat. 377), as amended, herein called the Act, authority is hereby delegated to the Postmaster General to negotiate, without advertising, under section 302 (c) (4) of the Act, contracts for services of engineering and architectural firms (1) to study and develop work flow arrangements and to design conveyor systems, equipment and controls; (2) to prepare designs, drawings and specifications for (a) the construction of new buildings; (b) the modernization of existing buildings, and (c) postal equipment and supplies: Provided, however, that the authority hereby delegated shall be limited, with respect to (2) (a) and (b) above, to projects with an estimated construction cost not in excess of \$200,000.

2. This delegation of authority shall be subject to all provisions of Title III of the Act with respect to negotiation of contracts and to all other provisions of law.

3. A summary report of all activities hereunder shall be submitted to me at the end of each fiscal year.

4. The authority herein delegated may be redelegated to any officer or employee of the Post Office Department.

5. This delegation shall be effective as of the date hereof.

Dated: March 5, 1959.

FRANKLIN FLOETE,
Administrator.

[F.R. Doc. 59-2106; Filed, Mar. 11, 1959;
8:48 a.m.]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA PATENT MATTERS

Delegation of Authority

1. The General Counsel is authorized to supervise, administer, and control all activities within or on behalf of the National Aeronautics and Space Administration relating to patents and inventions and matters connected therewith, and to redelegate such authority to his subordinates as required for the proper conduct of the business of the National Aeronautics and Space Administration.

2. In connection with the foregoing, but without limitation thereof, the General Counsel is specifically authorized:

a. *Powers of attorney.* To appoint attorneys, and to execute all necessary powers of attorney, for the purpose of filing and prosecuting patent applications in which the United States, as represented by the Administrator, has an interest by way either of title or of license;

b. *Authority under subsections 305 (d) and (e).* To represent the Administrator, and to appoint attorneys to represent the Administrator, in the conduct of official business with the United States Patent Office under subsections 305 (d) and (e) of the National Aeronautics and Space Act of 1958 and, pursuant to said subsections of the Act, to sign "By direction of the Administrator" requests addressed to the Commissioner of Patents

that patents be issued to the Administrator on behalf of the United States or that title to patents on the records of the Commissioner be transferred to the Administrator;

c. *Application papers and statements.* To receive, and to redelegate to the Assistant General Counsel for Patent Matters authority to receive, on behalf of the Administrator application papers and statements transmitted by the Commissioner of Patents to the Administrator pursuant to subsection 305(c) of the National Aeronautics and Space Act of 1958;

d. *Certifications.* To sign "By direction of the Administrator" all certifications made under sections 266 and 267, Title 35, United States Code;

e. *Authority under 35 U.S.C., Chapter 17.* To exercise, and to redelegate to the Assistant General Counsel for Patent Matters authority to exercise, all powers conferred on the Administrator by Chapter 17, Title 35, United States Code, and to represent the Administrator, and to redelegate to the Assistant General Counsel for Patent Matters authority to represent the Administrator, in the conduct of official business with the United States Patent Office under Chapter 17, Title 35, United States Code;

f. *Execution of foreign applications.* To execute, and to redelegate to the Assistant General Counsel for Patent Matters authority to execute, on behalf of the Administrator, applications for foreign Letters Patent where title to the invention is in the United States Government, as represented by the Administrator;

g. *Waiver of rights.* To sign "by direction of the Administrator" all instruments announcing waiver, and the terms and conditions thereof, of all or any part of the rights of the United States with respect to any invention, pursuant to section 305(f) of the National Aeronautics and Space Act of 1958;

h. *Determination of rights.* To sign "By direction of the Administrator" all instruments announcing determinations made pursuant to subsection 305(a) of the National Aeronautics and Space Act of 1958;

i. *Granting of licenses and assignments.* To execute assignments of patent rights and to grant licenses for the practice of any invention for which the Administrator holds patent on behalf of the United States under the authority of subsection 203(b) (3) of the National Aeronautics and Space Act of 1958;

j. *Acceptance of licenses and assignments.* To accept on behalf of the Government of the United States licenses to and assignments of inventions, patents, and applications for patents under the authority of subsection 203(b) (3) of the National Aeronautics and Space Act of 1958.

Dated at Washington, D.C., this 29th day of January 1959.

T. KEITH GLENNAN,
Administrator.

[F.R. Doc. 59-2096; Filed, Mar. 11, 1959;
8:46 a.m.]

ASSISTANT GENERAL COUNSEL

Delegation of Authority for Patent Matters

1. On January 29, 1959, the Administrator issued NASA General Directive No. 9, which delegated to the General Counsel the authority to supervise, administer, and control all activities within or on behalf of the National Aeronautics and Space Administration relating to patents and inventions and matters connected therewith, and to redelegate such authority to his subordinates as required for the proper conduct of the business of the National Aeronautics and Space Administration.

2. Pursuant to the above authority, the Assistant General Counsel for Patent Matters is specifically authorized:

a. *Application papers and statements under subsection 305(c)*. To receive, on behalf of the Administrator, application papers and statements transmitted by the Commissioner of Patents to the Administrator pursuant to subsection 305 (c) of the National Aeronautics and Space Act of 1958;

b. *Authority under 35 U.S.C., Chapter 17*. To represent the Administrator in the conduct of official business with the United States Patent Office under Chapter 17, Title 35, United States Code, sections 181 and 187.

Dated at Washington, D.C., this 19th day of February 1959.

JOHN A. JOHNSON,
General Counsel.

[F.R. Doc. 59-2097; Filed, Mar. 11, 1959; 8:46 a.m.]

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

INDIANA

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, Executive Order 10773 of July 1, 1958, and Executive Order 10782 of September 6, 1958 (18 F.R. 407, 22 F.R. 8799, 23 F.R. 5061 and 23 F.R. 6971); by virtue of the act of September 30, 1950, entitled "An Act to authorize Federal Assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855-1855g), as amended; and in furtherance of a declaration by the President, in his letter to me dated January 29, 1959, reading in part as follows:

I hereby determine the damage in the various areas of Indiana adversely affected by recent severe weather conditions to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement State and local efforts.

I do hereby determine the following counties in the State of Indiana to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 29, 1959:

- Clark.
- Crawford.
- Dearborn.
- Floyd.
- Franklin.
- Harrison.
- Jackson.
- Jefferson.
- Jennings.
- Ohio.
- Orange.
- Perry.
- Ripley.
- Scott.
- Switzerland.
- Washington.

Dated: March 3, 1959.

LEO A. HOEGH,
Director, Office of Civil and Defense Mobilization.

[F.R. Doc. 59-2083; Filed, Mar. 11, 1959; 8:45 a.m.]

MISSOURI

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, Executive Order 10773 of July 1, 1958, and Executive Order 10782 of September 6, 1958 (18 F.R. 407, 22 F.R. 8799, 23 F.R. 5061 and 23 F.R. 6971); by virtue of the act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855-1855g), as amended; and in furtherance of a declaration by the President in his letter to me dated February 10, 1959, reading in part as follows:

I hereby determine the damage in the tornado-stricken areas in St. Louis County and the City of St. Louis, in the State of Missouri, to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement State and local efforts.

I do hereby determine the following areas in the State of Missouri to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 10, 1959:

St. Louis County and the City of St. Louis.

Dated: February 27, 1959.

LEO A. HOEGH,
Director.

[F.R. Doc. 59-2084; Filed, Mar. 11, 1959; 8:45 a.m.]

OHIO

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, Executive Order 10773 of July 1, 1958, and Executive Order 10782 of September 6, 1958 (18 F.R. 407, 22 F.R. 8799, 23 F.R. 5061 and 23 F.R. 6971); by virtue of the act of September 30, 1950, entitled "An Act to authorize Federal Assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855-1855g), as amended; and in furtherance of a declaration by the President, in his letter to me dated January 29, 1959, reading in part as follows:

I hereby determine the damage in the various areas of Ohio adversely affected by recent severe weather conditions to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement State and local efforts.

I do hereby determine the following counties in the State of Ohio to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 23, 1959:

- Adams.
- Allen.
- Ashland.
- Ashtabula.
- Athens.
- Auglaize.
- Belmont.
- Brown.
- Butler.
- Carroll.
- Champaign.
- Clark.
- Clermont.
- Clinton.
- Columblana.
- Coshocton.
- Crawford.
- Cuyahoga.
- Darke.
- Defiance.
- Delaware.
- Erie.
- Fairfield.
- Fayette.
- Franklin.
- Gallia.
- Geauga.
- Greene.
- Guernsey.
- Hamilton.
- Hancock.
- Hardin.
- Harrison.
- Henry.
- Highland.
- Hocking.
- Holmes.
- Huron.
- Jackson.
- Jefferson.
- Knox.
- Lake.
- Lawrence.
- Licking.
- Logan.
- Lorain.
- Lucas.
- Madison.
- Mahoning.
- Marion.
- Medina.
- Meigs.
- Mercer.
- Miami.
- Monroe.
- Montgomery.
- Morgan.
- Morrow.
- Muskingum.
- Noble.
- Ottawa.
- Faulding.
- Perry.
- Pickaway.
- Pike.
- Portage.
- Preble.
- Putnam.
- Richland.
- Ross.
- Sandusky.
- Scioto.
- Seneca.
- Shelby.
- Stark.
- Summit.
- Trumbull.
- Tuscarawas.
- Union.
- Van Wert.
- Vinton.
- Warren.
- Washington.
- Wayne.
- Wood.
- Wyandot.

Dated: February 27, 1959.

LEO A. HOEGH,
Director, Office of Civil and Defense Mobilization.

[F.R. Doc. 59-2085; Filed, Mar. 11, 1959; 8:45 a.m.]

PENNSYLVANIA

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, Executive Order 10773 of July 1, 1958, and Executive Order 10782 of September 6, 1958 (18 F.R. 407, 22 F.R. 8799, 23 F.R. 5061 and 23 F.R. 6971); by virtue of the act of September 30, 1950, entitled "An Act to authorize Federal Assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855-1855g), as amended; and in furtherance of a declaration by the President, in his letter to me dated January 23, 1959, reading in part as follows:

I hereby determine the damage in the various areas of Pennsylvania adversely affected by recent severe weather conditions to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement State and local efforts.

I do hereby determine the following counties in the Commonwealth of Pennsylvania to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 23, 1959:

Allegheny.	Lancaster.
Armstrong.	Lawrence.
Beaver.	Luzerne.
Butler.	Lycoming.
Clarion.	McKean.
Crawford.	Mercer.
Cumberland.	Northumberland.
Elk.	Venango.
Erle.	Warren.
Forest.	Wayne.
Jefferson.	Wyoming.
Lackawanna.	York.

Dated: February 27, 1959.

LEO A. HOEGH,
Director, Office of Civil
and Defense Mobilization.

[F.R. Doc. 59-2086; Filed, Mar. 11, 1959;
8:45 a.m.]

DIRECTOR, FACILITIES, SUPPLIES, AND EQUIPMENT DIVISION

Delegation of Authority With Respect to Determinations Concerning Federal Surplus Property

Pursuant to the authority vested in me by the delegation of authority from the Director, Office of Civil and Defense Mobilization, published in the FEDERAL REGISTER January 28, 1959 (24 F.R. 618), I hereby redelegate to the Director, Facilities, Supplies and Equipment Division, Financial Assistance Office, Federal, State and Local Plans, retaining the right to exercise the same concurrently, the following authority:

1. The authority to determine property which is not included in section II C of OCDM Advisory Bulletin No. 202, Supplement No. 2 and which has a single item acquisition cost of less than \$50,000, to be usable and necessary for civil defense purposes.

2. The authority to give written authorization to donees, on an individual case basis, for the disposal of surplus property, donated for civil defense purposes and having a single item acquisition cost of \$2,500 or more, but less than \$50,000, in advance of the time limitations set forth in § 1702.7(e) of FCDA (now OCDM) Regulations, Part 1702, and to prescribe the terms and conditions of each such disposal.

The foregoing redelegated authority shall be exercised in accordance with OCDM Regulations and other OCDM administrative issuances regarding the Surplus Property Program, and shall not be further redelegated.

This delegation of authority is effective upon publication in the FEDERAL REGISTER.

Dated: February 24, 1959.

LEWIS E. BERRY,
Assistant Director for Plans and
Operations, Office of Civil and
Defense Mobilization.

[F.R. Doc. 59-2087; Filed, Mar. 11, 1959;
8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3762]

COLUMBIA GAS SYSTEM, INC.

Order Authorizing Charter Amend- ment To Increase Number of Au- thorized Common Shares, and Solicitation of Proxies in Favor of Such Amendment

MARCH 5, 1959.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, has filed a declaration and an amendment thereto pursuant to sections 6(a)(2), 7(e) and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 62 thereunder, regarding the following proposed transactions:

Columbia proposes (1) to amend its certificate of incorporation so as to increase the number of authorized shares of all classes of its stock from 30,000,000 to 40,000,000, increasing the number of authorized shares of its common stock (par value \$10 per share) from 29,500,000 shares to 39,500,000 shares; and (2) to submit the amendment for stockholders' consideration and approval at the next annual stockholders' meeting.

A copy of the proxy statement proposed to be sent to the holders of the common stock of Columbia in connection with the solicitation of proxies is filed with the declaration.

Due notice having been given of the filing of said declaration (Holding Company Act Release No. 13927), and a hearing not having been requested or ordered by the Commission; and the Commission finding that the applicable provisions of the Act and the rules promulgated thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that the declaration as amended be permitted to become effective forthwith:

It is ordered, Pursuant to Rule 23 and the applicable provisions of the Act, that said declaration as amended be, and hereby is, permitted to become effective forthwith, subject to the terms and conditions of Rule 24 promulgated under the Act.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-2098; Filed, Mar. 11, 1959;
8:46 a.m.]

[File No. 70-3763]

COLUMBIA GAS SYSTEM, INC.

Notice of Proposed Issue and Sale of Common Stock Pursuant to Under- written Rights Offering

MARCH 5, 1959.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, has filed a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rule 50 thereunder as applicable to the proposed transaction, which is summarized as follows:

Columbia proposes to offer 1,799,057 shares of its common stock, \$10 par value ("New Common Stock"), to the holders of its outstanding shares of common stock on the basis of one share of the New Common Stock for each fifteen shares of common stock held of record on April 1, 1959.

The offering to stockholders will be underwritten. Columbia proposes to invite bids pursuant to Rule 50 for the purchase of such shares of the New Common Stock as are not subscribed for through the exercise of the subscription rights.

The price at which the New Common Stock will be offered to stockholders ("subscription price") will be determined by Columbia on March 31, 1959. The bids to be received will cover only the total dollars of compensation to be paid to the prospective underwriters for their commitment to purchase the unsubscribed shares at the subscription price. The subscription price will be not less than 90 percent of the closing price of Columbia's common stock on the New York Stock Exchange on the day prior to the record date.

Transferable warrants evidencing their subscription rights will be issued to the stockholders. No fractional shares will be issued. For the convenience of warrant holders, Columbia will make an arrangement whereby the subscription agent will, for the account of warrant holders, buy up to 14 rights or sell all or any part of the rights represented by their warrants. Expenses of such purchases, and of all sales of up to 14 rights, will be paid by Columbia; a service charge of one cent per right will be made in respect of sales of over 14 rights.

This common stock offering is the first step in raising the funds required for the system's 1959 construction program, estimated at about \$95,000,000. The major part of the required funds will be supplied from the proceeds of the common stock offering, estimated at \$37,000,000, and from the sale of \$35,000,000 principal amount of senior debentures later in the year. The balance of the required funds will be obtained from internal sources.

An estimate of the fees and expenses to be incurred in connection with the common stock offering will be supplied by amendment.

The filing states that no other regulatory commission has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 24, 1959 at 5:30 p.m., request the Commission 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, if any, raised by said 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 25, D.C. At any time after said date the declaration, as amended, may be permitted to become effective as provided in Rule 23 of the rules and regulations promulgated under the Act; or the Commission may except such transaction as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate under the circumstances.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-2099; Filed, Mar. 11, 1959;
8:47 a.m.]

[File No. 27-96 etc.]

BISHU MINES, LTD., ET AL.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

MARCH 5, 1959.

In the matter of Bishu Mines, Limited, File No. 27-96; East Lemhi Mining Company, File No. 27-103; Caneonti Mines, Limited, File No. 27-81; Empire Explorations, Limited, File No. 27-29; Bullet Hill Mining Company, Ltd., File No. 27-39.

I. Bishu Mines, Limited, 298 Kennedy Avenue, Toronto, Canada; East Lemhi Mining Company, 1301 Old National Bank Building, Spokane, Washington; Caneonti Mines, Limited, 200 Bay Street, Toronto, Canada; Empire Explorations, Limited, 1361 Oakwood Crescent, North Vancouver, British Columbia, Canada; and Bullet Hill Mining Company, Ltd., Sudbury, Canada, have each filed with the Commission a notification on Form 1-D and offering circular relating to a proposed public offering of securities for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation D promulgated thereunder; and

II. The Commission has reason to believe that the terms and conditions of said Regulation D have not been complied with in that each issuer has failed to file on Form 2-D reports of sales as required by Rule 510 of Regulation D despite requests by the Commission's staff for such reports.

III. It is ordered, Pursuant to Rule 509(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation D be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the above matters may file with the Secretary of the Commission a written request for a hearing; that, within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may set the matter down for a hearing at a place to be designated by the Commission for the purpose of determining whether to vacate the temporary suspension order or to enter an order permanently suspending the exemption without prejudice, however, to the consideration and presentation of additional matters at the hearing, and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-2100; Filed, Mar. 11, 1959;
8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 218]

WASHINGTON

Declaration of Disaster Area

Whereas, it has been reported that during the month of January, 1959, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Washington;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Office below indicated from persons or firms whose property situated in the following County (including any areas adjacent to said County) suffered damage or other destruction as a result of the catastrophe hereinafter referred to:

County: Grays Harbor (Landslides occurring on or about January 25, 1959).

Office: Small Business Administration Regional Office, Smith Tower, Room 1220, 506 Second Avenue, Seattle 4, Washington.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to August 31, 1959.

Dated: February 27, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-728; Filed, Mar. 11, 1959;
8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

BUREAU AND OFFICE ORGANIZATION

Miscellaneous Amendments

MARCH 5, 1959.

The description of the Central and Field Organization of the Interstate Commerce Commission, as amended (23 F.R. 3654, 7027 and 8167), published pursuant to the provisions of section 3(a) of the Administrative Procedure Act has been further amended in the following particulars:

In Item 3 *Bureau and Office Organization*, paragraph (c) *Office of the Managing Director*, amended to read as follows:

(c) *Office of the Managing Director.* The Managing Director under the supervision of the Commission acting through its Chairman and in cooperation with the Reporting Commissioners and Bureau Directors executes, manages and coordinates the management affairs of the Commission with respect to its staff organization. He counsels with the Commission with respect to any matter which may affect or be affected by management action, to the end that the policies, purposes and objectives of the Commission under authority of the Interstate Commerce Act, and other related acts, including amendments, shall be carried out efficiently and economically.

In paragraph (d) *Office of the Secretary*, subparagraph (1) *Section of Dockets*, delete "and files containing designations, under Part II of the Act, of agents to receive service of judicial process". Subparagraph (1) as thus amended, reads as follows:

(1) *Section of Dockets.* Is responsible for maintaining all docket files in the Commission; serving all reports, orders and notices; scheduling or arranging for the use of hearing rooms in Washington and the field; and recording of documents evidencing the lease, mortgage, etc., of railroad equipment.

In paragraph (j) *Bureau of Motor Carriers*, subparagraph (2) *Section of Insurance*, add the following sentence: "Also performs work in connection with the administration of section 221(c) of the Act pertaining to the designations of agents to receive service of judicial process."

Subparagraph (2) as thus amended reads as follows:

(2) *Section of Insurance.* Performs work in connection with the administration of section 215 of the Act pertaining to the furnishing of insurance or other security by motor carriers and brokers for the protection of shippers and the public, including the preparation of recommendations for submission to the Commission for determination of applications to self-insure, the approval or disapproval of certificates of insurance, and passing upon the qualifications of

insurance and bonding companies. In addition, performs work similar to that described above, in connection with the administration of section 403(c) of the Act applicable to freight forwarders. Also, performs work in connection with the administration of section 221(c) of the Act pertaining to the designations of agents to receive service of judicial process.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 59-2104; Filed, Mar. 11, 1959;
8:47 a.m.]

[Ex Parte MC 55]

MOTOR COMMON CARRIERS OF PROPERTY, ROUTES, SERVICE

Notice is hereby given to all Motor Common Carriers of Property subject to the Interstate Commerce Act and to all other interested persons that on the 19th day of January A.D. 1959, the Interstate Commerce Commission entered the order quoted below instituting a proceeding with the view to possibly amending or attaching terms and conditions to all motor-carrier certificates which authorize the transportation of property and/or prescribing rules or regulations (including the amendment of 49 CFR Parts 165a and 211) to govern the operations or services of such carriers, as set forth in the order:

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 19th day of January A.D. 1959.

There is need for making more definite the services that may be performed and the operations that may be conducted by motor common carriers of property under certificates authorizing operations over regular routes and those which may be conducted by motor common carriers of property under certificates authorizing operations over irregular routes. It also appears that more expeditious and better service to the public may be rendered, more efficient and economical operations may be conducted, and safety of operations may be promoted through the reduction of highway mileage and the avoidance of congested areas, if changes in the regulations and in such certificates were made which would allow more freedom of operation with respect to the use of routes and highways and in the service that may be rendered. For the purpose of determining what changes in the regulations and in all such outstanding certificates may be desirable and with the object of effectuating such changes as may be found to be appropriate:

It is ordered, That a proceeding be, and it is hereby instituted under sections 204(a) (1), 204(a) (6), 204(a) (7), 204(b), 207, 208 and 212(a) of the Interstate Commerce Act to determine whether all certificates of public convenience and necessity issued under part II of the Interstate Commerce Act (49 U.S.C. chapter 8) authorizing the transportation of property should be changed, amended, or extended, or terms or conditions should be attached thereto or

made a part thereof, or whether regulations should be prescribed, the effect of which would be:

(1) To permit a motor common carrier authorized to transport property from one point to another point over a regular route or a combination of regular routes, to transport such property over any available highway or combination of highways, and, where service between the points is authorized through a combination of two or more authorized routes, without transporting the property through the points at which the authorized regular routes connect, provided, that reasonable and adequate service shall be furnished at all terminal, intermediate, and off route points on such authorized route or routes, and scheduled or periodic service may be required when necessary adequately to serve the public.

(2) To permit a motor common carrier authorized to transport property from one point to another point through the use in combination of one or more regular routes and one or more irregular route grants, or through the use in combination of two or more irregular route grants, to perform such transportation over any available highway or combination of highways, provided, such shipments are transported through the junction point or points of the authorities used in combination. Alternative consideration will be given to omitting the proviso stated at the end of the preceding sentence.

(3) To permit a motor common carrier holding a certificate or certificates authorizing so-called radial operations over irregular routes to transport from one radial point to another radial point (assuming the service to and from the base point or territory, in each case is authorized), over any highway or combination of highways, provided, that in the case of an irregular route radial authorization the shipment shall be transported through the base point or territory. Alternate consideration will be given to omitting the proviso stated at the end of the preceding sentence.

(4) To permit a motor common carrier authorized to transport property from one point to another point, over irregular routes, to engage in such authorized transportation without regard to whether it (a) is operating according to a predetermined geographical or territorial plan or pattern, (b) is moving a small or great amount of less-than-truckload or other type of traffic, (c) is vigorously soliciting less-than-truckload or any other particular type of traffic and/or holding out to the public a particular type of service, (d) is maintaining terminals devoted to, and designed for the expeditious handling of less-than-truckload or other types of traffic, (e) is habitually using certain highways or fixed routes, (f) is operating between fixed termini, (g) has a marked or constant periodicity in the service rendered, and (h) is operating vehicles according to definite or published schedules or their equivalent, provided, that holders of such irregular route certificates shall continue to furnish reasonable and adequate service at all points in their authorized territory.

(5) To require that carriers, where practicable, use the shortest and safest routes in performing authorized services and, when practicable, avoid congested areas such as large cities, with the object of promoting efficiency, economy, and safety of operations.

Any interested party may file with the Commission, on or before April 28, 1959, written statements of facts and arguments in support of or in opposition to these proposals, or suggest changes or modifications therein. An original signed copy and three additional copies of each such statement or proposal shall be filed with the Interstate Commerce Commission, Washington 25, D.C.

Any interested person desiring to present evidence at a public hearing or be heard in oral argument should make such a request to the Commission, in writing, on or before April 28, 1959. On the basis of the statements and requests received, the Commission will determine whether public hearings should be held or what further procedure, if any, will be appropriate before making a final decision in the matter. Persons filing statements or requesting hearings or oral argument and others who request such notices will be notified by mail of any further proceedings that may be scheduled. Notice of any such further proceedings also will be given to carriers and to the general public by publication in the FEDERAL REGISTER.

Notice of the institution of this proceeding shall be given to all holders of certificates authorizing the transportation of property, by mailing a copy of this order to each such carrier or to its designated agent, by first class mail, at the last known address of the carrier or agent, and to all interested persons by filing with the Director, Division of the FEDERAL REGISTER, for publication in the FEDERAL REGISTER, a notice containing the substance of this order.

It is further ordered, That this proceeding be, and it is hereby, assigned to Division 1 of the Commission for administrative handling and disposition.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 59-2105; Filed, Mar. 11, 1959;
8:48 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 6, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35277: *Substituted service—C.R.I. & P. for Denver Chicago Trucking Company.* Filed by Midwest Motor Freight Bureau, Agent (No. 138), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Denver, Colo., and Kansas City (Armour-

dale), Kans., on like property originating at or destined to points on motor carriers beyond the named points and in the territories described in the application.

Grounds for relief: Motor truck competition.

Tariff: Supplement 93 to Middlewest Motor Freight Bureau tariff MF-I.C.C. 223.

FSA No. 35278: *Substituted service—Chicago Great Western for Southwestern Freight Lines.* Filed by Middlewest Motor Freight Bureau, Agent (No. 139), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Chicago, Ill., and Kansas City, Mo., on like property originating at or destined to points on motor carriers in territories described in the application.

Grounds for relief: Motor truck competition.

Tariff: Supplement 93 to Middlewest Motor Freight Bureau tariff MF-I.C.C. 223.

FSA No. 35279: *Substituted service—Chicago Great Western for Moland Bros. Trucking Company.* Filed by Middlewest Motor Freight Bureau, Agent (No. 140), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Chicago, Ill., and St. Paul, Minn., on like property originating at or destined to points on motor carriers in territories described in the application.

Grounds for relief: Motor truck competition.

Tariff: Supplement 93 to Middlewest Motor Freight Bureau tariff MF-I.C.C. 223.

FSA No. 35280: *Iron or steel wire—Ohio points to Listerhill, Ala.* Filed by O. W. South, Jr., Agent (SFA No. A3777), for interested rail carriers. Rates on iron or steel wire, carloads from New Boston and Portsmouth, Ohio to Listerhill, Ala.

Grounds for relief: Barge-truck competition.

Tariff: Supplement 63 to Southern Freight Bureau tariff I.C.C. 1592.

FSA No. 35281: *Sheet steel—Ohio river ports to Sheffield, Ala.* Filed by O. W. South, Jr., Agent (SFA No. A3778), for interested rail carriers. Rates on sheet steel, carloads from Ashland and Newport, Ky., New Boston and Portsmouth, Ohio to Sheffield, Ala.

Grounds for relief: Competition of water carriers by barge.

Tariff: Supplement 63 to Southern Freight Bureau Tariff I.C.C. 1592.

FSA No. 35282: *Pipe—Ashland, Ky., to Louisiana Mississippi river ports.* Filed by O. W. South, Jr., Agent (SFA No. A3776), for interested rail carriers. Rates on pipe, made from sheet iron or

steel, carloads from Ashland, Ky., to Baton Rouge, North Baton Rouge, and New Orleans, La.

Grounds for relief: Competition of water carriers by barge.

Tariff: Supplement 63 to Southern Freight Bureau tariff I.C.C. 1592.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-2062; Filed, Mar. 10, 1959; 8:49 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

A. G. LANGE & SON, AB

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

A. G. Lange & Son, AB Malmö, Sweden; Claim No. 62672; \$1,381.62 in the Treasury of the United States.

Vesting Order No. 15365.

Executed at Washington, D.C. on March 5, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-2069; Filed, Mar. 10, 1959; 8:50 a.m.]

[Vesting Order SA-272]

PANACEA S.A.

In re: Debt or other obligation owing to Panacea S.A., Budapest, Hungary; F-34-1206.

Under the authority of Title II of the International Claims Settlement Act of 1949, as amended (69 Stat. 562), Executive Order 10644, November 7, 1955 (20 F.R. 8363), Department of Justice Order No. 106-55, November 23, 1955 (20 F.R. 8993), and pursuant to law, after investigation, it is hereby found and determined:

1. That the property described as follows: That certain debt or other obli-

gation of Esso Standard Oil Company, 15 West 51st Street, New York 19, New York, in the sum of \$2,598.72, arising out of a blocked account maintained on its books and records in the name of Panacea S.A., Budapest, Hungary, together with any and all accruals thereto and any and all rights to demand, enforce and collect the same,

is property within the United States which was blocked in accordance with Executive Order 8389, as amended, and remained blocked on August 9, 1955, and which is, and as of September 15, 1947, was directly or indirectly owned by Panacea S.A., Budapest, Hungary, a national of Hungary as defined in said Executive Order 8389, as amended.

2. That the property described herein is not owned directly by a natural person.

There is hereby vested in the Attorney General of the United States the property described above, to be administered, sold, or otherwise liquidated, in accordance with the provisions of Title II of the International Claims Settlement Act of 1949, as amended.

It is hereby required that the property described above be paid, conveyed, transferred, assigned and delivered to or for the account of the Attorney General of the United States in accordance with directions and instructions issued by or for the Assistant Attorney General, Director, Office of Alien Property, Department of Justice.

The foregoing requirement and any supplement thereto shall be deemed instructions or directions issued under Title II of the International Claims Settlement Act of 1949, as amended. Attention is directed to section 205 of said Title II (69 Stat. 562) which provides that:

Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

Executed at Washington, D.C., on March 5, 1959.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F.R. Doc. 59-2071; Filed, Mar. 10, 1959; 8:50 a.m.]

CUMULATIVE CODIFICATION GUIDE—MARCH

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