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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission PART 29—RETIREMENT

Appeals

Section 29.16 is amended as set out below.

§ 29.16 Appeals.

(a) An appeal may be taken to the Commission, from the final action or order of the Bureau of Retirement and Insurance affecting the rights or interest of any person or of the United States under the civil-service retirement law, except as provided in this section.

(b) Appeals must be filed by a claimant or a duly accredited representative, but no appeal shall lie to the Commission's Board of Appeals and Review until action has been completed by the Bureau of Retirement and Insurance. An appeal taken in behalf of a claimant by or through a representative who is not recognized by the Commission, or whose recognition has been canceled, shall not be entertained.

(c) (1) Except as hereinafter ordered, the time for filing an appeal shall be not later than six months from the date of mailing notice of the final action or order of which complaint is made.

(2) In applications for disability retirement made by a department or establishment of the Government the time for filing an appeal shall be not later than 30 days from date of receipt of notice of final action or order.

(3) In cases of disability annuitants who are found upon medical examination to have recovered, the time allowed for filing an appeal shall be no later than 90 days from the date of final notice of proposed discontinuance of annuity.

(4) In simultaneously contested claims, where one is allowed and one rejected, the time allowed for the filing of an appeal shall be not later than 60 days from the date of receipt of the notice of the Commission's action by the claimant to whom the action is adverse. Upon the filing of an appeal all parties,

other than the appellant, whose interest may be adversely affected by the decision shall be notified by registered letter of the filing of the appeal and of the substance thereof and allowed 30 days from the date of the receipt of such notice within which to file brief or argument in answer thereto before the papers are forwarded to the Board of Appeals and Review. The return of a registered letter unclaimed containing notice, addressed to the last known post-office address, shall constitute sufficient evidence of notice.

(d) Each appeal shall show the name and post-office address of appellant, his retirement claim number, the date and substance of the action from which the appeal is taken, and full reasons for the appeal.

(e) In proceedings before the Commission in which it shall be decided that a party has no right to appeal or that said appeal may not be entertained under the provisions of this section, such party may apply to the Commissioners for an order directing the Bureau of Retirement and Insurance to forward the record to the Board of Appeals and Review. Such application shall be in writing and shall fully and specifically set forth the grounds upon which the request is based. If upon consideration the application is granted, jurisdiction shall vest in the Board of Appeals and Review to dispose properly of the case.

(f) The mandate of the decision by the Board of Appeals and Review shall be carried into effect within 60 days from the date of the receipt of notice of the decision by the Bureau of Retirement and Insurance (except as hereinafter provided), unless the decision shall sooner be recalled. A proper explanation of the decision rendered shall be mailed to the appellant and/or his duly authorized representative by the Board of Appeals and Review.

(g) In any case involving conflicting claims of two or more parties wherein the time allowed for appeal is limited to 60 days, there shall be a stay of execution of the decision of the Board of Appeals and Review until the expiration of the period of 30 days within

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which a motion for reconsideration may be filed.

(h) No appeal will be considered by the Commission to review the decisions of the Secretary of the Interior prior to July 21, 1930, or of the Administrator of Veterans Affairs prior to September 1, 1934, on civil-service retirement cases except where, upon the basis of newly discovered material evidence, the case has been reconsidered by the Bureau of Retirement and Insurance. In the latter event, the provisions of this section shall apply.

(Sec. 16, 70 Stat. 758; 5 U.S.C. 2266).

UNITED STATES CIVIL SERVICE COMMISSION,
WM. C. HULL,
Executive Assistant.

[SEAL] [F.R. Doc. 59-10784; Filed, Dec. 18, 1959; 8:49 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[C.C.C. Grain Price Support Bulletin 1, 1959 Supp. 2, Amdt. 1, Corn]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1959-Crop Corn Loan and Purchase Agreement Program

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in (24 F.R. 4199 and 8537), and containing the specific requirements for the 1959-crop corn price support program are amended as follows:

Section 421.4147(b), (2) and (3) is amended to provide for changes as a result of the revision in the maximum moisture requirements so that the amended paragraphs read as follows:

§ 421.4147 Support rates.

* * * * *
(b) *Premiums and discounts.* * * *

(2) *Warehouse storage.* In the case of warehouse-storage loans the applicable premiums and discounts for corn grading No. 3 or better or No. 4 on the factor of test weight only, but otherwise grading No. 3 or better shown in the "Schedule of Premiums and Discounts" in this paragraph shall be applied to the basic support rate at the time the loan is completed. In the case of corn of such grade represented by warehouse receipts tendered to CCC under a purchase agreement, the applicable premiums and discounts shall be applied to

the basic support rate at the time of settlement. The discounts for weevily and for moisture content are not applicable to corn in approved warehouse storage since such corn which grades weevily or contains in excess of 14.0 percent moisture is not eligible for price support.

(3) *Schedule of premiums and discounts.*

	Cents per bushel
Premiums:	
Grade No. 2 or better.....	1
Cracked Corn and Foreign Material (percent) 2.0 or less.....	1
Moisture Content (percent) 14.0 or less.....	1
Discounts:	
Moisture Content (percent):	
14.1 to 14.5.....	0
14.6 to 15.5.....	1
15.6 to 16.0.....	2
16.1 to 16.5.....	3
16.6 to 17.0.....	4
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(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 105, 401, 63 Stat. 1051, 1054, as amended. 15 U.S.C. 714c., 7 U.S.C. 1441, 1421)

Issued this 15th day of December 1959.

WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 59-10781; Filed, Dec. 18, 1959; 8:48 a.m.]

Title 7—AGRICULTURE

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

[Navel Orange Reg. 176]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 914.476 Navel Orange Regulation 176.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based be-

came available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 17, 1959.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., December 20, 1959, and ending at 12:01 a.m., P.s.t., December 27, 1959, are hereby fixed as follows:

- (i) District 1: 300,000 cartons;
- (ii) District 2: 57,390 cartons;
- (iii) District 3: Unlimited movement;
- (iv) District 4: Unlimited movement.

(2) All navel oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: December 18, 1959.

S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-10870; Filed, Dec. 18, 1959; 11:31 a.m.]

[Lemon Reg. 825]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 953.932 Lemon Regulation 825.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and

Order No. 53, as amended (7 CFR Part 953; 23 F.R. 9053), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based become available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 16, 1959.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., December 20, 1959, and ending at 12:01 a.m., P.s.t., December 27, 1959, are hereby fixed as follows:

- (i) District 1: 27,900 cartons;
- (ii) District 2: 130,200 cartons;
- (iii) District 3: 51,150 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: December 17, 1959.

S. R. SMITH,
*Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.*

[F.R. Doc. 59-10816; Filed, Dec. 18, 1959;
9:31 a.m.]

[1017.304, Amdt. 2]

PART 1017—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREG.

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 130 and Order No. 117 (7 CFR Part 1017) regulating the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of recommendations and information submitted by the Idaho-Eastern Oregon Onion Committee, established pursuant to said marketing agreement and order, and other available information, it is hereby found that the amendment to the limitation of shipments regulation, hereinafter set forth, will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001-1011) in that (1) the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, (2) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the handling of onions, in the manner set forth below, on and after the effective date of this amendment, (3) compliance with this amendment will not require any special preparation on the part of handlers which cannot be completed by the effective date, (4) reasonable time is permitted, under the circumstances, for such preparation, and (5) information regarding the committee's recommendation has been disseminated to producers and handlers in the production area.

Order, as amended. In § 1017.304 (24 F.R. 6475, 7635) delete the introductory paragraph and subparagraph (1) of paragraph (a) and substitute in lieu thereof a new introductory paragraph and a new subparagraph (1) of paragraph (a) as set forth below.

§ 1017.304 Limitation of shipments.

During the period from December 21, 1959 through June 30, 1960, no person shall handle any lot of onions unless

such onions meet the requirements of paragraph (a) of this section or unless such onions are handled in accordance with paragraphs (b) or (c) of this section.

(a) *Minimum grade and size requirements*—(1) *Yellow varieties*—(i) *Grade.* U.S. No. 1, or better, grade. An additional tolerance of 3 percent (total 5 percent) for decay shall be allowed for onions of 3 inches diameter or larger.

(ii) *Size.* 2 inches minimum diameter, including, but not limited to, onions that are "medium" in size and onions that are "jumbo" or "large" in size.

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

Dated: December 16, 1959, to become effective December 21, 1959.

G. R. GRANGE,
*Acting Director, Fruit and Vege-
table Division, Agricultural
Marketing Service.*

[F.R. Doc. 59-10780; Filed, Dec. 18, 1959;
8:48 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

Colgate Creek, Maryland

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.300 is hereby revoked and § 203.245 governing the operation of drawbridges across navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets, where constant attendance of draw tenders is not required, is hereby amended prescribing paragraph (f) (2-c) to govern the operation of the City of Baltimore highway bridge across Colgate Creek at Baltimore, Maryland, as follows:

§ 203.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(f) *Waterways discharging into Chesapeake Bay.* * * *

(2-c) Colgate Creek, Md.; City of Baltimore highway bridge at Baltimore. At least 5 hours' advance notice required.

§ 203.300 Colgate Creek, Md.; bridge (highway) of the City of Baltimore, Md. [Revoked]

[Regs., December 4, 1959, 285/91 (Colgate Creek, Md.)—ENGWOW] (Sec. 5, 28 Stat. 382; 33 U.S.C. 499)

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

[F.R. Doc. 59-10746; Filed, Dec. 18, 1959;
8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 159; Amdt. 72]

PART 507—AIRWORTHINESS DIRECTIVES

Hartzell HC-12X20 Propellers

A proposal to amend Part 507 of the Regulations of the Administrator to include a new airworthiness directive superseding the directive 53-6-2 (21 F.R. 9522) was published in 24 F.R. 8611. The proposed directive required removal of certain Hartzell hub spiders.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing § 507.10(a), (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

59-26-1 HARTZELL PROPELLERS. Applies to all Hartzell HC-12X20 propellers with serial numbers as indicated below. These propellers may be installed on such aircraft models as Republic RC-3, Grumman G-44, and Navion series. Compliance required not later than March 1, 1960.

To preclude possible failures, remove from service Hartzell hub spiders with serial numbers 1 through 4303, 4307 through 4316, 4318, 4319, 4321, 4323, 4324, 4325, 4328, 4329, 4332, through 4336, 4341. After removal, these hub spiders will not be eligible for use in certificated aircraft.

Hub spiders with serial numbers other than those listed above may be used as replacements.

This supersedes AD 53-6-2.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on December 14, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59-10747; Filed, Dec. 18, 1959; 8:45 a.m.]

[Reg. Docket No. 215; Amdt. 70]

PART 507—AIRWORTHINESS DIRECTIVES

Lockheed 188 Series Aircraft

Service experience has disclosed abrasive interference between generator feeder cables and wing structure on several Lockheed Model 188 aircraft, leading to ground faults and consequent damage to structure as well as loss of electric power.

In the interests of safety the Administrator finds that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing § 507.10(a) is amended by adding the following new airworthiness directive:

59-25-4 LOCKHEED. Applies to all Lockheed Model 188 Series aircraft—Serial Numbers 1002 through 1072.

Compliance required as indicated.

Insufficient clearance between the generator feeder wires and the leading edge rib at wing station 221 together with deflection of the leading edge has resulted in abrasion of the insulation on the generator feeder wires and grounding of the generator feeder.

(a) Inspect for evidence of abrasion not later than the next 8 hours time in service with a light and mirror through fillet access doors N125 and N126 left and right without lowering the leading edge section. If the inspection shows evidence of abrasion, additional spacers must be installed prior to the next flight to obtain a minimum 0.38 inch clearance with the flange of the leading edge rib. If no evidence of abrasion is present, the inspection must be repeated at intervals of 60 hours time in service but not to exceed 250 hours time in service when additional spacers must be installed to provide at least a 0.38 inch clearance.

Functionally test the generator differential protection system in accordance with Lockheed Maintenance Manual, section 24-1-0, page 201.

(b) Within the next 250 hours time in service, inspect all wiring in the leading edge and power plant sections for actual or incipient abrasion of wires. If abrasion of wires or insufficient clearance is found, the conditions are to be corrected prior to the next flight.

(Lockheed Electra Alert Service Bulletin 376 covers this same subject.)

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on December 14, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59-10748; Filed, Dec. 18, 1959; 8:45 a.m.]

[Reg. Docket No. 150; Amdt. 73]

PART 507—AIRWORTHINESS DIRECTIVES

Lockheed Models 649, 749, and 1049 Aircraft

A proposal to amend Part 507 of the Regulations of the Administrator to include an airworthiness directive requiring corrective action involving forward passenger door latch brackets on certain Lockheed Models 649, 749, and 1049 aircraft was published in 24 F.R. 8188.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. A repetitive 1,000-hour inspection requirement was inadvertently omitted when the proposed notice was published. Operators of the aircraft were contacted and, as no objections were made by them to this additional requirement, it is incorporated in the adopted amendment.

In consideration of the foregoing § 507.10(a), (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

LOCKHEED. Applies to Model 649 and 749 aircraft, Serial Numbers 2518 through 2524, 2529 through 2535, 2548, 2549, 2554 through 2556, 2610, 2611, 2614 through 2618, 2642, 2653, 2659, 2660, 2662 through 2673, Model 1049-54 Serial Numbers 4001 through 4024 and Model 1049C, Serial Numbers 4523 through 4538.

Compliance required as indicated.

As a result of cracks discovered in forward passenger door latch brackets the following shall be accomplished on the above Serial Numbered aircraft which have accumulated flight time of 10,000 hours or more.

Unless already accomplished, within the next 200 hours of service time and at each succeeding 1,000 hours of service time the following inspections are required:

(a) Model 649 and 749 aircraft.

(1) Remove and inspect by the dye penetrant method the top and bottom P/N 291924-2 and -3 brackets of the P/N 291941-2 and -3 top and bottom latch assemblies of the P/N 290809 forward passenger door assembly for cracks in the fillet radius of attach flanges of the brackets. (Lockheed Field Service Letters FS/222746 and FS/220393-W pertain to this subject.)

Cracked latch brackets must be replaced. The replacement part may be either a new bracket of the same part number, the improved latch assembly P/N 554278-1, P/N 554289-1 or P/N 554289-3, whichever is applicable, or an equivalent item.

(2) Check door rigging and condition of safety bar and hooks

(b) Model 1049-54 and 1049C aircraft.

(1) Remove and inspect by the dye penetrant method the upper and lower aft P/Ns 291925 and/or 308236 brackets of the P/N 291940 and P/N 338239 upper and lower aft latch assemblies of the P/N 308269 and P/N 308269-600 forward passenger door assemblies for cracks in the fillet radius of the attach flanges of the brackets. (Lockheed Field Service Letters FS/222746 and FS/220393-W pertain to this subject.)

Cracked latch brackets must be replaced. The replacement part may be either a new bracket of the same part number, the improved latch assembly P/N 554278-3, P/N 554289-1 or P/N 554289-3, whichever is applicable, or an equivalent item.

(2) Check door rigging and condition of safety bar and hooks.

When the improved latch assemblies (identified above by part number) are installed, this inspection procedure may be terminated. When the replacement bracket is identical to the originally installed bracket, this inspection procedure is to be re-established upon accumulation of 10,000 flight-hours on the replacement brackets.

(Lockheed Service Bulletins 49/SB-882 and 1049/SB-3052 describe the installation of the improved latch assemblies mentioned above.)

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on December 14, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59-10749; Filed, Dec. 18, 1959; 8:45 a.m.]

[Reg. Docket No. 216, Amdt. 71]

PART 507—AIRWORTHINESS DIRECTIVES

Piper PA-24 Aircraft Fuel Cell Vent Tubes

Due to the design of the fuel cell vent tube on certain Piper PA-24 aircraft,

foreign particles can become lodged in the tube, restricting the venting action and resulting in subsequent collapse of a fuel tank.

For this reason, the Administrator finds that corrective action is necessary, that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing § 507.10(a), (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

59-26-2 PIPER. Applies to Piper PA-24 and PA-24 "250" airplanes Serial Numbers 24-1 to 24-1373 inclusive.

Compliance required by January 15, 1960. To prevent clogging, the two fuel cell vent tubes which are located under the wings shall be modified in the following manner:

Measure a distance of 1/2-inch down from the bottom of the wing skin along the forward side of each protruding vent tube. At this point, cut the tube off at a 45 degree angle to the bottom skin so that the end of the tube remains square.

(Piper Immediate Action Service Bulletin No. 180 covers this subject.)

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on December 14, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59-10750; Filed, Dec. 18, 1959; 8:45 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 59-WA-129]

[Amdt. 31]

PART 602—ESTABLISHMENT OF OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN THE CONTINENTAL CONTROL AREA

Establishment of Coded Jet Route

On September 23, 1959, a notice of proposed rule-making was published in the FEDERAL REGISTER (24 F.R. 7655) stating that the Federal Aviation Agency proposed to amend Part 602 of the Regulations of the Administrator by establishing VOR/VORTAC jet route No. 87 between Houston, Tex., and Chicago, Ill.

The Federal Aviation Agency is designating J-87-V between Houston and Chicago to provide a route for scheduled air carrier jet service which will begin in the near future between these terminals. The portion of J-87-V between Tulsa, Okla., and Butler, Mo., will coincide with VOR/VORTAC jet route No. 25; the portion of J-87-V between Kansas City, Mo., and Joliet, Ill., will coincide with VOR/VORTAC jet route No. 26. This provides continuity of the route and simplifies flight planning and air traffic management. J-87-V is so aligned to bypass high density military aircraft operating areas at Ferrin AFB, Tex.,

Richards-Gebaur AFB, Mo., and Olathe NAS, Kans. This action will result in J-87-V being established from the Houston VOR to the Northbrook, Ill., VOR via the Dallas, Tex., VOR, the intersection of the Dallas VOR 339° and the Tulsa VORTAC 211° radials, the Tulsa VORTAC, the Butler, Mo., VOR, the intersection of the Butler VOR 009° and the Kansas City VOR 060° radials, the intersection of the Kansas City VOR 060° and the Bradford, Ill., VOR 247° radials, the Bradford VOR and the Joliet, Ill., VOR.

Two written comments concerning the proposal were received. The Air Transport Association of America objected to the dog-legs in the route between Dallas and Tulsa and between Butler and Bradford. This objection, however, was subsequently withdrawn. The Department of the Air Force interposed no objection under the following stipulations: Radar advisory service is implemented prior to use of the route by civil jet air carrier; the route will not conflict with the Richards-Gebaur AFB, Grandview, Mo., Restricted Area/Military Climb Corridor; the traffic on this route between Houston and Dallas maintains flight level 240 or above between the Midway/Madisonville, Tex., intersections and the Trinidad/Navarro, Tex., intersections, and that J-87-V will not conflict with aerial refueling operations in high altitude air refueling areas No. 19, "Old House," and No. 17, "Panda Bear." This route will have radar advisory service and will not conflict with the Richards-Gebaur AFB, Restricted Area/Military Climb Corridor. Since the lower limit of code jet routes is at 24,000 feet, MSL, aircraft using J-87-V between Dallas and Houston will not operate below 24,000 feet and the James Connally AFB departing traffic can be restricted as necessary below 24,000 feet until clear of J-87-V thus eliminating possible traffic conflicts. Air refueling area No. 19 is effective from flight level 310 to 340. At the present time, six coded jet routes are established through this area. Air refueling area No. 17 is effective from flight level 330 to 350 and five coded jet routes are established through this area. Any air traffic control problem that may exist between refueling areas and this or any other coded jet routes will be handled by the appropriate air route traffic control center to ensure safe and efficient air traffic management.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) Part 602 (14 CFR, 1958 Supp., Part 602) is amended by adding the following section:

§ 602.587 VOR/VORTAC jet route No. 87 (Houston, Tex., to Northbrook, Ill.).

From the Houston, Tex., VOR via the Dallas, Tex., VOR; INT of the Dallas

VOR 339° and the Tulsa, Okla., VORTAC 211° radials; Tulsa, Okla., VORTAC; Butler, Mo., VOR; INT of the Butler VOR 009° and the Kansas City, Mo., VOR 060° radials; INT of the Kansas City VOR 060° and the Bradford, Ill., VOR 247° radials; Bradford, Ill., VOR; Joliet, Ill., VOR; to the Northbrook, Ill., VOR.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

This amendment shall become effective 0001 e.s.t. January 19, 1960.

Issued in Washington, D.C., on December 16, 1959.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 59-10785; Filed, Dec. 18, 1959; 8:49 a.m.]

[Airspace Docket No. 59-WA-421]

[Amdt. 53]

PART 608—RESTRICTED AREAS Modification

The purpose of this amendment to § 608.14 of the regulations of the Administrator is to change the controlling agency of the Chocolate Mountains, Calif., Restricted Area (R-304) (San Diego Chart).

The U.S. Navy has requested that the controlling agency for Restricted Area R-304 be changed from Fleet Air Detachment, El Centro, Calif., to Commanding Officer, Marine Corps Auxiliary Air Station (MCAAS), Yuma, Arizona, in order to designate the command presently responsible for utilization of airspace within this area.

Since this amendment imposes no additional burden on the public, compliance with the Notice, public procedure, and effective date requirement of Section 4 of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, the following action is taken:

In § 608.14, the Chocolate Mountains, Calif., Restricted Area (R-304) (San Diego Chart) (23 F.R. 8577) is amended by deleting "Fleet Air Detachment, El Centro, Calif." and substituting therefor "Commanding Officer, Marine Corps Auxiliary Air Station (MCAAS), Yuma, Ariz."

This amendment shall become effective upon date of publication in the FEDERAL REGISTER.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on December 14, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59-10751; Filed, Dec. 18, 1959; 8:45 a.m.]

[Reg. Docket No. 204; Amdt. 146]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Alterations

The new and revised standard instrument approach procedures appearing hereinafter are adopted to become effective and/or canceled when indicated in order to promote safety. The revised procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the revised procedures specify the complete procedure and indicate the changes to the existing procedures. Pursuant to authority delegated to me by the Administrator (24 F.R. 5662), I find that a situation exists requiring immediate action in the interest of safety, that notice and public procedure hereon are impracticable, and that good cause exists for making this amendment effective on less than thirty days' notice.

Part 609 (14 CFR, Part 609) is amended as follows:

1. The low or medium frequency range procedures prescribed in § 609.100(a) are amended to read in part:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition		Course and distance	Minimum altitude (feet)	Condition	Ceiling and visibility minimums		
From—	To—				2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Fort Wayne VOR	FWA-LFR	Direct	2200	T-dn	300-1	300-1	200-1/2
Markle FM	FWA-LFR (Final)	Direct	1500	C-dn	400-1	500-1	500-1/2
				S-dn-4	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn S side of crs, 231° Outbnd, 051° Inbnd, 2000' within 10 miles.
 Minimum altitude over facility on final approach crs, 1500'.
 Crs and distance, facility to airport, 051-3.0.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.0 miles, climb to 2300' on NE crs of FWA-LFR within 20 miles.
 City, Fort Wayne; State, Ind.; Airport Name, Baer Field; Elev., 801'; Fac. Class., SBMRLZ; Ident., FWA; Procedure No. 1, Amdt. 8; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 7; Dated, 27 Aug. 55

Mustang FM	OKC-LFR (Final)	Direct	2000	T-dn	300-1	300-1	200-1/2
Bethany Int.	OKC-LFR	Direct	2700	C-dn	400-1	500-1	500-1/2
Oklahoma City VOR	OKC-LFR	Direct	2500	A-dn	800-2	800-2	800-2
Radar terminal area transition altitudes*:		Within:					
000	090	25 mi	2400				
090	180	25 mi	2700				
180	230	25 mi	2700				
230	295	35 mi	2700				
295#	360	25 mi	#2700				

Procedure turn S side crs, 255° Outbnd, 075° Inbnd, 2500' within 10 mi. Beyond 10 mi. NA.
 Minimum altitude over facility on final approach crs, 2000'.
 Crs and distance, facility to airport, 091-1.4.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.4 miles, climb to 2700' on E crs of OKC LFR within 20 miles.
 *Azimuths and distances are from antenna site progressing clockwise.
 #Radar Control must provide 3 mi and 1000 ft. vertical separation; or 3 to 5 mi and 500 ft. vertical separation from towers 2127' MSL and 2726' MSL 9 mi NW antenna site.
 City, Oklahoma City; State, Okla.; Airport Name, Will Rogers; Elev., 1283'; Fac. Class., SBRAZ; Ident., OKC; Procedure No. 1, Amdt. 9; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 8; Dated, 30 Nov. 57

Pendleton VOR	PDT-LFR	Direct	4000	T-dn	300-1	300-1	200-1/2
Cabbage Hill FM	PDT-LFR	Direct	4800	C-dn	500-1	500-1	500-1/2
Athens Int.	PDT-LFR (Final)	Direct	2700	S-dn-25#	400-1	400-1	400-1
Pendleton LOM	PDT-LFR (Final)	Direct	*2000	A-dn	800-2	800-2	800-2

Procedure turn N side of E crs, 056° Outbnd, 236° Inbnd, 3000' within 10 miles. NA beyond 10 mi. (Nonstandard due to terrain.)
 Minimum altitude over facility on final approach crs, *2700'.
 Crs and distance, facility to airport, 259-1.6.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.6 miles, climb to 4000' on W crs Pendleton LFR within 20 miles.
 #Straight-in landing minimums applicable only if Pendleton LOM received.
 *Descent to 2000' authorized on final after passing Pendleton LOM; if Pendleton LOM not identified, maintain 2700' until reaching Pendleton LFR.
 City, Pendleton; State, Oreg.; Airport Name, Pendleton; Elev., 1493'; Fac. Class., SBRAZ; Ident., PDT; Procedure No. 1, Amdt. 10; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 9; Dated, 29 Apr. 58

Point of Rocks FM	RKS-LFR (Final)	Direct	8700	T-dn	300-1	300-1	#200-1/2
Is Outer Marker	RKS-LFR (Final)	Direct	*8200	C-d	#500-1	500-1	500-1/2
				C-n	#500-2	500-2	500-2
				S-d-25	#500-1	500-1	500-1/2
				S-n-25	#500-2	500-2	500-2
				A-dn	800-2	800-2	800-2

Procedure turn N side E crs, 066° Outbnd, 246° Inbnd, 9200' within 10 miles.
 Minimum altitude over facility on final approach crs, *8700'.
 Crs and distance, facility to airport, 246-2.5.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.5 miles, climb to 10,000' on W crs RKS-LFR within 20 miles.
AIR CARRIER NOTE: Night operations authorized for Runways 7-25 only.
 *Descent to 8200' authorized if ILS outer marker aural and visual signal received.
 #400-1 day, 400-2 night authorized if final approach made from outer marker.
 City, Rock Springs; State, Wyo.; Airport Name, Municipal; Elev., 6752'; Fac. Class., SBRAZ; Ident., RKS; Procedure No. 1, Amdt. 6; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 5; Dated, 22 Dec. 56

LEF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Hobart EM	SEA-LFR	Direct	4000	T-dn	300-1	300-1	200-1/2
SEA-LOM	SEA-LFR	Direct	2000	C-dn	500-1	500-1	500-1 1/2
SEA-VOR	SEA-LFR	Direct	2000	S-dn-16	400-1	400-1	400-1
Vashon Int.	SEA-LFR	Direct	2000	A-dn	800-2	800-2	800-2
SEA-VOR	Harbor Isl FM	Direct	2000				
SEA-LOM	Harbor Isl FM	Direct	2000				
NEJ-LFR	Harbor Isl FM	Direct	2000				
Radar Fix 5 mi NW of Harbor Isl FM on NW crs SEA-LFR	Harbor Isl FM (final)	Direct	1500				
Harbor Isl FM	Boeing Int.* (Final)	Direct	1200				

Procedure turn W side NW crs SEA LFR, 297° outbnd, 117° inbnd, 2000' within 10 mi NW of Harbor Isl FM. N.A. beyond 10 mi.

Minimum altitude over SEA VOR, 800'.

Crs and distance, *Boeing Int to SEA VOR, 160°—4.3 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile of SEA VOR, climb to 2000' on R-175 SEA within 13 miles or, when directed by ATC, turn right, climb to 2000' on R-225 SEA within 20 miles.

NOTE: All fixes within 30 miles of Seattle-Tacoma Radar may be determined by surveillance Radar.

CAUTION: Tank 561' MSL located immediately NE of airport

*Boeing Int: Int NW crs SEA LFR and R-340 SEA.

City, Seattle; State, Wash.; Airport Name, Seattle-Tacoma Intl.; Elev., 424'; Fac. Class., SBRAZ; Ident., SEA; Procedure No. 2, Amdt. 3; Eff. Date, 2 Jan. 60; Sup. Amdt No. 2; Dated, 27 June 59

2. The automatic direction finding procedures prescribed in § 609.100(b) are amended to read in part:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
ODR VOR	ODR "H"	017°--18.9	5600	T-dn	300-1	300-1	200-1/2
				C-dn	700-1	700-1	700-1
				A-dn	800-2	800-2	800-2

Procedure turn W side of final approach crs—357° Outbnd, 177° inbnd. 4600' Within 10 miles.

Facility on airport. Minimum altitude over facility 4000'.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile turn right climb to 4600' on course 357° within 20 miles.

City, Chadron; State, Nebr.; Airport Name, Chadron; Elev., 3312'; Fac. Class., H (nonfederal facility); Ident., CDR; Procedure No. 1, Amdt. 2; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 1; Dated, 1 Aug. 59

Louisville VOR	LOM	Direct	2100	T-dn	300-1	300-1	200-1/2
Bourbon Int.	LOM	Direct	2100	C-dn	500-1	500-1	500-1 1/2
Elizabeth Int.	LOM	Direct	2100	S-dn	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2

Procedure turn NA due to Restricted Area. Radar vector to final approach required. If radar contact not established during transition, proceed to the LOM, hold North, one minute pattern, right turns. If radar contact not established or radar inoperative, execution of this procedure not authorized.

Minimum altitude over facility on final approach crs, 1600'.

Crs and distance, facility to airport, 010°—4.9 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.9 miles after passing LOM, climb to 2100' on 010° crs from LOM within 10 miles.

City, Louisville; State, Ky.; Airport Name, Standiford; Elev., 497'; Fac. Class., LOM; Ident., SD; Procedure No. 1, Amdt 19; Eff. Date, 5 Dec. 59; Sup. Amdt. No. 18; Dated 5 Dec. 59

Oklahoma City LFR	TWO RBn	Direct	2500	T-dn	300-1	300-1	200-1/2
Oklahoma City VOR	TWO RBn	Direct	2500	C-dn	400-1	500-1	500-1 1/2
Oklahoma City LOM	TWO RBn	Direct	2400	S-dn-17	400-1	400-1	400-1
Mustang FM	TWO RBn	Direct	2500	A-dn	800-2	800-2	800-2
Bethany Int.	TWO RBn (Final)	Direct	2000				
Edmond Int.	TWO RBn (Final)	Direct	2000				
Radar terminal area transition altitudes:*		Within:					
600	080	25 mi	2400				
690	180	25 mi	2500				
180	230	25 mi	2700				
230	295	35 mi	2500				
235#	360	25 mi	#2700				

Procedure-turn W side crs, 350° Outbnd, 170° inbnd, 2500' within 10 mi. Beyond 10 mi N.A.

Altitude over facility in final approach crs, 2000'.

Crs and distance, facility to airport, 170°—4.0 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.0 miles, climb to 2400' on 170° crs from TWO RBn within 20 mi or, when directed by ATC, turn right, climb to 2500' direct to OKC-VOR or direct to OKC-LFR.

*Azimuths and distances are from antenna site progressing clockwise.

#Radar Control must provide 3 mi and 1000' vertical separation; or 3 to 5 mi and 500' vertical separation from towers 2127' MSL and 2728' MSL 9 mi NW antenna site.

City, Oklahoma City; State, Okla.; Airport Name, Will Rogers; Elev., 1283'; Fac. Class., MHW; Ident., TWO; Procedure No. 2, Amdt. 3; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 2 (ADF portion of Comb. ILS-ADF); Dated, 1 Feb. 58

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Oklahoma City VOR	LOM	Direct	2400	T-dn	300-1	300-1	200-1/2
Oklahoma City LFR	LOM	Direct	2400	C-dn	400-1	500-1	500-1 1/2
Bethany Int.	LOM	Direct	2500	S-dn-35	400-1	400-1	400-1
Mustang FM	LOM	Direct	2400	A-dn	800-2	800-2	800-2
Newcastle Int.	LOM (Final)	Direct	1900				
Radar terminal area transition altitudes:*							
000	090	25 mi	2400				
090	180	25 mi	2200				
180	230	25 mi	2700				
230	295	35 mi	2500				
295#	360	25 mi	#2700				

Procedure turn E side of crs, 170° Outbnd, 350° Inbnd, 2500' within 10 mi. Beyond 10 mi NA.

Minimum altitude over LOM inbnd final 1900'.

Crs and distance, facility to airport, 350°-4.2 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 mi after passing LM, climb to 3000' on 350° crs within 20 mi or, when directed by ATC, turn left, climb to 2500' direct to the OKC VOR, or direct to the OKC LFR.

*Azimuths and distances are from antenna site progressing clockwise.

#Radar control must provide 3 mi and 1000 ft. vertical separation; or 3 to 5 mi. and 500 ft. vertical separation from towers 2127' MSL and 2725' MSL 9 mi NW antenna site.

City, Oklahoma City; State, Okla.; Airport Name, Will Rogers; Elev., 1283'; Fac. Class., LOM; Ident., OK; Procedure No. 1, Amdt. 5; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 4 (ADF portion of Comb. ILS-ADF); Dated, 1 Feb. 58

Pendleton VOR	PDT-ADF	Direct	4000	T-dn	300-1	300-1	200-1/2
Pendleton LFR	PDT-ADF	Direct	4000	C-dn	500-1	500-1	500-1 1/2
Athena Int.	PDT-ADF	Direct	4000	S-dn-raway 25	400-1	400-1	400-1
Cabbage Hill FM	PDT-ADF	Direct	4800	A-dn	800-2	800-2	800-2
Int S crs, Walla Walla LFR and 220 brng to LOM-PD.	PDT-ADF	Direct	4000				

Procedure turn NW side of NE crs, 040° Outbnd, 220° Inbnd, 3000' within 10 mi. NA beyond 10 mi.

Minimum altitude over facility on final approach crs, 2700'.

Crs and distance, facility to airport, 249°-4.1.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.1 mi, climb to 4000' on W crs Pendleton LFR within 20 mi. Alternate Missed approach (when requested by ATC) within 4.1 mi, climb to 4000' on 233 radial Pendleton VOR within 20 mi.

City, Pendleton; State, Oreg.; Airport Name, Pendleton; Elev., 1493'; Fac. Class., LOM; Ident., PDT; Procedure No. 1, Amdt. 2; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 1; Dated, 22 Jan. 55

STL-LFR	Lake "H"	Direct	2000	T-dn	300-1	300-1	200-1/2
STL-VOR	Lake "H"	Direct	2000	C-dn	500-1	500-1	500-1 1/2
STL-LOM	Lake "H"	Direct	2000	S-dn-6	500-1	500-1	500-1
Barracks Int.	Lake "H"	Direct	2100	A-dn	800-2	800-2	800-2
MTS-VOR	Lake "H"	Direct	1800				

Radar transitions to final approach course authorized. Radar terminal area transitions altitudes on radar procedure.

Procedure turn South side of crs, 235° Outbnd, 053° Inbnd, 2000' within 10 miles of Lake "H".

Minimum altitude over facility on final approach crs, 1600'.

Crs and distance, facility to airport, 053°-3.8.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles after passing Lake "H", climb to 1800' on crs of 053° to LOM or, when directed by ATC, (1) Make right (South) turn, climb to 2000' on South crs STL-LFR to Barracks Int.; (2) Make left (North) turn, climb to 2000' direct to STL-VOR.

Major change: Deletes transition from St. Peters FM.

City, St. Louis; State, Mo.; Airport Name, Lambert Field; Elev., 568'; Fac. Class., MHW; Ident., LAQ; Procedure No. 2, Amdt. 3; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 2; Dated, 15 Nov. 58

3. The very high frequency omnirange (VOR) procedures prescribed in § 609.100(c) are amended to read in part:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
LCH RBn	LCH VOR	Direct	1300	T-dn	300-1	300-1	200-1/2
Radar vectoring position	LCH VOR (Final)	327-5.0	700	C-dn	500-1	500-1	500-1 1/2
				S-dn-33	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar Terminal Area transition altitude 1500' within 25 miles. Radar may be used to position aircraft for a final approach, within 5 miles of LCH VOR, with the elimination of a procedure turn.

Procedure turn E side of crs, 147° Outbnd, 327° Inbnd, 1300' within 10 miles. Beyond 10 miles NA.

Minimum altitude over facility on final approach crs, 700'.

Crs and distance, facility to airport, 327°-3.6.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.6 mi, climb to 1500' on R-327 within 20 miles, or when directed by ATC, turn right, climb to 1500' on R-015 within 20 miles.

City, Lake Charles; State, La.; Airport Name, Lake Charles AFB; Elev., 19'; Fac. Class., BVOR; Ident., LCH; Procedure No. 1, Amdt. 3; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 2; Dated, 12 Oct. 57

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
RKS-LFR	RKS-VOR	Direct	9200	T-dn C-d C-n S-d S-n-ry 25 A-dn	300-1 1000-1 1000-2 1000-1 1000-2 1000-2	300-1 1000-1 1000-2 1000-1 1000-2 1000-2	*200-1/2 1000-1 1/2 1000-2 1000-1 1/2 1000-2 1000-2

Procedure turn N side crs, 081° Outbnd, 261° Inbnd, 9200' within 10 miles.

Minimum altitude over facility on final approach crs, 8700'.

Crs and distance, facility to airport, 261—2.1.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.1 miles, climb to 10,000 on R261 within 20 miles.

Alt. CARRIER NOTE: Night operation authorized for Runways 7-25 only.

City, Rock Springs; State, Wyo.; Airport Name, Municipal; Elev., 6752'; Fac. Class., BVOR; Ident., RKS; Procedure No. 1, Amdt. 3; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 2; Dated, 24 Nov. 59

4. The terminal very high frequency omnirange (TerVOR) procedures prescribed in § 609.200 are amended to read in part:

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
PROCEDURE CANCELLED, EFFECTIVE 2 JANUARY 1960, OR UPON DECOMMISSIONING OF VOR.							

PROCEDURE CANCELLED, EFFECTIVE 2 JANUARY 1960, OR UPON DECOMMISSIONING OF VOR.

City, Wake Island; Airport Name, Wake; Elev. 12'; Fac. Class., VOR; Ident., AWK; Procedure No. TerVOR-27, Amdt. 2; Eff. Date, 23 Apr. 58; Sup. Amdt. No. 1; Dated, 22 Apr. 58

PROCEDURE CANCELLED, EFFECTIVE 2 JANUARY 1960, OR UPON DECOMMISSIONING OF VOR.

City, Wake Island; Airport Name, Wake; Elev., 12'; Fac. Class., VOR; Ident., AWK; Procedure No. TerVOR-9, Amdt. 3; Eff. Date, 23 Apr. 58; Sup. Amdt. No. 2; Dated, 22 Apr. 58

5. The instrument landing system procedures prescribed in § 609.400 are amended to read in part:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Aden Int.	North Int*	Direct	8000	T-dn	300-1	300-1	200-1/2
Weller Int.	North Int (Final)	Direct	7000	C-d	500-1	500-1	500-1 1/2
Peralta Int.	North Int.	Direct	8000	C-n	500-2	500-2	500-2
South Int**	North Int.	Direct	8000	S-d-17	500-1	500-1	500-1
				S-n-17	500-2	500-2	500-2
				A-dn	800-2	800-2	800-2

Procedure turn W side of N crs 350° Outbnd; 170° Inbnd. 8000' within 10 mi of North Int.

Minimum altitude over North Int. on final approach, 7000'.

No glide slope.

Course and distance, North Int. to airport, 170°—6.0.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.0 miles after passing North Int., climb straight ahead to 7000' to ABQ LFR or, when directed by ATC, (1) climb straight ahead to 7000' on ABQ ILS localizer to ABQ LOM; (2) make right climbing turn, climb to 8000' on 260° crs direct to ABQ VOR; (3) aircraft will be vectored to MEB in accordance with approved radar patterns.

CAUTION: Terrain exceeding 8000' E of ILS localizer; all turns to be made W of crs.

NOTE: This procedure authorized only for aircraft equipped with ILS and VOR receivers. Narrow localizer course, 4°.

*N crs ABQ ILS and R-044 ABQ VOR.

**S crs ABQ ILS and R-147 ABQ VOR.

City, Albuquerque; State, N. Mex.; Airport Name, Kirtland AFB/Mun.; Elev., 5352'; Fac. Class., ILS; Ident., I-ABQ; Procedure No. ILS-17, Amdt. 2; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 1; Dated, 4 July 59

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition		Course and distance	Minimum altitude (feet)	Ceiling and visibility minimums			
From—	To—			Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Albuquerque LFR	LOM	Direct	7000	T-dn	300-1	300-1	200-1/2
Albuquerque VOR	LOM	Direct	7000	C-dn	400-1	500-1	500-1 1/2
Aden Int (via N crs ABQ ILS)	LOM	Direct	8000	S-dn-35	200-1/2	200-1/2	200-1
Peralta Int-FM	LOM (Final)	Direct	6400	A-dn	600-2	600-2	600-2
Weller Int	LOM	Direct	7000				
Kirtland Int	LOM	Direct	7000				
Int 090 R ABQ VOR and ILS S crs	LOM	Direct	7000				
Int 107 R ABQ VOR and ILS S crs	LOM	Direct	7000				
Belen MHW	Peralta Int	Direct	7000				
South Int (via S crs ABQ Loc)*	LOM	Direct	7000				
South Int	Peralta-Int/FM	Direct	7000				
La Joya VOR	South Int	Direct	8000				
Roundhouse Int	Roundhouse Int	Direct	12,000				
Belen MHW	Belen MHW	Direct	8000				
Dalles Int	Belen MHW	Direct	8000				
Dalles Int	LOM	Direct	8000				
Bacaville VOR	Mark Int**	Direct	7000				
Mark Int	LOM (Final)	Direct	6400				

Procedure turn W side S crs, 170° Outbnd, 350° Inbnd, 7000' within 10 mi.

Minimum altitude at G.S. int inbnd 6400'

Altitude of G.S. and distance to appr end of rwy at OM 6400-3.8, at MM 5530-0.6.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished make a left climbing turn, climb to 8000' on N crs ABQ LFR to Alameda MHW or, when directed by ATC, (1) make left climbing turn, climb to 8000' on 26° crs direct to ABQ VOR, (2) turn left and climb to 8900' on W crs ABQ LFR within 20 miles, (3) aircraft will be vectored to MEA in accordance with approved radar patterns.

CAUTION: Terrain exceeding 8900' E of ILS localizer—all turns to be made W of localizer crs.

NOTE: Narrow localizer crs-4°.

*Int R-147 ABQ VOR and ABQ ILS South crs.

**R-020 Bacaville VOR and S crs ABQ ILS.

City, Albuquerque; State, N. Mex.; Airport Name, Kirtland AFB/Mun.; Elev., 5352'; Fac. Class., ILS; Ident., ABQ; Procedure No. ILS-35, Amdt. 17; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 16; Dated, 15 Aug. 59

ORD-VOR	LOM	Direct	*2500	T-dn	300-1	300-1	200-1/2
OBK-VOR	LOM	Direct	*2500	C-dn	400-1	500-1	500-1 1/2
NBU-LFR	LOM	Direct	*2500	S-dn-14L#	300-3/4	300-3/4	300-3/4
MDW-LOM	LOM	Direct	*2500	A-dn	800-2	800-2	800-2
Morton Int	LOM	Direct	*2500				
Spring Lake Int	LOM	Direct	*2500				
Elgin Int	LOM	Direct	*2500				
Crystal Int	LOM	Direct	*2500				

Radar transition to final approach course authorized. Aircraft will be released for final approach without procedure turn on inbound final approach course at least 3.0 mi from LOM. Refer to radar procedures for O'Hare if sector altitude information is desired.

Procedure turn West side of NW crs, 318° Outbnd, 138° Inbnd, 2500' within 10 mi.

Minimum altitude at G.S. interception inbnd, 2500'

Altitude of G.S. and distance to approach end of Rwy at LOM, 2491'-5.7 mi; at LMM, 900'-0.6 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished make immediate left turn, climb to 2500' or higher altitude specified by ATC and proceed to Northbrook VOR via ORD R-030 and OBCK R-135 or, when directed by ATC, (1) make immediate left turn climb to 3500', proceed to Morton Int via ORD R-076; (2) make immediate left turn, climb to 2500', proceed to NBU LFR via 030° crs and SE crs NBU LFR.

NOTE: Simultaneous Parallel ILS Approach Study being conducted to Rwnys 14R and 14L, when WX is 2300-3 or better with pilot's concurrence. Rwy 14R LOM designated "ROMEO"; Rwy 14L LOM designated "LIMA".

*2700' during simultaneous approaches.

#100-1 required when Glide Slope not utilized.

City, Chicago; State, Ill.; Airport Name, O'Hare Int'l; Elev., 666'; Fac. Class., ILS; Ident., I-OHA; Procedure No. ILS-14L, Amdt. 2; Eff. Date, 26 Dec. 59; Sup. Amdt. No. 1; Dated, 26 Dec. 59

Jackson VOR via R-213	OM	Direct	1700	T-dn	300-1	300-1	200-1/2
Jackson LFR via crs 256	OM	Direct	1500	C-dn	500-1	500-1	500-1 1/2
Int W crs Jackson LFR and NW crs ILS	OM	Direct	1500	S-dn*-11	200-1/2	200-1/2	200-1/2
Int S crs Jackson LFR and SE crs ILS	OM	Direct	2100	A-dn	600-2	600-2	600-2

Procedure turn S side NW crs, 288° Outbnd, 108° Inbnd, 1600' within 10 miles.

Minimum Altitude at G.S. int inbnd, 1500'

Altitude of G.S. and distance to appr end of rwy at OM 1490-3.8, at MM 533-0.6.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished turn left, climb to 2000' on R-178 JAN VOR within 20 miles or when directed by ATC, turn right, climb to 2100' on S crs JAN LFR.

NOTE: Tower 1051 MSL located 3.5 mi SW of airport.

*400-3/4 required when glide slope not utilized

City, Jackson; State, Miss.; Airport Name, Hawkins; Elev., 343'; Fac. Class., ILS; Ident., I-JAN; Procedure No. ILS-11, Amdt. 15; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 14; Dated, 6 June 59

Oklahoma City LFR	TWO RBn	Direct	2500	T-dn	300-1	300-1	200-1/2
Oklahoma City VOR	TWO RBn	Direct	2500	C-dn	400-1	500-1	500-1 1/2
Oklahoma City LOM	TWO RBn	Direct	2400	S-dn-17	300-1	300-1	300-1
Mustang FM	TWO RBn	Direct	2500	A-dn	800-2	800-2	800-2
Bethany Int	TWO RBn (Final)	Direct	2000				
Edmond Int	TWO RBn (Final)	Direct	2000				
Radar terminal area transition altitudes:*		Within:*					
000	090	25 mi	2400				
090	180	25 mi	2500				
180	230	25 mi	2700				
230	295	35 mi	2500				
295#	360	25 mi	#2700				

Procedure turn W side crs, 350° Outbnd, 170° Inbnd, 2500' within 10 mi. Beyond 10 mi NA.

No glide slope. Altitude over TWO on final, 2000'; Brng and distance to Rwy 17, 170-4.0.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.0 miles, climb to 2400' on S crs ILS within 20 mi or on crs 170° from TWO within 20 mi, or when directed by ATC, turn right, climb to 2500' direct to OKC-VOR or direct to OKC-LFR.

*Azimuths and distances are from antenna site progressing clockwise.

#Radar Control must provide 3 mi and 1000 ft vertical separation; or 3 to 5 mi and 500 ft vertical separation from towers 2127' MSL and 2726' MSL 9 mi NW antenna site.

City, Oklahoma City; State, Okla.; Airport Name, Will Rogers; Elev., 1283'; Fac. Class., ILS; Ident., I-OKC; Procedure No. ILS-17, Amdt. 3; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 2 (ILS portion of Comb. ILS-ADF); Dated, 1 Feb. 58

RULES AND REGULATIONS

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Oklahoma City VOR.....	LOM.....	Direct.....	2400	T-dn.....	300-1	300-1	200-1/2
Oklahoma City LFR.....	LOM.....	Direct.....	2400	C-dn.....	400-1	500-1	500-1 1/2
Bethany Int.....	LOM.....	Direct.....	2500	S-dn-35.....	200-1/2	200-1/2	200-1/2
Mustang FM.....	LOM.....	Direct.....	2400	A-dn.....	600-2	600-2	600-2
Newcastle Int.....	LOM (Final).....	Direct.....	2500				
Radar terminal area transition altitudes:*				Within:			
090.....	090.....	25 mi.....	2400				
090.....	180.....	25 mi.....	2500				
180.....	230.....	25 mi.....	2700				
230.....	295.....	35 mi.....	2500				
285#.....	360.....	25 mi.....	#2700				

Procedure turn E side of crs, 170° Outbnd, 350° Inbnd, 2500' within 10 mi. Beyond 10 mi NA.
 Minimum altitude at glide slope int inbnd, 2500' ILS; over LOM inbnd final 1900' ADF.
 Altitude of glide slope and distance to approach end of runway at OM, 2500'-4.2; at MM, 1475'-0.5.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 3000' on N crs ILS (350°) within 20 mi, or when directed by ATC, turn left, climb to 2500' direct to the OKC VOR or direct to the OKC LFR.
 *Azimuths and distances are from antenna site progressing clockwise.
 #Radar Control must provide 3 mi and 1000' vertical separation; or 3 to 5 mi and 500' vertical separation from towers 2127' MSL and 2720' MSL 9 mi NW antenna site.
 City, Oklahoma City; State, Okla.; Airport Name, Will Rogers; Elev., 1283'; Fac. Class., ILS; Ident., I-OKC; Procedure No. ILS-35, Amdt. 5; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 4 (ILS portion of Comb. ILS-ADF); Dated, 1 Feb. 53

RKS LFR.....	Outer marker.....	Direct.....	9200	T-dn*.....	300-1	300-1	#200-1/2
Int E crs RKS-ILS W crs RKS LFR.....	Outer marker.....	Direct.....	9200	C-d.....	400-1	500-1	500-1 1/2
Point of Rocks FM via crs 235.....	E crs ILS.....	Direct.....	9200	C-n.....	400-2	500-2	500-2
RKS-VOR via R-062.....	E crs ILS.....	Direct.....	9200	S ry 25:*.....			
				d.....	300-3/4	300-3/4	300-3/4
				n.....	300-3/4	300-3/4	300-3/4
				A-dn%.....	600-2	600-2	600-2

Procedure turn N side E crs, 074° Outbnd, 254° Inbnd, 9200' within 10 mi of Outer Marker.
 Minimum Altitude at G.S. int inbnd, 8700'.
 Altitude of G.S. and distance to approach end of rny at OM 7850'-3.9, at MM 6950'-0.6.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 10,000' on W crs of RKS-LFR.
 AIR CARRIER NOTICE: Sliding scale not authorized. Night operations authorized for Runways 7-25 only.
 *290-1 required for takeoff and circling minimums with any component of ILS inoperative.
 #290-2 required if any regular component of the ILS is inoperative.
 City, Rock Springs; State, Wyo.; Airport Name, Municipal; Elev., 6762'; Fac. Class., ILS; Ident., RKS; Procedure No. 1, Amdt. 9; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 8; Dated, 24 Nov. 56

St Louis LFR.....	Lake "H".....	Direct.....	2000	T-dn.....	300-1	300-1	200-1/2
St Louis VOR.....	Lake "H".....	Direct.....	2000	C-dn.....	500-1	500-1	500-1 1/2
St Louis LOM.....	Lake "H".....	Direct.....	2000	S-dn 6.....	500-1	500-1	500-1
Barracks Int.....	Lake "H".....	Direct.....	2100	A-dn.....	800-2	800-2	800-2
Int R-180 STL-VOR and SW crs ILS.....	Lake "H".....	Direct.....	2000				
Int R-180 STL-VOR and SW crs ILS.....	Lake "H" (Final).....	Direct.....	1500				
Maryland Hgts. VOR.....	SW crs ILS (Final).....	R-072 MTS-VOR.....	1800				

Radar transitions to final approach course authorized. Information for radar terminal area transition altitudes on radar procedure.
 Procedure turn S side SW crs, 238° Outbnd, 058° Inbnd, 2000' within 10 mi of Lake "H".
 No glide slope or markers. Alt. over Lake "H", 1500'. Distance from Lake "H" to Rwy 6, 3.8 mi.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles after passing Lake "H", climb to 1800' on NE crs ILS to LOM or, when directed by ATC: (1) Make right (South) turn, climb to 2000' on South crs STL-LFR to Barracks Int; (2) Make left (North) turn, climb to 2000' direct to STL-VOR.
 Major change: Deletes transition from St. Peters FM.
 City, St. Louis; State, Mo.; Airport Name, Lambert Field; Elev., 568'; Fac. Class., ILS; Ident., I-STL; Procedure No. ILS-6, Amdt. 9; Eff. Date, 2 Jan. 60; Sup. Amdt. No. 8; Dated, 15 Nov. 58

These procedures shall become effective on the dates indicated on the procedures.

(Secs. 313 (a), 307 (c), 72 Stat. 752, 749; 49 U.S.C. 1354 (a), 1348 (c))

Issued in Washington, D.C., on December 8, 1959.

WILLIAM B. DAVIS,
 Director, Bureau of Flight Standards.

[F.R. Doc. 59-10559; Filed, Dec. 18, 1959; 11:58 a.m.]

[Reg. Docket No. 217; Amdt. 147]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Alterations

The new and revised standard instrument approach procedures appearing hereinafter are adopted to become effective and/or canceled when indicated in order to promote safety. The revised procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the revised procedures specify the complete procedure and indicate the changes to the existing procedures. Pursuant to authority delegated to me by the Administrator (24 F.R. 5662), I find that a situation exists requiring immediate action in the interest of safety, that notice and public procedure hereon are impracticable, and that good cause exists for making this amendment effective on less than thirty days' notice.

Part 609 (14 CFR Part 609) is amended as follows:

1. The low or medium frequency range procedures prescribed in § 609.100(a) are amended to read in part:

LFM STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	

PROCEDURE CANCELLED, EFFECTIVE OCTOBER 29, 1959.

City, Utica; State, N.Y.; Airport Name, Oneida County; Elev., 742'; Fac. Class., BMRLZ; Ident., UCA; Procedure No. 1, Amdt. 6; Eff. Date, 4 Jan. 58; Sup. Amdt. No. 8; Dated, 24 Mar. 56

2. The automatic direction finding procedures prescribed in § 609.100(b) are amended to read in part:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Ontario VOR.....	LOM.....	Direct.....	4000	T-dn.....	300-1	300-1	200-1½
Fontana FM/Int.....	LOM.....	Direct.....	5000	C-dn.....	500-1	500-1	500-1½
RIV LFR.....	Colton RBN.....	Direct.....	4200	S-dn-25.....	400-1	400-1	400-1
Colton RBN.....	LOM (Final).....	Direct.....	2700	A-dn.....	500-2	500-2	500-2
Int 075° crs to LOM and SE crs BUR LFR.....	LOM.....	Direct.....	4000				

Radar transitions and vectoring utilizing March Radar are authorized in accordance with approved Radar patterns.

Procedure turn* S side of crs, 075° Outbd, 255° Inbd, 3200' within 8 mi. NA beyond NW crs RIV-LFR.

*Nonstandard due to terrain.

Minimum altitude over facility on final approach crs, 2700'.

Crs and distance, facility to airport, 255°-3.7 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.7 mi after passing LOM, climb to 3000' on crs of 255° within 8 mi.

City, Ontario; State, Calif.; Airport Name, International; Elev., 952'; Fac. Class., LOM; Ident., ON; Procedure No. 1, Amdt. 10; Eff. Date, 9 Jan. 60; Sup. Amdt. No. 9; Dated, 6 Sept. 58

Pine Bluff VOR.....	PBF-RBN.....	Direct.....	1700	T-dn.....	300-1	300-1	200-1½
				C-dn.....	600-1	600-1	500-1½
				A-dn.....	800-2	800-2	800-2

Procedure turn E side of crs, 170° Outbd, 350° Inbd, 1700' within 10 miles. Beyond 10 miles NA.

Minimum altitude over facility on final approach crs, 800'.

Facility on airport.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile, turn left climb to 1700' on crs of 170° from PBF RBN within 20 miles.

City, Pine Bluff; State, Ark.; Airport Name, Grider Field; Elev., 205'; Fac. Class., MH; Ident., PBF; Procedure No. 1, Amdt. 3; Eff. Date, 9 Jan. 60; Sup. Amdt. No. 2; Dated, 10 Dec. 54

3. The very-high frequency omnirange (VOR) procedures prescribed in § 609.100(c) are amended to read in part:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Int Little Rock R-134 and PBF R-359.....	PBF-VOR (Final).....	Direct.....	800	T-dn.....	300-1	300-1	200-1½
Pine Bluff Rbn.....	PBF-VOR.....	Direct.....	1700	C-dn.....	400-1	500-1	500-1½
				S-dn-17.....	400-1	400-1	400-1
				A-dn.....	500-2	500-2	500-2

Procedure turn E side of crs, 359° Outbd, 179° Inbd, 1500' within 10 miles.

Minimum altitude over facility on final approach crs, 800'.

Crs and distance, facility to airport, 179°-3.9.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.9 miles, climb to 1700 R-179 within 20 miles.

City, Pine Bluff; State, Ark.; Airport Name, Grider Field; Elev., 205'; Fac. Class., BVOR; Ident., PBF; Procedure No. 1, Amdt. 3; Eff. Date, 9 Jan. 60; Sup. Amdt. No. 2; Dated, 10 Dec. 54

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
All directions VORTAC 15 mi. fix on R-300	AWK VOR AWK VOR (Final)	Direct 120°-15.0	1500 500	T-dn C-dn* S-dn-9 A-dn	400-1 500-1 400-1 800-2	400-1 500-1 400-1 800-2	400-1 500-1½ 400-1 800-2

Procedure turn S side of crs, 300° Outbd, 120° Inbd, 1500' within 10 mi.
 Minimum altitude over facility on final approach crs, 500'.
 Crs and distance, facility to airport, 120°-1.5 mi.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.5 miles, climb to 1500' on R-120 within 20 miles.
 *CAUTION: Standard obstruction clearance not provided for circling north side of airport. When necessary to circle north of airport, 700' ceiling minimums apply due to 427' MSL towers 1.5 miles north in vicinity of AWK HHW.

Location, Wake Island; Airport Name, Wake; Elev., 15'; Fac. Class., VORTAC; Ident., AWK; Procedure No. 1, Amdt. Orig.; Eff. Date, 9 Jan. 60

4. The instrument landing system procedures prescribed in § 609.400 are amended to read in part:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
 If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below:

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Dallas VOR Ross Ave. Int.	LOM	Direct	2000	T-dn	300-1	300-1	200-½
DAL RBN	LOM	Direct	1800	C-dn	400-1	500-1	500-1½
Lakeside Int.	LOM	Direct	1800	S-dn-13	200-½	200-½	200-½
	LOM	Direct	1600	A-dn	600-2	600-2	600-2

Radar terminal area transition altitude: 2000* within 20 miles.
 Procedure turn N side NW crs, 307° Outbd, 127° Inbd, 2000' within 10 mi. NA beyond 10 mi.
 Minimum altitude at G.S. int inbd, 2000'.
 Altitude of G.S. and distance to appr end of rwy at OM, 1779'-4.2 mi; at MM, 709'-0.6 mi.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 miles of LOM climb to 2000' on SE crs ILS (127) within 20 miles or, when directed by ATC, turn left, proceed to DAL VOR, climbing to 2000', or when under positive radar contact, climb to 2000'* on crs as directed by ATC.
 CAUTION: 1221' R.T. 5.6 mi WNW of LOM. 695' tank 1.7 mi SE runway 31. Procedure turn non-standard due ATC.
 Major change: Deletes transition from Farmers Branch Int.
 *Radar control must provide 1000' clearance when within 3 mi or 500' clearance when within 3-5 mi of radio towers—1108 msl 20 mi N; 1221 msl 10 mi WNW; and TV tower 2349' msl 17 mi SSW of airport.

City, Dallas; State, Tex.; Airport Name, Love Field; Elev., 485'; Fac. Class., ILS; Ident., I-DAL; Procedure No. ILS-13, Amdt. 7; Eff. Date, 9 Jan. 60; Sup. Amdt. No. 6; Dated, 9 May 59

Ontario VOR	LOM	Direct	4000	T-dn	300-1	300-1	200-½
Fontana FM/Int	LOM	Direct	5000	C-dn	500-1	500-1	500-1½
Riverside LFR	Colton RBN	Direct	4200	S-dn-25	200-½	200-½	200-½
Colton RBN	LOM (Final)	Direct	*2700	A-dn	600-2	600-2	600-2
Int W crs ILS and SE crs BUR LFR	LOM	Direct	4000				

*After intercepting glide slope, descent to cross LOM at 2120' is authorized.
 Radar transitions and vectoring utilizing March Radar are authorized in accordance with approved Radar patterns.
 Procedure turn S side of crs, 075° Outbd, 255° Inbd, 3200' within 8 mi of LOM. NA beyond NW crs RIV LFR.
 #Nonstandard due to terrain.
 Minimum altitude at glide slope int, 2700'.
 Altitude of glide slope and distance to approach end of runway at LOM, 2120-3.7; at MM, 1140-0.4.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.7 mi of LOM, climb to 3000' on W crs within 8 miles.
 City, Ontario; State, Calif.; Airport Name, International; Elev., 952'; Fac. Class., ILS; Ident., I-ONT; Procedure No. ILS-25, Amdt. 10; Eff. Date, 9 Jan. 60; Sup. Amdt. No. 9; Dated, 6 Sept. 58

Verdi Int	RNO RBN	Direct	9500	T-dn*	800-1½	800-1½	800-1½
Wadsworth FM	RNO RBN	Direct	9500	C-dn	1000-2	1000-2	1000-2
Steamboat Int**	RNO RBN	Direct	8500	S-dn#	800-1½	800-1½	800-1½
RNO VOR	RNO RBN	Direct	8500	A-dn	1500-3	1500-3	1500-3
RNO LFR	RNO RBN	Direct	8500				

No procedure turn authorized. Descend to 8500' in a one-minute right turn pattern, 343° Outbd, 163° Inbd, within 10 miles north of RNO RBN. Not Authorized beyond 10 miles.
 Minimum altitude over RNO RBN on final approach crs, 8000'.
 Altitude of G.S. and distance to appr end of rwy at OM, 6300'-5.8 mi; at MM/LFR, 5180'-2.3 mi.
 If visual contact not established at the MM/LFR, climb straight ahead to 6000' on the S crs of the ILS within 5 miles, then reverse crs to the right, continue climb to 8000', shutting on the N crs of the ILS between the RNO RBN and the MM/LFR, all turns to the East, or when directed by ATC, climb to 9000' on the S crs of the ILS within 15 miles of the MM/LFR, turn left and proceed to the RNO VOR at 9000'. Cross the Steamboat Int at or above 8000' when using the alternate missed approach procedure.
 CAUTION: All provisions of this procedure must be strictly adhered to. Precipitous terrain all quadrants. Do not proceed beyond the MM/LFR on final approach unless landing is assured.
 AIR CARRIER NOTE: No reduction in visibility minimums authorized.
 *Authorized for Rwy 16, 34, and 25. All other runways require 1000-2.
 **Steamboat Int: S crs ILS and R-191 RNO VOR.
 #No approach lighting. All other components of ILS are required for this procedure.

City, Reno; State, Nev.; Airport Name, Municipal; Elev., 4411'; Fac. Class., ILS; Ident., RNO; Procedure No. ILS-16, Amdt. Orig.; Eff. Date, 1 Jan. 60

These procedures shall become effective on the dates indicated on the procedures.

(Secs. 313(a), 307(c), 72 Stat. 752, 749; 49 U.S.C. 1354(a), 1348(c))

Issued in Washington, D.C., on December 16, 1959.

WILLIAM B. DAVIS,
 Director, Bureau of Flight Standards.

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER A—PROCEDURES, RULES OF PRACTICE, AND ORDERS

PART 13—PROHIBITED TRADE PRACTICES

Reorganization and Republication of Part

The heading of Part 13 is changed to read as set forth above and the part is reorganized in form, now consisting only of a list of prohibited practices each bearing a section number for the purpose of citation, is set forth below in its entirety.

The listing of individual cease and desist orders issued by the Commission is hereby deleted from the Code of Federal Regulations. Publication of such orders in the FEDERAL REGISTER will be continued. Citations to all orders filed and published in the FEDERAL REGISTER since January 1, 1949 appear in the FEDERAL REGISTER Codification Guides, and are carried, with the addition of Federal Trade Commission docket numbers, in the List of Sections Affected in the Code of Federal Regulations volume containing Title 16, and supplements thereto.

Subpart—Acquiring Confidential Information Unfairly

Sec. § 13.1 Acquiring confidential information unfairly.

Subpart—Acquiring Stock or Assets of Competitor

§ 13.5 Acquiring stock or assets of competitor.

Subpart—Advertising Falsely or Misleadingly

§ 13.10 Advertising falsely or misleadingly.

§ 13.15 Business status, advantages, or connections.

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 § 13.2505 Pooling and controlling patents and patent rights restrictively.
 § 13.2510 Refraining, concertedly, from challenge of one another's.
 § 13.2515 Securing, improperly, non-contesting agreements, etc.
AUTHORITY: §§ 13.1 to 13.2515 issued under sec. 6(g), 38 Stat. 722; 15 U.S.C. 46(g). Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45. Sec. 2 (a), (c), (d), (e), 49 Stat. 1526, 1527; 15 U.S.C. 13 (a), (c), (d), (e).
By the Commission.
 Issued: December 17, 1959.
 [SEAL] ROBERT M. PARRISH,
Secretary.
 [F.R. Doc. 59-10804; Filed, Dec. 18, 1959; 8:49 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Exemption of Certain Transactions

The Securities and Exchange Commission today announced the amendment of Rule 16b-8 (§ 240.16b-8) under section 16(b) of the Securities Exchange Act of 1934. This section of the Act provides that profits obtained by certain holders of the stock of a listed company from purchases and sales, or sales and purchases, of any equity securities of such company (other than exempt securities) within any six-month period may be recovered by the company or by any security holder on its behalf.

Rule 16b-8 exempts from section 16(b), under certain conditions, the receipt from an issuer of shares of stock having general voting power and registered on a national securities exchange upon the surrender of an equal number of shares of stock of the same issuer which do not have such voting power and are not so registered, where the transaction is effected pursuant to the provisions of the issuer's certificate of incorporation for the purpose of making an immediate public sale or a gift of such shares.

One of the conditions to exemption under the rule is that no shares of the class surrendered or any other shares of the class received are acquired, by the person effecting the transaction, within six months before or after the date of the transactions. The purpose of the amendment is to make it clear that the exemption of transactions under the rule is not affected by prior or subsequent transactions which are also exempt under the provisions of the rule.

The amendment is in the form of a revision of paragraph (d) of the rule which, as amended, reads as follows:

§ 240.16b-8 Exemption from section 16(b) of certain securities received upon surrender of similar equity securities.

* * * * *

(d) Neither the shares so surrendered nor any shares of the same class, nor other shares of the same class as those issued upon such surrender, have been or are purchased (otherwise than in a transaction exempted by this section), by the person surrendering such shares, within six months before or after such surrender or issuance.

(Secs. 19, 23, 48 Stat. 85, as amended, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 15 U.S.C. 77s, 77sss, 78w, 79t, 80a-37, 80b-11)

The Commission finds that the foregoing amendment merely clarifies the purpose and scope of the rule and that notice and procedure pursuant to the Administrative Procedure Act is not necessary in the public interest. For similar

reasons and because the amendment recognizes an exemption or relieves an apparent restriction on a previous exemption, the amendment may be made effective less than 30 days prior to the publication thereof. Accordingly, the amendment shall become effective upon publication, December 10, 1959.

By the Commission.

ORVAL L. DuBOIS,
Secretary.

DECEMBER 10, 1959.

[F.R. Doc. 59-10758; Filed, Dec. 18, 1959;
8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Revocation of Obsolete Material

Pursuant to the provisions of the Federal Register Act (44 U.S.C. 311) and the regulations thereunder (1 CFR 11.4 (24 F.R. 2346)). Part 3 is amended by revoking § 3.204 *Sprout inhibitors; tolerances for residues in food*, since the material therein was made obsolete by an amendment to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135).

Dated: December 11, 1959.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 59-10765; Filed, Dec. 18, 1959;
8:47 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Miscellaneous Amendments

Effective upon publication in the FEDERAL REGISTER, the following amendments to Part 120 (21 CFR Part 120) are ordered, under the authority vested in the Secretary of Health, Education, and Welfare, by the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408, 701, 52 Stat. 1055, 68 Stat. 511, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 346a, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045, 23 F.R. 9500):

1. Section 120.157 is amended by changing the section headnote and the introduction to the section to read as follows:

§ 120.157 Tolerances for residues of 1-methoxycarbonyl-1-propen-2-yl dimethyl phosphate and its beta isomer.

Tolerances for residues of 1-methoxycarbonyl-1-propen-2-yl dimethyl phosphate and its beta isomer are established in or on raw agricultural commodities, as follows:

2. Section 120.158 is amended by changing the section headnote and the introduction to the section to read as follows:

§ 120.158 Tolerances for residues of 2,4-dichloro-6-*o*-chloroanilino-*s*-triazine.

Tolerances for residues of 2,4-dichloro-6-*o*-chloroanilino-*s*-triazine in or on raw agricultural products are established as follows:

Notice and public procedure are not necessary prerequisites to the promulgation of this order, since the amendments are of an editorial character.

(Sec. 701, 52 Stat. 1055; 21 U.S.C. 371. Interprets or applies sec. 408, 68 Stat. 511, as amended 72 Stat. 948)

Dated: December 11, 1959.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 59-10766; Filed, Dec. 18, 1959;
8:47 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6432]

PART I—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

PART 18—CERTAIN INCOME TAX MATTERS UNDER THE TECHNICAL AMENDMENTS ACT OF 1958

Miscellaneous Amendments

On March 12, 1959, notice of proposed rule making regarding the regulations under subchapter S of chapter 1 and section 6037 of the Internal Revenue Code of 1954 and amendment of the Income Tax Regulations (26 CFR 1.442-1) under section 442 of such Code was published in the FEDERAL REGISTER (24 F.R. 1793) subject to corrections which were published in the FEDERAL REGISTER on March 17, 1959 (24 F.R. 1911). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted subject to the changes set forth below. These changes also reflect amendments made by section 2 of the Act of September 23, 1959 (Public Law 86-376, 73 Stat. 699). Such regulations supersede Treasury Decision 6317 (26 CFR Part 18), approved September 22, 1958 (23 F.R. 7484). Except as specifically provided otherwise, the regulations hereby prescribed are applicable for taxable years beginning after December 31, 1957.

PARAGRAPH 1. Section 1.1371 is revised as follows:

(A) A new paragraph (c) is added at the end of section 1371.

(B) The historical note is changed by inserting before the bracket at the end thereof the following: “; amended by sec. 2(a), Act of Sept. 23, 1959 (Pub. Law 86-376, 73 Stat. 699)”.

PAR. 2. Section 1.1371-1 is revised as follows:

(A) Paragraph (a) is changed by striking out “1.1377” and inserting “1.1377-3” in lieu thereof.

(B) Paragraph (c) is changed by striking out the last two sentences and inserting in lieu thereof the following: “However, for any period prior to September 24, 1959, see section 1504(b) (8), under which an electing small business corporation is excluded from the definition of ‘includible corporation.’”

(C) Paragraph (d) is changed.

(D) Paragraph (e) is changed.

(E) Paragraph (g) is changed by striking out the parenthetical phrase appearing in the fourth sentence thereof and adding the following new sentence at the end of such paragraph: “If an instrument purporting to be a debt obligation is actually stock, it will constitute a second class of stock.”

PAR. 3. Section 1.1372-1 is revised as follows:

(A) Paragraph (a) is changed by striking out the designation “(1)” and all of subparagraph (2), and changing the last sentence of existing subparagraph (1) to read as follows: “See § 1.1372-3, relating to shareholders’ consent.”

(B) Paragraph (c) (3) is changed.

(C) Paragraph (c) (6) is revised.

PAR. 4. Paragraph (b) of § 1.1372-2 is revised by adding at the end of subparagraph (1) thereof the following new sentence: “For purposes of this subparagraph, the first month of the taxable year of a new corporation does not begin until the corporation has shareholders or acquires assets or begins doing business, whichever is the first to occur.”

PAR. 5. Section 1.1372-3 is revised as follows:

(A) Paragraph (a) is changed by striking out the seventh sentence and inserting in lieu thereof the following: “The consents of all persons who are shareholders at the time the election is made shall be attached to the election of the corporation.”

(B) Paragraph (a) is further changed by striking out the last two sentences and inserting in lieu thereof the following: “A consent will be considered timely if it is filed on or before the last day prescribed for making the election. In the case of a shareholder in a community-property State whose spouse has filed a timely consent, the consent of such shareholder will also be considered timely if it is filed on or before February 2, 1959, or the last day prescribed for making the election, whichever is later. An election under section 1372 will not be valid if any of the consents are not timely filed. However, an election which was timely filed for any taxable year beginning before March 1, 1960, and which would be valid but for the fact that the consent of any shareholder of the corporation was not filed or was defective in any manner, will not be invalid if—

(1) A proper consent is filed by such shareholder after the date of publication of this section of the regulations in the FEDERAL REGISTER and on or before March 1, 1960,

(2) All shareholders of the corporation who previously filed timely and proper consents file new consents within the period mentioned in subparagraph (1) of this paragraph, and

(3) The shareholders show to the satisfaction of the district director with whom the election under section 1372 was filed that the failure to file timely and proper consents was not due to an intention to avoid making a valid election."

(C) Paragraph (b) is changed by striking out the third sentence and inserting in lieu thereof the following: "If the new shareholder is an estate, the 30-day period shall not begin until the executor or administrator has qualified under local law to perform his duties, 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."

PAR. 6. Paragraph (b) of § 1.1372-4 is revised—

(A) By adding the following new sentence immediately before the last sentence in subparagraph (1): "However, an election which would not have terminated except for the failure of any new shareholder to file a timely consent or except for the fact that the consent of any such new shareholder was defective in any manner is not terminated if—

(i) A proper consent is filed by all such new shareholders after the date of publication of this section of the regulations in the FEDERAL REGISTER and on or before March 1, 1960,

(ii) All persons who previously filed timely and proper consents, and who were shareholders of the corporation at any time during the taxable year in which the termination would have occurred, file new consents within the period mentioned in subdivision (i) of this subparagraph, and

(iii) The shareholders show to the satisfaction of the district director with whom the election under section 1372 was filed that the failure of the new shareholders to file timely and proper consents was not due to an intention to terminate the election."

(B) By striking out the word "taxpayer's" in each of the last two sentences of the example in subparagraph (4) (ii) and inserting the word "corporation's" in lieu thereof.

(C) By changing the last two sentences of subparagraph (5) (ii) (a) thereof to read as follows: "For example, gross receipts will include the total amount received or accrued during the corporation's taxable year from the sale or exchange (including a sale or exchange to which section 337 applies) 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 (other than those to which section 337 applies), 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."

(D) By changing the first sentence of example (1) in subparagraph (5) (ii) (b) thereof to read as follows: "A corporation on the accrual method sells property (other than stock or securities) and receives payment partly in money and partly in the form of a note payable at a future time."

(E) By changing the first sentence of example (3) in subparagraph (5) (ii) (b) thereof to read as follows: "A corporation which regularly sells personal property on the installment plan elects to report its taxable income from the sale of property (other than stock or securities) on the installment method in accordance with section 453."

(F) By striking out the second sentence of subparagraph (5) (iii) and inserting in lieu thereof the following new sentence: "The term 'royalties' does not include amounts received upon the disposal of timber or coal with a retained economic interest with respect to which the special rules of section 631 (b) and (c) apply or amounts received from the transfer of patent rights to which section 1235 applies."

PAR. 7. Section 1.1373-1 is revised as follows:

(A) The second sentence of paragraph (a) (2) thereof is changed to read as follows: "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) (1) of § 1.1371-1 shall apply."

(B) Paragraph (g) is changed as follows:

(i) The last sentence in example (4) thereof is changed to read as follows: "Therefore, both the distribution of property (at its fair market value) and the corporation's undistributed taxable income will be fully taxable as dividends."

(ii) The last sentence in example (5) thereof is changed to read as follows: "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 corporation's taxable year."

(iii) The third sentence of example (6) thereof is changed to read as follows: "During 1962 it has \$3,000 of taxable income and current earnings and profits."

PAR. 8. Section 1.1374 is revised as follows:

(A) Subsection (b) of section 1374 is changed.

(B) The historical note is changed by inserting before the bracket at the end thereof the following: "; amended by sec. 2(b), Act of Sept. 23, 1959 (Pub. Law 86-376, 73 Stat. 699)".

PAR. 9. Paragraph (b) of § 1.1374-1 is revised by changing subparagraphs (2) and (4) thereof.

(C) By changing the last sentence of subparagraph (4) (iii) thereof to read as follows: "However, adjustments to the basis of stock and indebtedness under section 1376 for prior years losses of the corporation are to be considered."

PAR. 10. Section 1.1375-1 is revised as follows:

(A) Paragraph (a) is changed by adding the following new sentence at the end thereof: "Furthermore, this capital gain treatment applies whether or not the shareholder held any stock in the corporation at the close of the taxable year of the corporation."

(B) Paragraph (b) is changed.

(C) Paragraph (e) is changed by adding a new example (4) at the end thereof.

PAR. 11. Section 1.1375-4 is revised as follows:

(A) Paragraph (a) is changed by striking out the word "corporations" in the third sentence and inserting in lieu thereof the word "corporation."

(B) Paragraph (c) is changed.

(C) The second sentence of paragraph (d) is changed to read as follows: "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 (increased or decreased by any adjustment of such amount in any redetermination of the shareholder's tax liability) is taken into account, unless the shareholder is not required to file a return for such prior taxable year."

PAR. 12. Paragraph (a) of § 1.6037-1, as set forth in paragraph 2 of the notice of proposed rule making, is revised by changing the second sentence thereof to read as follows: "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 and shall be signed in accordance with section 6062 by the person authorized to sign a return."

PAR. 13. Section 1.442-1, as set forth in paragraph 3 of the notice of proposed rule making, is revised as follows: Paragraphs (c) (4) and (f) are changed.

PAR. 14. Section 1.1502-2, as amended by Treasury Decision 6412, approved September 10, 1959, is further amended by changing paragraph (b) (1) (viii) thereof.

PAR. 15. Section 1.1504, as amended by Treasury Decision 6412, approved September 10, 1959, is further amended—

(A) By striking subsection (b) (8) of section 1504.

(B) By changing the historical note by inserting before the bracket at the end thereof the following: "; sec. 2(c), Act of Sept. 23, 1959 (Pub. Law 86-376, 73 Stat. 699)".

Because those changes made by this Treasury decision which are required by the amendments made by section 2 of the Act of September 23, 1959 (Public Law 86-376, 73 Stat. 699), are merely of a clarifying or liberalizing nature, it is hereby found that it is unnecessary to issue those provisions of this Treasury decision which deal with such changes with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

This Treasury decision is 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.

Approved: December 15, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

PARAGRAPH 1. The regulations adopted under sections 1371 through 1377, and section 6037, of the Internal Revenue Code of 1954, supersede Treasury Decision 6317 (CFR Part 18), approved September 22, 1958 (23 F.R. 7484) and read as follows:

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.
- 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.

AUTHORITY: §§ 1.1371 to 1.1377-3 and §§ 1.6037 to 1.6037-1, incl., issued under sec. 7805, I.R.C. 1954; (68" Stat. 917, 26 U.S.C. 7805).

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.

(c) *Stock owned by husband and wife.* For purposes of subsection (a)(1) stock which—

- (1) Is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or
- (2) Is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

shall be treated as owned by one shareholder.

[Sec. 1371 as added by sec. 64(a), Technical Amendments Act 1958 (72 Stat. 1650); amended by sec. 2(a), Act of Sept. 23, 1959 (Pub. Law 86-376, 73 Stat. 699)]

§ 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 1.1377-3, 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 defined in section 1504, is not a small business corporation, whether or not such affiliated group has ever filed a consolidated return. However, for any period prior to September 24, 1959, see section 1504(b)(8), under which an electing small business corporation is excluded from the definition of "includible corporation."

(d) *Number of shareholders.*—(1) *In general.* 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 by tenants in common, joint tenants, or tenants by the entirety, each tenant in common, joint tenant, or tenant by the entirety is generally considered a shareholder, but see subparagraph (2) of this paragraph relating to stock owned by husband and wife. Persons for whom a stock in a corporation is held by a nominee, agent, guardian, or custodian will generally be considered shareholders of the corporation. If stock is owned by a trust which is subject to the provisions of subchapters D, F, H, or J of chapter 1 of the Code, or by a voting trust, 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. If stock is owned by a partnership, such partnership and not its partners is considered to be the shareholder.

(2) *Stock owned by husband and wife.*

(i) Except as otherwise provided under subdivision (ii) of this subparagraph, in determining whether a corporation meets the 10 or fewer shareholder requirement of section 1371(a), stock which—

(a) Is community property of a husband and wife (or the income from which is community income) under the applicable community-property law of a State, or

(b) Is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

shall be treated as owned by one shareholder. For this purpose, if a husband and wife owns stock in a corporation individually, and the husband and wife own other stock in the corporation jointly, the husband and wife will be considered one shareholder. However, if the husband and wife each owns stock in the corporation individually, they will be treated as two shareholders. This subdivision applies only in determining the number of shareholders for purposes of section 1371(a)(1) and does not apply for purposes of any other provisions of subchapter S of the Code. Thus, for example, the husband and wife will each be considered a shareholder for purposes of section 1372(a), relating to the requirement that all shareholders consent to the corporation's election, and section 1373(a), relating to the inclusion in the shareholder's gross income of the corporation's undistributed taxable income.

(ii) Subdivision (i) of this subparagraph does not apply in determining the number of shareholders for any taxable year of the corporation which begins before January 1, 1960. Thus, if stock is owned as community property (or if the income from the stock is community income), or if stock is owned by a husband and wife as tenants in common,

joint tenants, or tenants by the entirety, then, for any taxable year of the corporation which begins before January 1, 1960, both the husband and wife having a community interest in such stock (or the income therefrom) and each tenant in common, joint tenant, or tenant by the entirety is generally considered a 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 includes all trusts subject to the provisions of subchapter D, F, H, or J (including subpart E thereof) of chapter 1 of the Code and voting trusts. 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 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. If an instrument purporting to be a debt obligation is actually stock, it will constitute a second 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.

§ 1.1372-1 Statutory provisions; election by small business corporation.

Sec. 1372. *Election by small business corporation—(a) Eligibility.* Except as pro-

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vided 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 corporation 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.* 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' consent.

(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) In general, except as otherwise provided in section 1373(d), taxable income of an electing small business

corporation is computed in the same manner that it would have been had no election been made;

(2) Section 301, relating to distributions of property, applies to distributions by 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 in determining whether distributions by an electing small business corporation are to be treated as 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 sections 1375(d)(1) and 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 § 1.1373-1 for rules relating 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. For purposes of this subparagraph, the first month of the taxable year of a new corporation does not begin until the corporation has shareholders or acquires assets or begins

doing business, whichever is the first to occur.

(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.

§ 1.1372-3 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 persons who are shareholders at the time the election is made 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. A consent will be considered timely if it is filed on or before the last day pre-

scribed for making the election. In the case of a shareholder in a community-property State whose spouse has filed a timely consent, the consent of such shareholder will also be considered timely if it is filed on or before February 2, 1959, or the last day prescribed for making the election, whichever is later. An election under section 1372 will not be valid if any of the consents are not timely filed. However, an election which was timely filed for any taxable year beginning before March 1, 1960, and which would be valid but for the fact that the consent of any shareholder of the corporation was not filed or was defective in any manner, will not be invalid if—

(1) A proper consent is filed by such shareholder after the date of publication of this section of the regulations in the FEDERAL REGISTER and on or before March 1, 1960,

(2) All shareholders of the corporation who previously filed timely and proper consents file new consents within the period mentioned in subparagraph (1) of this paragraph, and

(3) The shareholders show to the satisfaction of the district director with whom the election under section 1372 was filed that the failure to file timely and proper consents was not due to an intention to avoid making a valid election.

(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 qualified under local law to perform his duties, 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. However, an election which would not have terminated except for the failure of any new shareholder to file a timely consent or except for the fact that the consent of any such new shareholder was defective in any manner is not terminated if—

(i) A proper consent is filed by all such new shareholders after the date of publication of this section of the regulations in the FEDERAL REGISTER and on or before March 1, 1960,

(ii) All persons who previously filed timely and proper consents, and who were shareholders of the corporation at any time during the taxable year in which the termination would have occurred, file new consents within the period mentioned in subdivision (i) of this subparagraph, and

(iii) The shareholders show to the satisfaction of the district director with whom the election under section 1372 was filed that the failure of the new shareholders to file timely and proper consents was not due to an intention to terminate the election.

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 corporation'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 corporation's gross sales for the taxable year both within the United States and within the foreign country.

(5) *Personal holding company income*—(i) *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 exchanges 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 (including a sale or exchange to which section 337 applies) 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 (other than those to which section 337 applies), 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 method sells property (other than stock or securities) 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 from the sale of property (other than stock or securities) on the installment method 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 term "royalties" does not include amounts received upon disposal of timber or coal with a retained economic interest with respect to which the special rules of section 631 (b) and (c) apply or amounts received from the transfer of patent rights to which section 1235 applies. For the definition of "mineral, oil, or gas royalties" see paragraph (b) (11) (i) 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(e) (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 of 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(e) (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 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) (1) 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, relating 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 taxable 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 earn-

ings 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 of property (at its fair market value) and the corporation's undistributed taxable income 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 corporation's 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 current 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 (or for the final taxable year of a shareholder who dies before the end of the corporation's taxable year), 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); amended by sec. 2(b), Act of Sept. 23, 1959 (Pub. Law 86-376, 73 Stat. 699)]

§ 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 is allowable.* The deduction allowed 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 or, in the case of shareholders who die after September 23, 1959, for the final taxable year of a shareholder who dies before the end of the corporation's 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.

If a shareholder's pro rata share of the corporation's net operating loss exceeds the limitation imposed by section 1374(c)(2), such excess is not allowable as a deduction for any taxable year.

(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 losses of the corporation 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 includable 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) includable in the shareholder's gross income bears to the entire amount of dividends described in paragraph (1) includable in the gross income of all shareholders.

(b) *Dividends received credit not allowed.* The amount includable 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. Furthermore, this capital gain treat-

ment applies whether or not the shareholder held any stock in the corporation at the close of the taxable year of the corporation.

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

(1) The excess of the corporation's net long-term capital gain over its net 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 1373(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 ($\frac{100,000}{75,000} \times \$40,000$) is includ-

ible by each shareholder in his taxable year ending June 30, 1959, and \$10,000 thereof in his taxable year ended June 30, 1960.

Example (4). An electing small business corporation which has three equal shareholders has a net long-term capital gain in excess of net short-term capital loss of \$60,000 for its taxable year 1959. The corporation has taxable income and current earnings and profits of \$80,000 (including such net capital gain of \$60,000). In March 1959, the corporation pays a cash dividend of \$60,000 (\$20,000 to each shareholder). In April 1959, one of the shareholders sells all his shares to the other shareholders in equal amounts. No further distributions are made by the corporation. With respect to the March distribution, each shareholder will be deemed to have received capital gain of \$15,000 (60,000/80,000 of \$20,000) and ordinary income of \$5,000. At the end of the year, there will be \$20,000 of undistributed taxable income (\$80,000 taxable income less \$60,000 cash dividend), of which \$10,000 will be includible in the income of each of the two remaining shareholders. Of the \$10,000 includible by each shareholder, \$7,500 (60,000/80,000 of \$10,000) will be deemed to be capital gain, and the remainder (\$2,500) will be ordinary income.

§ 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 corpora-

tion (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 dividend 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 indi-

vidual 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 \$70,000 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 \$35,000 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 corporation 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 which are in excess of its earnings and profits for the taxable year as distributions out of accumulated earnings and profits, if any, rather than as distributions of previously taxed income. For any taxable year for which such election is made, a statement of election shall be filed with a timely return under section 6037 for such year. Such election applies to all distributions during such year. An election applies only for the year for which it is made, but a new election may be made for any subsequent year.

(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 (increased or decreased by any adjustment of such amount in any redetermination of the shareholder's tax liability) 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). (1) 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 allowable 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 corporations.

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 accumulated 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 allow-

able 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 and shall be signed in accordance with section 6062 by the person authorized to sign a return. 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 determination 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 sec-

tion 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 Commis-

sioner 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 return). See paragraph (e) 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 (as defined in section 1371(b)) 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 required to effect the change ends on or after March 1, 1957, the date the regulations under section 442 were published in the FEDERAL REGISTER.

PAR. 4. Section 1.1502-2, as amended by Treasury Decision 6412, approved September 10, 1959, is further amended by changing paragraph (b) (1) (viii) thereof to read as follows:

(viii) For periods before September 24, 1959, an electing small business corporation as defined in section 1371(b).

PAR. 5. Section 1.1504, as amended by Treasury Decision 6412, approved September 10, 1959, is further amended—

(A) By striking subsection (b) (8) of section 1504.

(B) By changing the historical note by inserting before the bracket at the end thereof the following: “; sec. 2(c), Act of Sept. 23, 1959 (Pub. Law 86-376, 73 Stat. 699)”.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[F.R. Doc. 59-10760; Filed, Dec. 18, 1959; 8:46 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Civil and Defense Mobilization

[D.M.O. V-3 Cancelled]

DMO V-3—POLICY REGARDING SURPLUS MATERIALS ACQUIRED UNDER THE DEFENSE PRODUCTION ACT

[D.M.O. V-7, Revised]

DMO V-7—GENERAL POLICIES FOR STRATEGIC AND CRITICAL MATERIALS STOCKPILING

By virtue of the authority vested in me by Reorganization Plan No. 1 of 1958 and Executive Order 10773, it is hereby ordered:

1. *General role of the strategic stockpile.* The strategic stockpile shall take account of the potentiality of limited war and general war and shall assume rapid mobilization in the event of an emergency.

2. *Period covered by stockpiling.* All strategic stockpile objectives shall be limited to meeting estimated shortages of materials for a three-year emergency.

3. *Stockpile objectives.* Strategic stockpile objectives shall be adequate for limited or general war, whichever shows the larger supply-requirements deficit to be met by stockpiling. Stockpile objectives shall be determined on the basis of time required for supplies of materials in a national emergency to match essential needs of the emergency. The objectives shall consist of (1) a "basic objective," which assumes reliance on sources of supply factored to reflect estimated supply risks, and (2) a "maximum objective," which includes an additional allowance to take into account the complete discounting of sources of supply beyond North America and comparably accessible areas.

Until such time as the essential needs of the nation in the event of a nuclear attack (including reconstruction) can be determined, the maximum objective shall not be less than six months' usage by industry in the United States in periods of active demand.

4. *Emergency requirements.* The requirements estimates for both limited and general war shall reflect specific requirements so far as they are applicable and available. Otherwise it shall be assumed that the total requirements would about equal the consumption by industrial capacity, considering necessary wartime limitation, conservation, and substitution measures. Requirements shall be discounted for wartime losses of consuming capacity to the extent that such losses can be reliably estimated.

5. *Emergency supplies.* Estimates of supply for the mobilization period shall be based on readily available capacity and known resources. The share available to the United States shall be discounted to reflect the risks involved internally in supply countries, the risks of concentration of the source, the risks of overseas shipping and the vulnerability

of domestic sources to destruction. Domestic supplies shall be discounted in cases of excessive concentration to the extent of the estimated time required to restore capacity that may be damaged.

6. *Provision for special-property materials.* Prospective needs for high-temperature and other special-property materials shall be considered on the basis of a three-year period beginning not more than two years in the future. Estimates of requirements therefor shall be included in the computation of objectives when there are indications of reasonably firm minimum requirements. In this connection arrangements shall be made for the regular availability of objective scientific advice to assist in such evaluation.

7. *Frequency of supply-requirements reviews.* The supply-requirements balance for any material that is now or may become important to defense shall be kept under continuing surveillance and shall be given a full-scale review at any time that a change is believed to be taking place that would have a significant bearing on the wartime readiness position. Supply-requirements balances shall be examined at least once a year to ascertain the need for a full-scale review. Priority of review shall be given to materials under procurement.

8. *Procurement policy.* The basic objectives shall be attained expeditiously. If necessary, sources of supply shall be expanded. Procurement, however, shall be tapered as the basic objectives are approached. The maximum objective shall be reached on a lower priority basis by such means as (1) deliveries under existing contracts, (2) transfers from other Government programs, (3) purchases with available foreign currencies, (4) barter of U.S. agricultural surpluses, and (5) programs to maintain the mobilization base under paragraph 9. Future long-term contracts shall contain termination clauses whenever possible.

9. *Maintenance of the mobilization base.* The mobilization base shall relate to the projected supply capacity, including standby capacity, that would be readily available for an emergency commencing on any assumed date rather than to the output of a given period. Stockpile procurement to maintain this capacity shall be undertaken only within the maximum objective. Although various measures that are feasible shall be considered for meeting a mobilization deficit of materials, measures other than stockpiling shall be undertaken only after it is clear that stockpiling is not the best solution. All inventories of Government-owned materials held for long-term storage are a part of the mobilization base. If they are sufficiently large they may eliminate the need for a producing mobilization base segment.

10. *Upgrading to ready usability.* Where the general basis for estimating supplies of a material, including allowance for plant vulnerability, does not call for a sufficient quantity in a form suitable for immediate use to meet the initial surge of demand and abnormal conditions of intensive mobilization, a minimum readiness inventory—approx-

mately a six months' requirement—shall be provided near centers of consumption. An interagency review should be undertaken to determine whether a need for a larger or lesser allowance may exist. Materials in Government inventories may be upgraded only when the net cost is less than the cost of new material. Materials will not be upgraded to such a degree, however, as to impair flexibility of use. Payment in kind may be used within the objectives to finance the upgrading, provided that the release of materials to pay for the upgrading will meet disposal criteria.

11. *Beneficiation of subspecification materials.* Subspecification-grade material in Government inventory may be beneficiated within the limits of the maximum objectives when this can be accomplished at less net cost than buying new material.

12. *Cancellation of commitments.* Commitments for deliveries to national stockpile and Defense Production Act inventories beyond the maximum objectives shall be canceled or reduced when settlements can be arranged which would be mutually satisfactory to the supplier and the Government and which would not be disruptive to the economy or to projects essential to the national security. Such settlements may take into account anticipated profits and cover adjustments for above-market premiums. The settlement of commitments may be made through the payment of cash or through the application of surplus property or resale of materials. Responsibility with respect to the settlement of commitments in the light of over-all interests of the Government rests with the Administrator of General Services, who shall keep other agencies advised and consult with them to the extent appropriate.

13. *Retention of Defense Production Act inventories.* Within the limits of unfilled maximum stockpile objectives, stockpile-grade materials acquired under the Defense Production Act shall be retained for national stockpile purposes.

14. *Disposals.* The Director of the Office of Civil and Defense Mobilization will authorize the disposal of excess materials whenever possible under the following conditions: (a) avoidance of serious disruption of the usual markets of producers, processors, and consumers, (b) avoidance of adverse effects on international interests of the United States, (c) due regard to the protection of the United States against avoidable loss, and (d) except when the materials are channeled to other agencies for their direct use, approval of the Departments of the Interior, Commerce, State, Agriculture, and Defense, and other governmental agencies concerned, and consultation as appropriate with the industries concerned.

In making such disposals preference shall be given to materials in the DPA inventories.

Disposals of materials that deteriorate, that are likely to become obsolete, that do not meet quality standards, or that do not have stockpile objectives, are to be expedited.

The Administrator of General Services shall be responsible for conducting negotiations for the sale of materials and will consult with and advise the agencies concerned.

15. *Public notice on disposals.* Generally, the sale of excess materials acquired under the Defense Production Act will be made only after appropriate public announcement of the quantity or quantities to be offered in a specified period of time.

16. *Direct Government use.* Government agencies which directly use strategic and critical materials shall fulfill their requirements through the use of materials in Government inventories that are excess to the needs thereof whenever such action is found to be consistent with overall disposal policies and with the best interests of the Government. Except where appropriate in the judgment of the Administrator, General Services Administration, the requirements of section 14, above, with respect to approval by Government departments or agencies and consultation with industries, shall not be applicable to transfers of strategic and critical materials for direct Government use.

17. *Declassification of stockpile data.* The Office of Civil and Defense Mobilization shall declassify stockpile data to the maximum extent feasible when it determines with the concurrence of agencies concerned that the national security would not thereby be jeopardized.

Defense Mobilization Order V-3 (19 F.R. 1511, Mar. 19, 1954) is hereby canceled.

Defense Mobilization Order V-7 (23 F.R. 4333, June 14, 1958) is hereby superseded.

These policies are effective immediately.

Dated: December 10, 1959.

LEO A. HOEGH,
*Director, Office of Civil
and Defense Mobilization.*

[F.R. Doc. 59-10745; Filed, Dec. 18, 1959;
8:45 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 3—Department of Health, Education, and Welfare

PART 3-75—DELEGATIONS OF AUTHORITY

Miscellaneous Amendments

Part 3-75 of the Delegations of Authority for Public Contracts in the Department of Health, Education, and Welfare (24 F.R. 9427) is hereby amended in the following respects:

1. In § 3-75.2, *Food and Drug Administration*, paragraph (c) is amended to read:

(c) Authority delegated in this section may be redelegated by the Commissioner and Executive Officer in full or in part to officials in the Food and Drug Administration. However, such redelegation must be reported to the Office of Administration and shall not be effective until published in the FEDERAL REGISTER.

2. In § 3-75.6, *Public Health Service*, paragraph (d) is amended to read:

(d) Authority delegated in this section may be redelegated by the Surgeon General and the Chief, Division of Administrative Services, in full or in part to officials in the Public Health Service except for negotiation under section 302 (c) (11). However, such redelegation must be reported to the Office of Administration and shall not be effective until published in the FEDERAL REGISTER.

(GSA Delegation 363 (24 F.R. 2302) and §§ 2-500.40 and 2-500.60, as amended, of the Statement of Organization and Delegation of Authority, Secretary, Dept. of Health, Education, and Welfare (22 F.R. 1049, 24 F.R. 8612))

Effective date: March 11, 1959.

[SEAL] RUFUS E. MILES, JR.,
Director of Administration.

[F.R. Doc. 59-10767; Filed, Dec. 18, 1959;
8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Manage- ment, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2029]

[Anchorage 023002]

ALASKA

Withdrawing Lands as a Public Safety Measure (Fort Richardson)

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Subject to valid existing rights, the following-described public lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and the mineral leasing laws and disposals of materials under the Act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604) as amended, and reserved under jurisdiction of the Secretary of the Interior as a public safety measure:

SEWARD MERIDIAN

T. 12 N., R. 2 W.,
Unsurveyed
Secs. 1 and 2;
Sec. 3, N $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 11, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 12;

Sec. 13, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$.

Those parts of the following subdivisions lying west of the west boundary of Public Land Order 280, being the divide between Ship and Campbell Creeks.

T. 12 N., R. 1 W.,

Unsurveyed,

Secs. 6, 7, and 18;

Sec. 17, SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 19, E $\frac{1}{2}$, NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 20, W $\frac{1}{2}$ W $\frac{1}{2}$.

The tracts described aggregate approximately 4,706 acres.

2. The lands for several years have been used by the Department of the Army for training purposes as an impact area for practice firing, using explosive ammunition. The lands to a large degree have been contaminated by unexploded ordnance and their use by the general public is hazardous. All persons are warned not to trespass thereon, or to enter upon any part thereof without written permission of the Bureau of Land Management, after clearance with the Safety Officer of the Fort Richardson Military Reservation.

ROGER ERNST,

Assistant Secretary of the Interior.

DECEMBER 15, 1959.

[F.R. Doc. 59-10755; Filed, Dec. 18, 1959;
8:46 a.m.]

[Public Land Order 2030]

[168966]

MICHIGAN

Partly Revoking the Executive Order of December 9, 1852, Which Re- served Certain Lands for Lighthouse Purposes (Montreal River Light- house Reserve)

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

The Executive order of December 9, 1852, so far as it reserved the following-described lands in Michigan for lighthouse purposes, is hereby revoked:

MICHIGAN MERIDIAN

T. 48 N., R. 49 W.,

Sec. 10, lot 2.

The area described contains 40.85 acres.

The land is part of the Ottawa National Forest.

ROGER ERNST,

Assistant Secretary of the Interior.

DECEMBER 15, 1959.

[F.R. Doc. 59-10756; Filed, Dec. 18, 1959;
8:46 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

I 26 CFR (1954) Part 48 I

RADIO AND TELEVISION RECEIVING SETS, PHONOGRAPHS, COMBINATIONS OF ANY OF THE FOREGOING, RADIO AND TELEVISION COMPONENTS, PHONOGRAPH RECORDS, AND MUSICAL INSTRUMENTS

Manufacturers Excise Tax

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 request, 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]

CHARLES I. FOX,
Acting Commissioner of
Internal Revenue.

Subpart J of the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) set forth below is hereby prescribed under subchapter C of chapter 32 of the Internal Revenue Code of 1954, as amended, and in effect on January 1, 1959, relating to manufacturers excise taxes on sales of radio and television receiving sets, phonographs, combinations of any of the foregoing, radio and television components, phonograph records, and musical instruments.

Subpart J—Radio and Television Sets, Phonographs, Phonograph Records, and Musical Instruments

ENTERTAINMENT EQUIPMENT

RADIO AND TELEVISION SETS, PHONOGRAPHS AND RECORDS, ETC.

Sec.	
48.4141	Statutory provisions; imposition of tax.
48.4141-1	Imposition and rate of tax.
48.4141-2	Parts or accessories.

Sec.	
48.4142	Statutory provisions; definition of radio and television component.
48.4142-1	Radio and television components.
48.4143	Statutory provisions; exemption for communication, etc., equipment.
48.4143-1	Exemption of communication, etc., equipment.
48.4143-2	Other tax-free sales.
	MUSICAL INSTRUMENTS
48.4151	Statutory provisions; imposition of tax.
48.4151-1	Imposition and rate of tax.
48.4151-2	Tax-free sales.

Subpart J—Radio and Television Sets, Phonographs, Phonograph Records, and Musical Instruments

ENTERTAINMENT EQUIPMENT

RADIO AND TELEVISION SETS, PHONOGRAPHS AND RECORDS, ETC.

§ 48.4141 Statutory provisions; imposition of tax.

SEC. 4141. *Imposition of tax.* There is hereby imposed upon the sale by the manufacturer, producer, or importer of the following articles (including in each case parts or accessories therefor sold on or in connection with the sale thereof), a tax equivalent to 10 percent of the price for which so sold:

- Radio receiving sets.
- Automobile radio receiving sets.
- Television receiving sets.
- Automobile television receiving sets.
- Phonographs.
- Combinations of any of the foregoing.
- Radio and television components.
- Phonograph records.

[Sec. 4141 as amended and in effect Jan. 1 1959]

§ 48.4143-1 Imposition and rate of tax.

(a) *Imposition of tax.* Section 4141 imposes a tax upon the sale by the manufacturer, producer, or importer of the following articles (including in each case parts or accessories therefor sold on or in connection with the sale thereof):

- (1) Radio receiving sets,
- (2) Automobile radio receiving sets,
- (3) Television receiving sets,
- (4) Automobile television receiving sets,
- (5) Phonographs,
- (6) Combinations of any of the foregoing,
- (7) Radio and television components, and
- (8) Phonograph records.

See section 4143 and § 48.4143-1 for exemption from tax in respect of the sale of articles specified in subparagraphs (1) through (6) of this paragraph which are communication, detection, or navigation equipment of the type used in commercial, military, or marine installations, and for exemption from tax in respect of radio and television components suitable for use only on or in connection with, or as component parts of, such equipment.

(b) *Rate of tax.* The tax is imposed upon the sale of articles specified in sec-

tion 4141 and in paragraph (a) of this section at the rate of 10 percent of the price for which sold. For definition of the term "price", see section 4216 and the regulations thereunder contained in Subpart M of this part.

(c) *Liability for tax.* The tax imposed by section 4141 is payable by the manufacturer, producer, or importer making the sale.

(d) *Phonograph records.* The term "phonograph records" means all disks, cylinders, or other articles, regardless of the material from which they are made, upon which are recorded music, speech, or other sounds which are capable of reproduction by means of a phonograph. The term does not include tape or wire recordings.

§ 48.4141-2 Parts or accessories.

(a) *In general.* The tax attaches in respect of parts or accessories for articles specified in section 4141 and paragraph (a) of § 48.4141-1 sold on or in connection with the sale thereof at the rate applicable to the sale of the basic articles. The tax attaches in such case whether or not the parts or accessories are billed separately. On the other hand, no tax attaches in respect of parts or accessories for articles specified in section 4141 and paragraph (a) of § 48.4141-1 which are sold otherwise than on or in connection with such articles or with the sale thereof.

(b) *Essential equipment.* If taxable articles are sold by the manufacturer, producer, or importer thereof without parts or accessories which are considered equipment essential for the operation or appearance of such articles, the sale of such parts or accessories will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the basic article even though they are shipped separately at the same time or on a different date.

§ 48.4142 Statutory provisions; definition of radio and television component.

SEC. 4142. *Definition of radio and television component.* As used in section 4141, the term "radio and television components" means chassis, cabinets, tubes, speakers, amplifiers, power supply units, antennae of the "built-in" type, phonograph mechanisms, and phonograph record-players, which are suitable for use on or in connection with, or as component parts of, any of the articles enumerated in section 4141, whether or not primarily adapted for such use.

[Sec. 4142 as amended and in effect Jan. 1, 1959]

§ 48.4142-1 Radio and television components.

(a) *In general.* The term "radio and television components" means chassis, cabinets, tubes, speakers, amplifiers, power supply units, antennae of the "built-in" type, phonograph mechanisms, and phonograph record-players, which are suitable for use on or in connection with, or as a component part of,

any radio or television receiving set, phonograph, or combination of any of the foregoing.

(b) *Suitable for use defined.* Radio and television components are suitable for use, within the meaning of section 4142 and paragraph (a) of this section, if the components are commonly used with any of the articles enumerated in section 4141 and subparagraphs (1) through (6) of § 48.4141-1(a) or if the components possess actual, practical commercial fitness for such use. It is immaterial whether the radio or television component is primarily adapted for such use.

(c) *Definitions—(1) Chassis.* The term "chassis" includes any assembly of parts into circuits for the reception and conversion of radio or television signals into impulses suitable for the reproduction of (i) sound by a radio receiving set, or (ii) a picture, either with or without its associated sound, by a television receiving set.

(2) *Cabinets.* The term "cabinets" includes containers suitable for housing a chassis for any radio or television receiving set, phonograph, or combination of any of the foregoing.

(3) *Tubes.* The term "tubes" includes tubes of all types suitable for use on or in connection with, or as component parts of, any radio or television receiving set, phonograph, or combination of any of the foregoing.

(4) *Speakers.* The term "speakers" includes all devices for use in converting electrical impulses to sound whether or not equipped with coupling units (but not including earphones) which are suitable for use on or in connection with, or as component parts of, any radio or television receiving set, phonograph, or combination of any of the foregoing.

(5) *Amplifiers.* The term "amplifiers" includes all apparatus for the amplification of audio frequency or video frequency impulses which are suitable for use on or in connection with, or as component parts of, any radio or television receiving set, phonograph, or combination of any of the foregoing.

(6) *Power supply units.* The term "power supply units" includes all devices which are suitable for use on or in connection with, or as component parts of, any radio or television receiving set, phonograph, or combination of any of the foregoing and which convert electric current of ordinary commercial and domestic voltages into electric current voltages suitable for operating any such articles.

(7) *Antennae of the "built-in" type.* The term "antennae of the 'built-in' type" includes all types of aerials designed to be contained in any radio or television receiving set, or combination of any of the foregoing.

(8) *Phonograph mechanism.* The term "phonograph mechanism" means any article consisting of at least a motor, pick-up arm, and turntable, even though the article may also have other parts, but which in its entirety does not constitute a phonograph record player or a phonograph.

(9) *Phonograph record player.* The term "phonograph record player" means

an article capable of playing phonograph records (as defined in paragraph (d) of § 48.4141-1) but lacking an amplifier or a speaker, or both.

§ 48.4143 Statutory provisions; exemption for communication, etc., equipment.

Sec. 4143. Exemption for communication, etc., equipment—(a) In general. Except in the case of radio and television components and phonograph records, the tax imposed by section 4141 shall not apply to communication, detection, or navigation equipment of the type used in commercial, military, or marine installations.

(b) *Components.* The tax imposed by section 4141 on radio and television components shall not apply to any article which is suitable for use only on or in connection with, or as a component of, articles, exempt from tax under subsection (a).

[Sec. 4143 as amended and in effect Jan. 1, 1959]

§ 48.4143-1 Exemption of communication, etc., equipment.

(a) *Radio and television receiving sets, etc.* The tax imposed by section 4141 shall not apply to radio or television receiving sets, phonographs, or combinations of any of the foregoing which are designed and manufactured for use primarily as communication, detection, or navigation equipment and are of the type used in commercial, military, or marine installations. The following articles are illustrative of the type of articles which are exempt under this section:

- (1) Radar equipment,
- (2) Sonar equipment,
- (3) Receivers for use in connection with ship-to-ship and ship-to-shore equipment, and
- (4) Radio direction finding equipment.

(b) *Radio and television components.* The tax imposed by section 4141 shall not apply to a radio or television component suitable for use only on or in connection with, or as a component of, a radio or television receiving set, phonograph, or combination of any of the foregoing which is exempt under section 4143(a) as an article designed and manufactured primarily as communication, detection, or navigation equipment of the type used in commercial, military, or marine installations. However, a radio or television component is not exempt from tax under section 4143(b) if it is suitable for use on or in connection with, or as a component of, both

- (1) a radio or television receiving set or phonograph, or any combination thereof, exempt under section 4143(a), and
- (2) any radio or television receiving set or phonograph, or any combination thereof, which is not exempt under section 4143(a), whether or not the use with the nontaxable article is its primary use.

§ 48.4143-2 Other tax-free sales.

For provisions relating to tax-free sales of articles referred to in section 4141, see—

- (a) Section 4221, relating to certain tax-free sales;
- (b) Section 4222, relating to registration; and
- (c) Section 4223, relating to special rules with respect to further manufacture;

and the regulations thereunder contained in Subpart N of this part.

MUSICAL INSTRUMENTS

§ 48.4151 Statutory provisions; imposition of tax.

Sec. 4151. Imposition of tax. There is hereby imposed upon the sale of musical instruments by the manufacturer, producer, or importer a tax equivalent to 10 percent of the price for which so sold.

[Sec. 4151 as originally enacted and in effect Jan. 1, 1959]

§ 48.4151-1 Imposition and rate of tax.

(a) *In general.* Section 4151 imposes a tax upon the sale of musical instruments by the manufacturer, producer, or importer thereof.

(b) *Rate of tax.* The tax is imposed upon the sale of musical instruments at the rate of 10 percent of the price for which sold. For a definition of the term "price", see section 4216 and the regulations thereunder contained in Subpart M of this part.

(c) *Liability for tax.* The tax imposed by section 4151 is payable by the manufacturer, producer, or importer making the sale.

(d) *Definition of musical instruments.* The term "musical instruments" includes all wind, reed, string, percussion or electronic instruments used to produce music, including but not limited to all types of pianos and organs, trombones, saxophones, violins, drums, xylophones, climes, cymbals, bongos, castanets, maracas, claves, etc. The term does not include articles in the nature of toys or novelties which simulate musical instruments and which are unsuitable for use in playing musical compositions or in teaching music.

§ 48.4151-2 Tax-free sales.

For provisions relating to tax-free sales of musical instruments, see:

- (a) Section 4221(a) relating to tax-free sales in general, including tax-free sales to nonprofit educational organizations for their exclusive use;
- (b) Section 4221(e)(3) relating to tax-free sales of musical instruments to religious institutions for exclusively religious purposes;
- (c) Section 4222 relating to registration; and
- (d) Section 4223 relating to special rules with respect to further manufacture;

and the regulations thereunder contained in Subpart N of this part.

[F.R. Doc. 59-10778; Filed, Dec. 18, 1959; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Oil Import Administration

[32A CFR Ch. X I]

[Oil Import Reg. 1, Rev. 1]

UNFINISHED OILS

District V

Notice is hereby given that it is proposed to recommend to the Secretary

of the Interior that, pursuant to the authority vested in him by section 2 of Proclamation 3279, as amended (24 F.R. 1781, 3527, and 10133), he further amend Oil Import Regulation 1 (Revision 1) as amended (24 F.R. 4654, 10075) as set forth below.

Interested persons may present written comments, objections or suggestions with respect to the proposed amendment to the Administrator, Oil Import Administration, Department of the Interior, Washington 25, D.C., within thir-

ty days from the date of publication of this notice.

Paragraph (d) of section 11 "Allocations of crude oil and unfinished oils—District V" to be amended to read as follows:

(d) Allocations made pursuant to this section shall not permit the importation of unfinished oils in excess of 25 percent of the permissible imports of crude oil. With respect to any allocation made pursuant to this section, the Administrator upon request shall issue a license permitting the importation of unfinished

oils in an amount not in excess of 25 percent of the allocation. Each barrel of unfinished oil imported shall be deemed to be the equivalent of two barrels of crude oil and will be so charged against the person's license by the respective Collectors of Custom.

M. V. CARSON, Jr.,
Administrator,
Oil Import Administration.

DECEMBER 15, 1959.

[F.R. Doc. 59-10757; Filed, Dec. 18, 1959;
8:46 a.m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[643.3]

TOBACCO FROM THE PHILIPPINES

Notice That There Is Reason To Believe or Suspect Purchase Price Is Less or Likely To Be Less Than Foreign Market Value

DECEMBER 15, 1959.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), notice is hereby given that there is reason to believe or suspect, from information presented to me, that the purchase price of tobacco, shipped by the Philippine Tobacco Flue-Curing and Redrying Corporation of the Philippines, is less, or likely to be less, than the foreign market value, as defined by sections 203 and 205, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162 and 164).

Customs officers are being authorized to withhold appraisement of entries of tobacco shipped by the Philippine Tobacco Flue-Curing and Redrying Corporation of the Philippines pursuant to § 14.9 of the Customs Regulations (19 CFR 14.9).

[SEAL] RALPH KELLY,
Commissioner of Customs.

[F.R. Doc. 59-10777; Filed, Dec. 18, 1959;
8:48 a.m.]

DEPARTMENT OF DEFENSE

Department of the Navy

FORMAL FINDING

Bureau of Naval Weapons

Pursuant to section 2 of the Act of August 18, 1959 (73 Stat. 395, Public Law 86-174), the Secretary of the Navy has made the following formal finding on December 1, 1959:

DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON

Whereas, Public Law 86-174, approved 18 August 1959, entitled "An Act to amend No. 247—6

Title 10, United States Code, to establish a Bureau of Naval Weapons in the Department of the Navy and to abolish the Bureaus of Aeronautics and Ordnance", contains in section 2 thereof provisions to the effect that on the date on which the Secretary of the Navy makes a formal finding that all the functions of the Bureau of Aeronautics and the Bureau of Ordnance have been transferred to the Bureau of Naval Weapons or elsewhere, Chapter 513 of Title 10, United States Code, is amended by striking the Bureau of Aeronautics and the Bureau of Ordnance from the list of bureaus named in section 5131 of said chapter; and

Whereas, pursuant to the purpose of the aforesaid Act and the authority of section 5132 of Title 10, United States Code, all the functions of the Bureau of Aeronautics and the Bureau of Ordnance have been transferred, by my directive of 2 November, 1959, to the Bureau of Naval Weapons effective 1 December 1959:

Now, therefore, I, William B. Franke, Secretary of the Navy, under section 2 of Public Law 86-174, do hereby find that all the functions of the Bureau of Aeronautics and of the Bureau of Ordnance have been transferred to the Bureau of Naval Weapons.

In witness whereof, I have hereunto set my hand and caused the Seal of the Department of the Navy to be affixed.

Done at the City of Washington this first day of December in the year of our Lord nineteen hundred and fifty-nine, and of the Independence of the United States of America the one hundred and eighty-fourth.

W. B. FRANKE.

By direction of the Secretary of the Navy.

[SEAL] CHESTER WARD,
Rear Admiral, U.S. Navy, Judge
Advocate General of the Navy.

DECEMBER 16, 1959.

[F.R. Doc. 59-10769; Filed, Dec. 18, 1959;
8:47 a.m.]

ORGANIZATION STATEMENT

Bureau of Naval Weapons

In the Organization Statement of the Department of the Navy, published at 16 F.R. 12573-12590:

1. Delete subsection A (Bureau of Aeronautics) and subsection D (Bureau of Ordnance) of section VII (Naval Technical Assistants) appearing at 16 F.R. 12580 and 12582, as amended 17 F.R. 5197.

2. Redesignate:

(a) Subsection B (Bureau of Medicine and Surgery) appearing at 16 F.R. 12581, amended 17 F.R. 4542, 4626 and 19 F.R. 4042, as subsection A;

(b) Subsection C (Bureau of Naval Personnel) appearing at 16 F.R. 12581 as subsection B;

(c) Subsection E (Bureau of Ships) appearing at 16 F.R. 12583 as subsection C;

(d) Subsection F (Bureau of Supplies and Accounts) appearing at 16 F.R. 12583, amended 17 F.R. 2093, 7677 and 19 F.R. 5023, as subsection D; and

(e) Subsection G (Bureau of Yards and Docks) appearing at 16 F.R. 12584, amended 18 F.R. 3460 and 19 F.R. 4042, as subsection E.

3. Insert the following new subsection of section VII:

F. *Bureau of Naval Weapons*—(a) *Authority*. The duties of the Bureau of Naval Weapons are performed under the authority of the Secretary of the Navy, and its orders are considered as emanating from him and have full force and effect as such (70A Stat. 285, 73 Stat. 395; 10 U.S.C. 5131, 5132). The Bureau is directed by the Chief of the Bureau of Naval Weapons who is appointed by the President by and with the advice and consent of the Senate for a term of four years. The Deputy Chief performs the duties of the Chief in the latter's absence. (73 Stat. 395; 10 U.S.C. 5154.)

(b) *Duties and responsibilities*. The Bureau of Naval Weapons, under the direction of the Chief of Bureau, shall be responsible for the following, except as otherwise prescribed in U.S. Navy Regulations or by the Secretary of the Navy: The research, development, design, test, operating standards, manufacture, procurement, fitting out, maintenance, alteration, repair, overhaul, and material effectiveness of all naval weapons, Navy and Marine Corps aircraft, airborne target drones, photographic and meteorological equipment, astronautic vehicles and equipment thereof; and all pertinent functions relating thereto including storage, distribution, issue, disposition and salvage of bureau-controlled material.

(c) *Management control*. As assigned by the Secretary of the Navy and except as otherwise prescribed in U.S. Navy

Regulations, the Bureau of Naval Weapons shall exercise management control of those shore activities of the Department of the Navy whose primary functions are: Research, development, design, test, manufacture, procurement, fitting out, maintenance, alteration, repair, over-haul, operation, and material effectiveness of naval weapons, Navy and Marine Corps aircraft, airborne target drones, photographic and meteorological equipment, astronautic vehicles, and equipment thereof, including storage, distribution, issue, disposition and salvage of bureau-controlled material.

(d) *Technical control.* Except as otherwise prescribed in Navy Regulations or by the Secretary of the Navy, the Bureau of Naval Weapons shall be responsible for professional guidance and direction on the repair and upkeep of, and the operating standards and procedures for, all naval weapons, Navy and Marine Corps aircraft, airborne target drones, photographic and meteorological equipment, astronautic vehicles, and equipment thereof.

By direction of the Secretary of the Navy.

[SEAL] CHESTER WARD,
Rear Admiral, U.S. Navy, Judge
Advocate General of the Navy.

DECEMBER 16, 1959.

[F.R. Doc. 59-10770; Filed, Dec. 18, 1959;
8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12769; FCC 59M-1713]

STANLEY BLUMENTHAL

Order Scheduling Hearing

In the matter of Stanley Blumenthal, 215 Cozine Avenue, Brooklyn 7, New York, Docket No. 12769; application for renewal of radiotelegraph second class operator license No. T2-2-1626.

It is ordered, This 14th day of December 1959, that hearing in the above-entitled proceeding will be held in the Offices of the Commission, Washington, D.C., commencing January 6, 1960.

Released: December 16, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10771; Filed, Dec. 18, 1959;
8:47 a.m.]

[Docket No. 12771 etc.; FCC 59M-1710]

GOLDEN GATE CORP. ET AL.

Order Continuing Hearing

In re applications of Golden Gate Corporation, Providence, Rhode Island, Docket No. 12771, File No. BP-11945; Lorraine S. Salera, Arthur L. Movsovit, and Edson E. Ford, d/b as Bristol County Broadcasting Co., Warren, Rhode Island, Docket No. 12772, File No. BP-11407; Radio Rhode Island, Inc., Providence, Rhode Island, Docket No. 12773, File No.

BP-12383; Camden Broadcasting Company, Inc., Providence, Rhode Island, Docket No. 12784, File No. BP-12336; for construction permits for new standard broadcast stations.

The Hearing Examiner having under consideration a joint request of the parties for a continuance of the hearing now set for December 16, 1959;

It appearing that counsel for the Broadcast Bureau has no objection to a continuance, that all parties consent to a waiver of the four-day rule, and good cause has been shown;

It is ordered, This 15th day of December 1959, that the request is granted and the hearing is continued from December 16 to December 23, 1959.

Released: December 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10772; Filed, Dec. 18, 1959;
8:47 a.m.]

[Docket No. 13254; FCC 59M-1715]

SANTA ROSA BROADCASTING CO.

Order Continuing Hearing

In re application of Santa Rosa Broadcasting Company, Santa Rosa, California, Docket No. 13254, File No. BP-11573; for construction permit.

On the oral request of counsel for applicant, and without objection by counsel for the Broadcast Bureau: *It is ordered,* This 15th day of December 1959, that the hearing of December 17, 1959 is continued to Monday, January 18, 1960, at 10 a.m., in the offices of the Commission, Washington, D.C.

Released: December 16, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10774; Filed, Dec. 18, 1959;
8:47 a.m.]

[Docket Nos. 12833, 12834; FCC 59M-1712]

GEORGE T. HERNREICH AND
PATTESON BROTHERS

Order Continuing Hearing Conference

In re applications of George T. Hernreich, Jonesboro, Arkansas, Docket No. 12833, File No. BPCT-2538; Alan G. Patteson, Jr. and Mathew Carter Patteson, d/b as Patteson Brothers, Jonesboro, Arkansas, Docket No. 12834, File No. BPCT-2567; for construction permits for new television broadcast stations (Channel 8).

The Hearing Examiner having under consideration a joint motion filed on December 14, 1959, by George T. Hernreich and Patteson Brothers, requesting that the Oral Argument and Further Hearing Conference in the above-entitled proceeding presently scheduled to resume at 9 a.m. on December 15, 1959, be continued for an indefinite period; and

It appearing that counsel for the competing applicants are presently engaged

in discussions which may have a material bearing upon the future conduct of the proceeding and desire to postpone the conference and oral argument scheduled for December 15, 1959, pending completion of such discussion; and

It further appearing that counsel for the Broadcast Bureau has informally consented to immediate consideration and grant of the instant motion; and

It further appearing that public interest requires an early consideration of such motion and good cause has been shown for the grant thereof;

It is ordered, This 14th day of December 1959, that the motion be and it is hereby granted; and the oral argument and Further Hearing Conference in the above-entitled proceeding be and it is hereby continued to a time and place to be specified in a subsequent order.

Released: December 16, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10773; Filed, Dec. 18, 1959;
8:47 a.m.]

[Docket No. 13275; FCC 59M-1718]

TRI STATE BROADCASTING CO.
(WONW)

Order for Prehearing Conference

In re application of Tri State Broadcasting Company (WONW), Defiance, Ohio, Docket No. 13275, File No. BP-12305; for construction permit.

A prehearing conference in the above-entitled proceeding will be held on Thursday, January 7, 1960, beginning at 10:00 a.m. in the offices of the Commission, Washington, D.C. This conference is called pursuant to the provisions of § 1.111 of the Commission's rules and the matters to be considered are those specified in that section of the rules.

It is so ordered, This the 15th day of December 1959.

Released: December 16, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10775; Filed, Dec. 18, 1959;
8:47 a.m.]

[List No. 218]

MEXICAN BROADCAST STATIONS

Changes, Proposed Changes, and Corrections in Assignments

NOVEMBER 27, 1959.

Notification under the provisions of Part III, section 2 of the North American Regional Broadcasting Agreement; list of changes, proposed changes, and correction in Assignments of Mexican Broadcast Stations Modifying the Appendix containing assignments of Mexican Broadcast Stations (Mimeograph 47214-6) attached to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Call letters	Location	Power kw	Antenna	Schedule	Class	Expected date of commencement of operation
XEVB (PO: 1 kw ND D).	Comalcalco, Tabasco.....	570 kilocycles 1 kw D/0.25 kw N.	ND	U	III-D, IV-N.	Mar. 27, 1960
XEOO (change in call letters from XEEF).	Tepic, Nayarit.....	620 kilocycles 1 kw D/0.25 kw N.	ND	U	IV	Nov. 27, 1959
XEKQ (PO: 670 kc).....	Tapachula, Chiapas.....	680 kilocycles 5 kw D/0.5 kw N.	ND	U	II	May 27, 1960
XEBL (decrease in night power).	Otiliacan, Sinaloa.....	710 kilocycles 5 kw D/1 kw N.	DA-N	U	II	Nov. 27, 1959
XEEY (PO: 0.25 kw ND D).	Ensenada, Baja California.	920 kilocycles 0.5 kw.....	ND	D	III	Mar. 27, 1960
XEIR (delete assignment).	Ocotlan, Jalisco.....	980 kilocycles 1 kw.....	ND	D	III	Nov. 27, 1959
XEMG (new).....	Arriaga, Chiapas.....	1250 kilocycles 0.5 kw D/0.25 kw N.	ND	U	III-D, IV-N	May 27, 1960
XEMF (PO: 0.25 kw, ND U).	Monclova, Coahuila.....	1260 kilocycles 1 kw D/0.25 kw N.	ND	U	IV	Mar. 27, 1960
XEMH (change in call letters from XEME).	Merida, Yucatan.....	1270 kilocycles 1 kw D/0.5 kw N.	ND	U	III-B	Nov. 27, 1959
XEOJ (correction of error in Change List. No. 213).	Ocotlan, Jalisco.....	1320 kilocycles 0.5 kw D/0.2 kw N.	ND	U	IV	May 10, 1959
XEJK (PO: 0.5 kw D/0.25 kw, N).	Cd. Delfielas, Chihuahua.	1340 kilocycles 1 kw D/0.25 kw N.	ND	U	IV	Mar. 27, 1960
XEOE (new).....	Tapachula, Chiapas.....	1400 kilocycles 0.25 kw.....	ND	U	IV	May 27, 1960
XELH (PO: 0.1 kw ND U).	Acaponeta, Nayarit.....	1420 kilocycles 0.25 kw.....	ND	U	IV	Mar. 27, 1960
XEII (assignment of call letters).	Chihuahua, Chihuahua.	1450 kilocycles 5 kw D/0.15 kw N.	ND	U	III-D, IV-N	Nov. 27, 1959
XEUP (PO: Puerto Juarez, Quintana Roo).	Tizimin, Yucatan.....	1450 kilocycles 0.25 kw.....	ND	U	IV	May 27, 1960
XELL (modification in daytime classification).	Veracruz, Veracruz.....	1490 kilocycles 5 kw D/0.25 kw N.	ND	U	III-D, IV-N	May 27, 1960
XEME (change in call letters from XEMH).	Merida, Yucatan.....	1500 kilocycles 0.5 kw.....	ND	U	IV	Nov. 27, 1959
XEUV (change in call letters from XEUH).	Villahermosa, Tabasco.....	1600 kilocycles 0.25 kw.....	ND	U	II	Nov. 27, 1959
XEOU (new).....	Matamoros de la Laguna, Coahuila.	1600 kilocycles 1 kw D/0.25 kw N.	ND	U	IV	May 27, 1960
XEMI (new).....	Minatitlan, Veracruz.....	1600 kilocycles 0.25 kw.....	ND	D	IV	May 27, 1960

FEDERAL COMMUNICATIONS COMMISSION,
MARY JANE MORRIS,
Secretary.

[SEAL]

[F.R. Doc. 59-10776; Filed, Dec. 18, 1959; 8:48 a.m.]

cept those authorities which under paragraph 5 of such delegation may not be redelegated.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954 (1947); 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C., 1952 ed. 1701c)

This redelegation supersedes the redelegations effective February 14, 1955 (20 F.R. 1118, Feb. 22, 1955) and May 21, 1957 (22 F.R. 5783, July 19, 1957).

Effective as of the 19th day of December 1959.

[SEAL] JOHN P. McCOLLUM,
Regional Administrator,
Region IV.

[F.R. Doc. 59-10768; Filed, Dec. 18, 1959; 8:47 a.m.]

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

CLAIMS AGAINST CZECHOSLOVAKIA

Notice of Establishment of Claims Docket

In the matter of claims against Czechoslovakia under Public Law 604, 85th Congress of the United States.

You are hereby notified that—there is established in the Office of the Clerk of the Commission a docket of all claims filed under the terms of Public Law 604, 85th Congress, 2d session, said Docket to be maintained on a current basis. The docket hereby established shall disclose the name and address of each claimant, the general nature of the claim, the asserted amount of the claim, and entries relative to the proposed and final decisions respectively.

The Docket shall be open to public inspection. The files in relation to individual claims shall be opened to view only by those persons having an interest, direct or indirect, in the specific claim concerning which inspection is requested.

Effective as of the date of publication.

MRS. STANLEY D. PACE,
Chairman.

DECEMBER 16, 1959.

[F.R. Doc. 59-10764; Filed, Dec. 18, 1959; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-9385]

AMERADA PETROLEUM CORP. ET AL.

Order Severing and Terminating Proceedings and Discharging Refund Obligations

DECEMBER 11, 1959.

In the matters of Amerada Petroleum Corporation, Docket Nos. G-9385, G-10999, G-11882, G-11883, G-12882, G-13401, G-13897, G-13899, G-14421, G-14618, G-17730, G-17441, G-16715, G-16256, G-16117, G-15997, G-16662, and G-17719; Amerada Petroleum Corporation, et al., Docket No. G-16118;

HOUSING AND HOME FINANCE AGENCY

REGIONAL DIRECTOR OF URBAN RENEWAL REGION IV (CHICAGO)

Redelegation of Authority With Respect of Slum Clearance and Urban Renewal Program, Urban Planning Grant Program

The Regional Director of Urban Renewal, Region IV (Chicago), Housing

and Home Finance Agency, is hereby authorized within such Region to exercise all the authority delegated to the HHFA Regional Administrator by the Housing and Home Finance Administrator's delegation of authority effective December 23, 1954 (20 F.R. 428-9) as amended, with respect to the program authorized under Title I of the Housing Act of 1949, as amended (63 Stat. 414-421, as amended, 42 U.S.C. 1450-1460), and under section 312 of the Housing Act of 1954 (68 Stat. 629), and under section 701 of the Housing Act of 1954, as amended (68 Stat. 640 as amended, 40 U.S.C. 461), ex-

Amerada Petroleum Corporation (Operator), et al., G-16119; Amerada Petroleum Corporation, G-18634.

On September 21 and 25, 1959, Amerada Petroleum Corporation (Amerada), submitted, in the dockets designated below, two petitions for reconsideration, dated September 18 and 24, 1959 requesting that the Commission terminate those suspension proceedings

and allow the subject rates to become effective. The rate schedules involved cover jurisdictional sales of natural gas to Lone Star Gas Company from leases in Bryan and Stephens Counties, Oklahoma and to El Paso Natural Gas Company from the Spraberry Field, Upton and Reagan Counties, Texas. The subject rate increases are designated as follows:

Docket No.	Rate schedule No.	Supplement No.	Date suspension order issued	Date effective subject to refund	Purchaser
G-13897 ¹	4	8	Dec. 13, 1957	June 9, 1958	El Paso Natural Gas Co.
G-13899	28	1	do	do	Lone Star Gas Co.
G-13899	29	1	do	do	Lone Star Gas Co.

¹ By Commission order, issued September 1, 1959, the other supplements to Amerada rate schedules, suspended in Docket No. G-13897, were allowed to become effective as of June 9, 1958 without obligation to refund. So much of the proceedings in Docket No. G-13897, as pertained to those supplements, was terminated by that order.

In support of its request Amerada states that other producers, selling natural gas from the same areas, tendered similar rate increases which were accepted for filing by the Commission without suspension. Amerada also states that suspensions of similar rate increases have been terminated and the rates allowed to become effective without refund obligation.

Amerada further states that equal treatment has been denied inasmuch as it will have to justify its rate increases at a hearing while other producers are under no obligation to justify similar increases.

Amerada requests that the subject suspension proceedings be terminated and the increased rates made effective as of the date they became effective subject to refund.

The Commission finds:

(1) Good cause has been shown, and it is appropriate in the public interest, that the proceedings instituted in Docket Nos. G-13897 and G-13899 be terminated, and that the increased rates, contained in Supplement No. 8 to Amerada's FPC Gas Rate Schedule No. 4 and Supplement No. 1 to Amerada's FPC Gas Rate Schedules Nos. 28 and 29, be allowed to become effective as of June 9, 1958 without obligation to refund.

The Commission orders:

(A) The proceedings in Docket Nos. G-13897 and G-13899 are severed from these consolidated proceedings and terminated.

(B) The proposed increased rates and charges contained in Supplement No. 8 to Amerada's FPC Gas Rate Schedule No. 4 and Supplement No. 1 to Amerada's FPC Gas Rate Schedules Nos. 28 and 29 are allowed to become effective as of June 9, 1958 without obligation to refund; and Amerada's refunding obligations with respect to those increased rates and charges contained in the above-designated supplements are discharged.

(C) This order shall not be construed as constituting approval of any rates, charges, or classifications, or any rules, regulations or practices affecting such rates, charges and classifications contained in the above-designated supplements; and this order is without prejudice to any findings or orders which have been or may be made by the Commission

in any proceeding now pending or hereafter instituted by or against Amerada.

By the Commission (Commissioner Connole dissenting).

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-10752; Filed, Dec. 18, 1959; 8:46 a.m.]

[Docket No. G-19846 et al.]

ARKANSAS FUEL OIL CORP. ET AL. Errata Notice

DECEMBER 9, 1959.

In the matter of Arkansas Fuel Oil Corporation, et al., Docket No. G-19846, et al.; Placid Oil Company (Operator), et al., Docket No. G-19883.

In the Order for Hearings and Suspending Proposed Changes in Rates Issued October 23, 1959 and published in the FEDERAL REGISTER on October 31, 1959 (24 F.R. 8911) correct the following: In the "Rate in Effect Column" under Placid Oil Company (Operator), et al., Docket No. G-19883—Change "14.4248" to read "12.62" also in the "Proposed Increased Rate Column" insert "14.4248".

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-10753; Filed, Dec. 18, 1959; 8:46 a.m.]

[Docket No. G-20315]

TEXAS GAS PIPE LINE CORP.

Order Providing for Hearing and Suspending Proposed Revised Tariff Sheet

DECEMBER 11, 1959.

On November 13, 1959, Texas Gas Pipe Line Corporation (Pipe Line) tendered for filing Second Revised Sheet No. 4 to its FPC Gas Tariff, Original Volume No. 1, proposing an annual increase in rates of \$470.418 or 13.1 percent, based on jurisdictional sales of natural gas made during the year ended September 30, 1959, to Transcontinental Gas Pipe Line Corporation.

The stated purpose of the above filings is to recover the cost of increases by certain of Pipe Line's suppliers which increases were not reflected in Pipe Line's revised application for a rate increase allowed to become effective subject to refund on November 12, 1959, in Docket No. G-20073. Pipe Line requests that its proposed increase not be suspended beyond March 22, 1960.

The change in rates and charges proposed by Pipe Line in Second Revised Sheet No. 4 to its FPC Gas Tariff, Original Volume No. 1 has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a public hearing concerning the lawfulness of the rates, charges, classifications, and services contained in Pipe Line's FPC Gas Tariff, Original Volume No. 1 as proposed to be amended by Second Revised Sheet No. 4 to Pipe Line's FPC Gas Tariff, Original Volume No. 1 and that said proposed revised tariff sheet and the rates contained therein be suspended and the use thereof deferred as hereinafter provided.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. 1), a public hearing be held on a date to be fixed by notice from the Secretary, concerning the lawfulness of the rates, charges, classifications, and services contained in Pipe Line's FPC Gas Tariff Original Volume No. 1, as proposed to be amended by Second Revised Sheet No. 4.

(B) Pending such hearing and decision thereon Second Revised Sheet No. 4 to Pipe Line's FPC Gas Tariff Original Volume No. 1 is suspended and the use thereof deferred until March 22, 1960, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-10754; Filed, Dec. 18, 1959; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 10963]

EMPRESA DE TRANSPORTES AEROVIAIS BRASIL, S.A.

Reassignment of Hearing Room

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, that the hearing in the above-entitled proceeding assigned to be held in Room 911, Universal Building on January 12, 1960, is

hereby reassigned to be held on January 12, 1960, in Room 803, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Curtis C. Henderson.

Dated at Washington, D.C., December 16, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-10779; Filed, Dec. 18, 1959;
8:48 a.m.]

[Docket 10571]

NORTHERN CONSOLIDATED AIRLINES, INC.

Notice of Postponement of Prehearing Conference

In the matter of proposed fares of Northern Consolidated Airlines, Inc. Order of Investigation, E-13974.

Notice is hereby given that the prehearing conference in the above-entitled investigation now assigned to be held on December 21 is postponed to January 25, 1960, 10:00 a.m., e.s.t., Room 701, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Herbert K. Bryan.

Dated at Washington, D.C., December 16, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-10805; Filed, Dec. 18, 1959;
8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1272]

AMERICAN-SOUTH AFRICAN IN- VESTMENT COMPANY, LTD.

Notice of Application for Order Per- mitting Amendment of Advisory Agreement Without Stockholder Approval

DECEMBER 14, 1959.

Notice is hereby given that American-South African Investment Company, Limited ("Applicant"), a registered closed-end diversified investment company chartered under the Companies Act of 1926, as amended, of the Union of South Africa ("South Africa"), has filed an application for an order under section 6(c) of the Investment Company Act of 1940 ("Act") exempting from the provisions of section 15(a) of the Act the proposed transaction hereinafter described.

Applicant entered into an Investment Adviser Agreement ("Advisory Agreement") with South African Investment Adviser (Proprietary) Limited ("Investment Adviser") on September 16, 1958. On the same day the Investment Adviser entered into a Sub-Investment Adviser Agreement ("Sub-Agreement") with Engelhard Industries of Southern Africa, Limited ("Sub-Adviser"). Both agreements were approved by vote of the

shareholders of Applicant at the annual meeting in March 1959. The Advisory Agreement provides, among other things, that the Investment Adviser will investigate appropriate opportunities for investment by Applicant, will make recommendations as to the acquisition and disposition of portfolio assets, and will furnish Applicant with office space and certain related facilities and with accounting, statistical and clerical services and will pay the salaries of the officers of Applicant. The Sub-Agreement provides that the Sub-Adviser will furnish statistical, economic and technical advice to Investment Adviser and will also provide office space and office facilities to the Investment Adviser for its own use and for the use of applicant. The Advisory Agreement provides that Applicant will pay to Investment Adviser a quarterly fee of one-eighth of 1% of the net asset value of Applicant at the end of each quarter and it is estimated that such fee for the year ending December 31, 1959 will aggregate approximately £74,600. Under the Sub-Agreement the fees paid to Sub-Adviser by Investment Adviser for the same period of time will aggregate £16,000, based on a quarterly fee of £4,000.

Applicant states that when the Sub-Agreement was executed, it had not yet commenced business so that the relative division of services to be performed and expenses to be borne by the Investment Adviser and by the Sub-Adviser could only be roughly estimated, especially since the services to be performed and the expenses to be borne in South Africa differed in certain respects from what they would have been in the United States. Later when the notice of annual meeting and the proxy material were mailed to its shareholders in February 1959, Applicant states that it still had not yet completed the investment of the proceeds of the public offering of its shares, and that it was too early to do more than make a rough estimate of the relative division of services to be performed and expenses to be borne during the year ending December 31, 1959. Applicant estimates that the expenses incurred by the Investment Adviser, including the amounts payable to Sub-Adviser, during the year 1959 will be approximately £53,300, and that the expenses incurred by the Sub-Adviser pursuant to the Sub-Agreement during the same period will be approximately £21,900. Applicant states that if Sub-Adviser receives only £16,000 it will be substantially underpaid, and that £26,000 would be a fair and reasonable aggregate payment by the Investment Adviser to Sub-Adviser for the year 1959. Applicant is also of the opinion that £26,000 would be a fair and reasonable amount for the year 1960 and it intends at the annual shareholders meeting in March 1960 to present for shareholder approval an amendment to the Sub-Agreement providing that the Investment Adviser will pay Sub-Adviser an aggregate of £26,000 rather than £16,000 during the year. Applicant states that it is doubtful whether such an amendment could have a retroactive effect for the year 1959, and that because

of tax considerations affecting the Investment Adviser and the Sub-Adviser, it is desirable that any additional payment for 1959 be made this year. Applicant does not, however, wish to incur the expense that would be involved in holding a special meeting of the shareholders at this time in order to remedy the situation this year.

In its application, Applicant recognizes that the terms of the contracts, including the compensation payable, with the Investment Adviser and between the Investment Adviser and the Sub-Adviser are the responsibility of Applicant's Board of Directors. In requesting the Commission to permit the terms of the existing contract to be varied by the proposal under which the compensation payable to the Sub-Adviser by the Investment Adviser for the year 1959 would be increased by £10,000, Applicant states that it is in no way requesting the Commission to pass on the merits of the advisory contracts or the amount of compensation payable thereunder. Applicant points out that the payment by the Investment Adviser to the Sub-Adviser of the additional £10,000 will not increase any payment to be made by Applicant or affect Applicant adversely in any way. According to the Applicant the only persons that will be adversely affected by the additional payment are the Investment Adviser and Dillon, Read & Co., Inc. The latter company owns 50 percent of the outstanding shares of the Investment Adviser.

Engelhard Industries, Inc., which indirectly owns all of the outstanding shares of Sub-Adviser, also owns indirectly 50 percent of the outstanding shares of the Investment Adviser. The Investment Adviser and Dillon, Read & Co., Inc., have both informed applicant that they agree that such additional payment should be made to Sub-Adviser. Applicant believes that it is in its own interest that those serving it, directly or indirectly, should be reasonably compensated for services performed and expenses borne.

Section 15(a) of the Act provides, in part, that it shall be unlawful for any person to act as investment adviser of a registered investment company except pursuant to a written contract, which contract shall precisely describe all compensation to be paid thereunder, whether with such registered company or with an investment adviser of such registered company, and shall have been approved by the vote of a majority of the outstanding voting securities of the registered investment company. Since Sub-Adviser falls within the definition of "Investment Adviser" contained in section 2(a)(19) of the Act, any change in the compensation to be paid to Sub-Adviser would require stockholder approval under section 15(a) of the Act.

Section 6(c) of the Act authorizes the Commission, by order upon application, to exempt, conditionally or unconditionally, any transaction or any class of transactions from any provisions of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds such exemption is necessary or appropriate in the public interest

and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 28, 1959, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 59-10759; Filed, Dec. 18, 1959;
8:46 a.m.]

[File No. 812-1255]

INVESTORS DIVERSIFIED SERVICES, INC.

Notice of Filing of Application for Order Permitting Pension Plan

DECEMBER 14, 1959.

Notice is hereby given that Investors Diversified Services, Inc., of Minneapolis, Minnesota ("I.D.S."), a face-amount certificate company, registered under the Investment Company Act of 1940 ("Act") has filed an application pursuant to sections 6(c), 17(b), 17(d), and 18(j) of said Act and Rule 17d-1 of the rules and regulations promulgated thereunder for an order of the Commission permitting it to effect a pension plan ("plan") for the benefit of its divisional managers, district managers and sales representatives ("salesmen").

I.D.S. is also registered with the Commission as a broker-dealer under the provisions of the Securities Exchange Act of 1934 and is the investment adviser, underwriter and distributor of securities issued by Investors Syndicate of America, Inc., a registered face-amount certificate company under the Act, and five registered open-end investment companies (Investors Mutual, Inc., Investors Selective Fund, Inc., Investors Stock Fund, Inc., Investors Variable Payment Fund, Inc., and Investors Group Canadian Fund Ltd.).

Under the proposed plan graduated percentages of the Commissions paid to salesmen will be withheld yearly by I.D.S. Although it is not obligated to do so, I.D.S. plans to invest the sums so withheld in the shares of Investors Stock Fund, Inc. ("Stock Fund"). I.D.S. will treat the sums withheld from com-

missions plus an amount equal to the capital appreciation and income, if any, from such sums if invested in shares of Stock Fund as a liability which will become due to the salesmen as they retire. In all events I.D.S. commits itself to pay to the salesmen the amount which is withheld from commissions pursuant to the plan.

Section 17(a) (1) of the Act makes it unlawful for an affiliated person of a registered investment company to sell any security to such company, with certain exceptions not applicable here. Applicant states that the proposed plan requires I.D.S. to purchase shares of Stock Fund to service the plan. Since I.D.S. is a registered investment company and Stock Fund is an affiliated person thereof, servicing the proposed plan would violate section 17(a) (1) of the Act. Therefore, I.D.S. has requested an appropriate exemption by the Commission. Applicant requests such exemption under section 6(c) of the Act since the violation would be of a continuing nature.

Section 6(c) provides that the Commission may exempt any transaction from the provisions of the Act, or rules and regulations promulgated thereunder if such exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes intended by the Act. Applicant states that the requested exemption meets the provisions of section 6(c) since all sales of Stock Fund shares are proposed to be made at net asset value on the date of each transaction, therefore there can be no overreaching and neither Stock Fund nor I.D.S. could be adversely affected by such sales.

Section 17(d) of the Act makes it unlawful for affiliated persons of a registered investment company to participate in a joint enterprise or joint arrangement with such company in contravention of Commission rules. Rule 17d-1 under the Act provides that the Commission must approve, by order, any such joint enterprise or joint arrangement. I.D.S. states that since the proposed plan could involve a participation by affiliated persons (salesmen) in a joint arrangement or enterprise with I.D.S., it requests an order by the Commission exempting the operations by I.D.S. under the proposed plan from the provisions of section 17(d) of the Act. Applicant further states that the exemption provided in Rule 17d-1 for employees pension plans which qualify under the Internal Revenue Code of 1954 is not applicable since the salesmen of proposed plan are not employees but independent contractors under the Internal Revenue Code of 1954.

Section 18(j) (1) of the Act makes it unlawful for a registered face-amount certificate company to issue, except in accordance with a Commission order, any security other than a face-amount certificate, a common stock, or short term indebtedness. Section 18(j) (3) of the Act makes it unlawful for a face-amount certificate company to issue any security except in exchange for cash or securities. I.D.S. states that the plan may involve the issuance of securities other than face amount certificates,

common stock or short term indebtedness for services rendered rather than for cash or securities, therefore I.D.S. requests that the Commission exempt the plan from the provisions of section 18(j) insofar as the execution of agreements with salesmen under the plan might be said to contravene said section.

Section 22(d) of the Act, with certain exceptions not pertinent here, prohibits an investment company or its principal underwriter from selling the shares of said investment company to any person except at a current offering price described in the prospectus. Since the plan would be in contravention of the provisions of section 22(d) of the Act, inasmuch as it contemplates sales of shares of Stock Fund at a price other than the public offering price thereof described in the prospectus, an order pursuant to section 6(c) of the Act exempting such sales is requested by I.D.S. The application of section 6(c) of the Act is described above. I.D.S. states that the orderly distribution of shares will not be affected by the plan since the shares purchased by I.D.S. for the plan will be for investment purposes only and will not be resold except through redemption by the issuer.

For a more detailed statement of the matters of fact and law asserted, all interested persons are referred to said application which is on file in the Office of the Commission in Washington, D.C.

Notice is further given that any interested person may, not later than December 28, 1959, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 59-10761; Filed, Dec. 18, 1959;
8:47 a.m.]

[File No. 70-3836]

EASTERN UTILITIES ASSOCIATES AND MONTAUP ELECTRIC COMPANY

Notice of Proposed Issuance and Sale of Short-Term Notes to Banks

DECEMBER 14, 1959.

Notice is hereby given that Eastern Utilities Associates ("EUA"), a registered holding company, and an indirect

public-utility subsidiary, Montaup Electric Company ("Montaup"), have filed a joint declaration and an amendment hereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, and 12(d) of the Act and Rules 42(b)(2), 44 and 40(a)(2) promulgated thereunder as applicable to the proposed transactions, which are summarized as follows:

EUA has outstanding bank loan indebtedness that is expected to amount to \$2,775,000 at December 31, 1959 evidenced by promissory notes and secured by a pledge of First Mortgage and Collateral Trust Bonds of Blackstone Valley Gas and Electric Company ("Blackstone"), a direct subsidiary of EUA. EUA proposes to pay such indebtedness through the periodic issuance and sale of promissory notes to The First National Bank of Boston ("Third National"), in amounts not to exceed an aggregate of \$2,775,000 to be outstanding at any one time such notes to be secured by a pledge of the above described bonds of Blackstone. First National has granted participation in the EUA loans to Rhode Island Hospital Trust Company and Industrial National Bank of Providence to the extent of \$740,000 to each bank.

EUA contemplates that, prior to December 31, 1960, all of the notes herein proposed which remain outstanding will be retired from the proceeds derived from the retirement of the Blackstone bonds in connection with the divestment of its gas properties.

Montaup proposes to pay its short-term bank loans outstanding on December 31, 1959 and meet its cash requirements for construction purposes during 1960 through the issuance and sale of unsecured promissory notes, up to a maximum of \$3,600,000 to be outstanding at any one time, to First National. First National has granted participation in the proposed notes to the banks, and up to the amounts, indicated below:

The National Shawmut Bank of Boston	\$900,000
The First National City Bank of New York	720,000
Second Bank-State Street Trust Company, Boston	540,000
The Hanover Bank, New York	360,000
Total	2,520,000

All of the above proposed notes are to be of about three months or less duration maturing on April 1, July 1, October 3 and December 31, 1960, successively, are to bear interest at the prime rate in effect at First National as of the date of issuance thereof, and are to be prepayable in whole or in part without penalty.

The estimated fees and expenses to be paid in connection with the proposed transactions aggregate \$900 and consist of legal fees and expenses of \$535 to be paid by EUA and \$265 by Montaup.

It is represented that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 29, 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 raised by said joint 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 joint declaration, as filed or as amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-10782; Filed, Dec. 18, 1959; 8:48 a.m.]

[File No. 812-1273]

SECURITIES CORPORATION GENERAL

Notice of Application for Order Exempting Transaction Between Affiliates and Permitting Closed-End Investment Company To Acquire Preferred Stock Issued By It

DECEMBER 16, 1959.

Notice is hereby given that Securities Corporation General ("SCG"), a registered closed-end, non-diversified investment company has filed an application under section 17(b) of the Investment Company Act of 1940 (the "Act") for an order exempting from the provisions of section 17(a) of the Act, the proposed acquisition by Dynamics Corporation of America ("DCA") from SCG of a total 77,395 shares of the common stock of Anemostat Corporation of America ("Anemostat") by (a) the proposed purchase of 56,195 of such shares in exchange for the transfer by DCA to SCG of a total of 4,757 shares of SCG preferred stocks (consisting of 1,219 shares and 3,538 shares, respectively, of SCG \$7 preferred stock and SCG \$6 preferred stock), and (b) the proposed purchase of 21,200 shares of such common stock in consideration of a cash payment of \$155,820 by DCA to SCG.

The application filed by SCG also requests an order pursuant to section 23(c)(3) of the Act permitting SCG to purchase from DCA the 4,757 shares of SCG preferred stocks which DCA proposes to transfer to SCG as set forth in item (a) above.

The requests of SCG are based upon the following representations and information contained in its application.

SCG, organized in 1912 under the laws of Virginia, has outstanding 272,500 shares of \$1 par value common stock, 4,731 shares of \$6 series preferred stock and 1,843 shares of \$7 series preferred stock. DCA owns 3,538 shares and 1,219 shares of SCG's \$6 series and \$7 series preferred stocks, respectively, or 74.78

percent and 66.14 percent, respectively, of the total amount of such stocks outstanding. The balance of SCG outstanding preferred stocks, consisting of 1,193 and 624 shares of the \$6 series and \$7 series, respectively, is publicly held.

The \$6 series and \$7 series preferred stocks of SCG are entitled to cumulative annual dividends (without preference of either series over the other) before dividends may be paid on the common stock. Such preferred stocks, irrespective of series, have preference in the event of liquidation (whether voluntary or involuntary) of \$100 a share plus accrued unpaid dividends and are redeemable at the company's option, in whole or in part, at \$110 per share for the \$6 series and \$115 per share for the \$7 series, plus accrued unpaid dividends applicable to the particular series.

At December 31, 1959, accrued dividend arrears will amount to \$12 a share on the \$6 series stock and \$14 a share on the \$7 series stock.

SCG has made a commitment that within 60 days following the consummation of the proposed transactions, it will invite the holders of its \$6 and \$7 series preferred stocks which then remain outstanding to tender their holdings of such stocks during a 30-day period for repurchase by SCG at prices of \$93 a share for the \$6 series and \$99 a share for the \$7 series.

SCG has also represented in its application that within 60 days after the expiration of the tender period it intends to pay all accrued dividend arrears on any shares of the \$6 and \$7 series stocks which have not been repurchased and remain outstanding; and that it would thereafter place both classes of its preferred stocks on a current dividend-paying basis to the extent permitted by law.

The assets of SCG, except for a relatively small amount of cash and minor miscellaneous assets, consist of 131,355 shares of the common stock of DCA or 4.95 percent of DCA's outstanding common stock and 77,395 shares of the common stock of Anemostat or 51.25 percent of Anemostat's total outstanding common stock. DCA owns 49,636½ shares of the common stock of Anemostat or 32.87 percent of the total amount of such stock outstanding.

DCA is engaged, directly and through wholly owned subsidiaries, in the business of manufacturing specialized and general electronics products, communications equipment, electrical appliances, quartz crystals and small motors. Anemostat's principal business is the manufacture of air diffusing equipment and related equipment for air conditioning systems.

The Commission's files show that until November 10, 1959, DCA controlled SCG through ownership of 150,593 shares of the latter's common stock or about 55% of the total amount of such stock outstanding; and that on such date DCA disposed of its entire investment in the common stock of SCG.

Pursuant to the definition contained in section 2(a)(3) of the Act, DCA is an affiliated person of Anemostat and Anemostat, in turn, is an affiliated person of SCG. Generally speaking, section 17(a) of the Act prohibits an affiliated

person (DCA) of an affiliated person (Anemostat) of a registered investment company (SCG) from purchasing from such registered company (SCG) any security of which the seller is not the issuer (stock of Anemostat), unless the Commission by order upon application pursuant to section 17(b) of the Act grants an exemption from section 17(a) of the Act, upon a finding that the terms of the proposed transaction, including the consideration to be paid or received are reasonable and fair and do not involve overreaching on the part of any person concerned; and that the proposed transaction is consistent with the policy of the investment company concerned, and consistent with the general purposes of the Act.

Section 23(c) (3) of the Act prohibits a registered investment company from purchasing its own securities other than on a securities exchange or pursuant to tenders, except under such circumstances as the Commission may permit by order to insure that such purchases are made in a manner or on a basis which does not unfairly discriminate against any holders of the class of securities to be purchased. Since the proposed purchase by SCG from DCA of the 4,757 shares of SCG preferred stocks does not involve purchase on a securities exchange or pursuant to tenders, such purchase is prohibited unless the Commission issues its order permitting it.

SCG acquired the shares of Anemostat common stock proposed to be sold to DCA during the period 1945-1947 at an average cost of about \$6.34 a share. The book value of Anemostat's common stock was equal to about \$12.16 a share at December 31, 1958. For the year ended December 31, 1958, net income of Anemostat was equivalent to \$0.59 a share of its outstanding common stock. For each of the five years 1954-1958, inclusive, Anemostat's net income per share of common stock was equal to \$0.54, \$0.49, \$0.75, \$0.76, and \$0.59, respectively, and averaged about \$0.62½ annually.

There are attached to the application three reports each of which SCG states was made by an investment firm "after independent" analysis of Anemostat. Two of these reports were prepared for DCA and the other for SCG. The going concern value of Anemostat common expressed in these reports ranges from \$4.25 to \$6.00 a share; on the assumption of liquidation of Anemostat by a controlling interest, one report states that such stock has a value of \$6.51 a share, while another report concludes the value on such basis to be "\$7 a share or better".

The application states that the terms of the proposed transactions are fair. The \$155,820 of cash proposed to be paid by DCA to SCG for 21,200 shares of Anemostat common stock equates to about \$7.35 a share of such stock as compared with the appraisal values discussed hereinabove. The application also states that the proposed transfer by DCA of its holdings of 4,757 shares of SCG preferred stocks to SCG in exchange for the latter's holdings of 56,195 shares of Anemostat common stock is fair to SCG and its stockholders, because in re-

turn for Anemostat common stock with an assumed value of \$413,033 (calculated at \$7.35 a share) SCG will be relieved of obligations with respect to preferred stocks having a total par value and accrued arrears (at December 31, 1959) aggregating \$535,222.

The application also states that SCG will benefit by the disposition of its investment in Anemostat because SCG is not currently obtaining a favorable return thereon; and SCG's primary function is investing and trading in securities rather than industrial management.

It is stated that the proposed transaction will benefit DCA by providing it with a subsidiary whose business is closely allied with that of DCA; and by enabling DCA to dispose of SCG's preferred stocks which presently serve no useful business purpose of DCA.

SCG states that its proposed acquisition from DCA of SCG preferred stocks does not unfairly discriminate against any holders of such class of stocks in view of the reasonableness of the consideration to be paid by DCA for the Anemostat stock and in view of the opportunity to be accorded public holders of SCG preferred stocks to tender their holdings thereof for repurchase by SCG as described hereinabove.

Notice is further given that any interested person may, not later than December 28, 1959, at 2:00 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

It is ordered, That Securities Corporation General shall give notice of the filing of this application to all the holders of its \$6 series and \$7 series preferred stocks (insofar as the identity of such stockholders is known or available to it) by mailing a copy of this Notice to each of said stockholders at his last known address not later than December 8, 1959.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 59-10783; Filed, Dec. 18, 1959;
8:49 a.m.]

TARIFF COMMISSION

[337-D-20]

CERTAIN SHOWER HEADS

Notice of Dismissal of Complaint

After preliminary inquiry in accordance with § 203.3 of its rules of practice

and procedure (19 CFR 203.3) the United States Tariff Commission dismissed the complaint filed under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) by Speakman Company of Wilmington, Delaware, alleging unfair methods of competition and unfair acts in the importation and sale in the United States of certain shower heads. Notice of the receipt of this complaint was published in 23 F.R. 9078.

After initiation of the preliminary inquiry the Commission granted complainant's request for suspension of further consideration of the complaint pending the outcome of a patent infringement suit against one of the firms named in the complaint. A judgment favorable to complainant resulted from this litigation, and the Commission resumed its preliminary inquiry. It appears that the importation of the allegedly infringing shower heads has ceased and is not likely to recur. The Commission concluded that a prima facie case of importation of infringing shower heads having the effect or tendency of substantially injuring a domestic industry does not exist at the present time.

Issued: December 16, 1959.

By order of the Commission.

[SEAL] DONN N. BENT,
Secretary.

[F.R. Doc. 59-10720; Filed, Dec. 18, 1959;
8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 238]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 16, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62435. By order of December 14, 1959, the Transfer Board approved the transfer to Jacob Eisenberger, Inc., Norristown, Pennsylvania, of Certificates in Nos. MC 115382, MC 115382 Sub 1, and MC 115382 Sub 2, issued July 15, 1955, August 10, 1955, and November 21, 1955, to Frederick Veader, doing business as V & G Trucking, Chelsea, Massachusetts, authorizing the transportation of specific commodities, over irregular routes, from, to, and between, specified points in Massachusetts, Connecticut, Pennsylvania, New York,

North Carolina, Rhode Island, New Hampshire, New Jersey, Vermont, Maine, Delaware, and Michigan. Beverley S. Simms, 612 Barr Building, Washington 6, D.C., for applicants.

No. MC-FC 62601. By order of December 11, 1959, the Transfer Board approved the transfer to Dorris Mae Hopper and Dorothy J. Adams, a partnership, doing business as George McBreen Company, Portland, Oregon; of Certificates in Nos. MC 112188 and MC 112188 Sub 1, issued March 26, 1951, and December 2, 1957, to George McBreen, Portland, Oregon; authorizing the transportation of: Motion picture films, theater advertising matter, and motion picture machine parts and accessories between specified points in Oregon; Films and articles associated with the exhibition of motion pictures, between named points in Oregon and Washington; and Newspapers, from Portland, Oreg.; to Walla Walla, Washington. John M. Hickson, 1225 Failing Building, Portland 4, Oreg.; for applicants.

No. MC-FC 62633. By order of December 11, 1959, the Transfer Board approved the transfer to Borough Express, Inc., Garfield, N.J., of a portion of Certificate No. MC 41701, issued August 14, 1958, to John P. McCloskey and James P. Morrison, doing business as Kollmar's Express, and acquired pursuant to No. MC-FC 62050 by Jet Express, Inc., North Arlington, N.J., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between points in Essex and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y. Herman B. J. Weckstein, 1060 Broad Street, Newark 2, N.J., for applicants.

No. MC-FC 62645. By order of December 11, 1959, the Transfer Board approved the transfer to Eastern Arkansas Truck Lines, Incorporated, Harrison, Arkansas, of the operating rights in Certificate No. MC 233, issued by the Commission July 29, 1949, to William Hatton Weeks, doing business as Weeks Truck Line, Harrison, Arkansas, authorizing the transportation of general commodities, excluding commodities in bulk, and other specified commodities, over regular routes, between Harrisburg, Ark., and Memphis, Tenn., and between Harrisburg, Ark., and Hickory Ridge, Ark. Roy Finch, Jr., 220 National Old Line Building, Little Rock, Arkansas, for applicants.

No. MC-FC 62656. By order of December 11, 1959, the Transfer Board approved the transfer to Derby Trucking, Inc., Bayonne, N.J., of Permit No. MC 116644, issued March 30, 1959, to Edwin E. Christopherson, doing business as Chris Transportation, Central Islip, N.Y., authorizing the transportation of: Fertilizers, agricultural insecticides, fungicides, weed killers, and compounds and materials used in connection with the purification of water, in containers, from Hicksville, N.Y., to points in Alabama, Kentucky, Ohio and Tennessee, and points in Florida, Maryland, Delaware, New York, Pennsylvania, Virginia, and New Jersey as specified; ferric Sulphate, from Cincinnati, Ohio, to Hicksville,

N.Y.; caustic soda and calcium chloride, from Syracuse, N.Y., to Hicksville, N.Y.; and fertilizer, from Norfolk, Va., to Hicksville, N.Y. Arthur J. Piken, 160 Jamaica Avenue, Jamaica 32, N.Y., for applicants.

No. MC-FC 62653. By order of December 14, 1959, the Transfer Board approved the transfer to The Tobacco Trail Transport, Inc., Danville, Va., of the operating rights in Certificates Nos. MC 16672, MC 16672 Sub 5, and MC 16672 Sub 6 issued August 17, 1943, October 30, 1946, and September 24, 1951, respectively, to H. T. Slayton, South Boston, Va., authorizing the transportation of such merchandise as is dealt in by wholesale, retail, and food businesses, lumber, rags, waste, and scrap metals, clay products, fertilizer, new sawmill and agricultural machinery, used machinery and used structural steel, castings including cast iron pipe and fittings and man-hole rings, pipe and pipe fittings and plumbing supplies, flour feed, barley malt, and lumber, wheat, farm machinery, and such hardware as is dealt in by retail hardware stores, and general commodities, except those of unusual value, and except dangerous explosives, household goods, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, and stoves, from and to points in Virginia, North Carolina, Maryland, Pennsylvania, and the District of Columbia. R. Paul Sanford, 422 Masonic Building, Danville, Va., for applicants.

No. MC-FC 62663. By order of December 11, 1959, the Transfer Board approved the transfer to Henry Mandel and Sol Mandel, a partnership, doing business as Express Haulage Co., New York, N.Y., of Certificate in No. MC 64194, issued January 18, 1941, to J. Turino, Inc., New York, N.Y., authorizing the transportation of: General commodities, excluding household goods, (when transported as a separate and distinct service) commodities in bulk, and other specified commodities between points in the New York, N.Y. commercial zone on the one hand, and, on the other, points in New Jersey within 15 miles of Columbus Circle, New York, N.Y. Edward M. Alfano, Werner & Alfano, Attorneys at Law, 2 West 45th Street, New York 36, N.Y., for applicants.

No. MC-FC 62671. By order of December 10, 1959, the Transfer Board approved the transfer to the Washington Trailer Co., Inc., Washington, D.C., of Certificate in No. MC 101265, issued December 23, 1954, to Richard C. Morauer, Raymond N. Morauer, and Raymond Hackman Hartzell, a partnership, doing business as Washington Trailer Co., Washington, District of Columbia, authorizing the transportation of: Contractor's machinery and heavy equipment between points in the Washington, D.C., Commercial Zone, on the one hand, and, on the other, Richmond, Va., and points in Virginia within 40 miles of Washington, D.C.; and contractors' machinery, heavy equipment, construction machinery, equipment, and supplies which require rigging apparatus for loading or unloading, between points in

the Washington, D.C. commercial Zone, on the one hand, and, on the other, Edgewood Arsenal and the Aberdeen Proving Grounds, Md., points in Maryland within 50 miles of Washington, D.C. and points in Virginia, except Richmond, Va., and those within 40 miles of Washington, D.C. S. Harrison Kahn, Attorney at Law, 1110-1114 Investment Building, Washington 5, D.C., for applicants.

No. MC-FC 62707. By order of December 11, 1959, the Transfer Board approved the transfer to John L. Wenberg, doing business as Wenberg Transfer, 601 Eighth Street, International Falls, Minn., of Certificate No. MC 110500, issued November 2, 1949, to Sigurd L. Wenberg and John L. Wenberg, doing business as Wenberg's Transfer, 601 Eighth Street, International Falls, Minn., authorizing the transportation of: Household goods as defined, by the Commission between points in Koochiching County, Minn., on the one hand, and, on the other, points in Illinois, Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin.

No. MC-FC 62716. By order of December 11, 1959, the Transfer Board approved the transfer to Ferrizz Brothers, Inc., 95 Kellum Place, N.Y., of Permit in No. MC 2594, issued November 9, 1953, to F. Frank Ferrizz, doing business as Ferrizz Bros., Hempstead, N.Y., authorizing the transportation of: Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business, between points in Long Island, N.Y.; and between points in Long Island on the one hand, and on the other, Elizabeth, N.J., and points in New York and specified counties in New York and New Jersey.

No. MC-FC 62756. By order of December 14, 1959, the Transfer Board approved the transfer to Charles Zambuto, Thomas Zambuto, and Ralph Nigro, a partnership, doing business as F. & F. Trucking Co., Brooklyn, N.Y., of the operating rights in Certificate No. MC 44324, issued by the Commission March 25, 1957, to McCabe's Express and Trucking Co., Ltd., Jersey City, N.J., authorizing the transportation, over irregular routes, of general commodities, excluding household goods, commodities in bulk, and other specified commodities, between points in Union, Passaic, Essex, Hudson, and Bergen Counties, N.J., on the one hand, and, on the other, New York, N.Y. Edward M. Alfano, 2 West 45th Street, New York 36, N.Y., for applicants. George A. Olsen, 69 Tonnel Ave., Jersey City, N.J., for transferor.

No. MC-FC 62757. By order of December 14, 1959, the Transfer Board approved the transfer to Steve Marino, doing business as Marino's Express, Farmingdale, New York, of the operating rights in Permit No. MC 82872 Sub 1, issued by the Commission October 24, 1956, to Charles Zambuto, Thomas Zambuto, and Ralph Nigro, a Partnership, doing business as F. & F. Trucking Co., Brooklyn, N.Y., authorizing the transportation, over irregular routes, such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection there-

with, equipment, materials, and supplies used in the conduct of such business, between points in a described portion of New York, New Jersey, and Connecticut. Edward M. Alfano, 2 West 45th Street, New York 36, N.Y., for applicants.

No. MC-FC 62780. By order of December 14, 1959, the Transfer Board approved the transfer to Bert A. Savage, St., doing business as Blairstown Truck Line, Blairstown, Missouri, of Certificate in No. MC 82808, issued May 23, 1955, to J. R. Haun, doing business as Blairstown Truck Line, Blairstown, Missouri, authorizing the transportation of specific commodities, from, to, and between specified points in Missouri, Kansas, and general commodities, excluding household goods, commodities in bulk, and certain other commodities, from Kansas City, Kans., to Blairstown, Mo., serving certain intermediate and off-route points, and between Kansas City, Kans., and Blairstown, Mo., serving no intermediate or off-route points. Henry B. Vess, Jr., Western Traffic Services, Inc., 216 East 10th Street, Kansas City 6, Missouri, for applicants.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-10763; Filed, Dec. 18, 1959;
8:47 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 15, 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. 35894: *Fertilizer and materials—Gulf, South Atlantic and Virginia ports to the south.* Filed by O. W. South, Jr., Agent (SFA No. A3882), for interested rail carriers. Rates on fertilizer and fertilizer materials, in carloads from Gulf, South Atlantic, and Virginia ports to points in southern territory.

Grounds for relief: Short-line distance formula, grouping, port relationship, and operation through higher-rated territories.

Tariff: Supplement 13 to Southern Freight Association tariff I.C.C. S-12.

FSA No. 35895: *Cement from Gold Hill, Oreg., to Klamath Falls, Oreg.* Filed by Southern Pacific Company (Pacific Lines) (No. 369), for itself and the Oregon, California & Eastern Railway Company. Rates on cement, hydraulic, masonry, mortar, natural or portland, in bulk, in carloads from Gold Hill, Oreg., to Klamath Falls, Oreg.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 3 to Southern Pacific Company (Pacific Lines) tariff I.C.C. 5153.

FSA No. 35896: *Magnesite from Loving, N. Mex., to Official Territory.* Filed by Southwestern Freight Bureau, Agent

(No. B-7703), for interested rail carriers. Rates on magnesite, dead burned, in carloads from Loving, N. Mex., to specified points in New Jersey, New York, Ohio, Pennsylvania, and West Virginia.

Grounds for relief: Market competition.

Tariff: Supplement 653 to Southwestern Freight Bureau tariff I.C.C. 4139.

FSA No. 35897: *Plaster and related articles from Rosario, N. Mex.* Filed by Southwestern Freight Bureau, Agent (No. B-7704), for interested rail carriers. Rates on plaster, gypsum wall-board, and related articles, in carloads from Rosario, N. Mex., to points in southwestern territory, including Mississippi River crossings.

Grounds for relief: Short-line distance formula and grouping.

Tariff: Supplement 84 to Southwestern Freight Bureau tariff I.C.C. 4149.

FSA No. 35898: *Cement from Cement City, Mich., and Bay Bridge, Ohio.* Filed by Traffic Executive Association—Eastern Railroads, Agent (CTR No. 2423), for interested rail carriers. Rates on cement and related articles, in carloads from Cement City, Mich., and Bay Bridge, Ohio to points in Illinois Freight Association territory, also specified points in Michigan and Wisconsin.

Grounds for relief: Short-line distance formula, grouping, and market competition.

Tariff: Supplement 23 to Traffic Executive Association—Eastern Railroads tariff I.C.C. C-56.

FSA No. 35899: *Commodities between points in Texas.* Filed by Texas-Louisiana Freight Bureau, Agent (No. 374), for interested rail carriers. Rates on junk, and other commodities described in the application, carloads between points in Texas, over interstate routes through adjoining States.

Grounds for relief: Intrastate competition and maintenance of rates from or to points in other States not subject to the same competition.

Tariff: Supplement 96 to Texas-Louisiana Freight Bureau tariff I.C.C. 865.

FSA No. 35901: *Substituted service—CRI&P for Voss Truck Lines, Inc.* Filed by Middlewest Motor Freight Bureau, Agent (No. 209), for interested carriers. Rates on property loaded in highway trailers and transported in railroad flat cars between Chicago (Burr Oak), Ill., on the one hand, and Kansas City (Armourdale), Kans., and Oklahoma City, Okla., on the other, and between Kansas City (Armourdale), Kans., on the one hand, and Oklahoma City, Okla., and St. Louis, Mo., on the other.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 119 to Middlewest Motor Freight Bureau tariff MF-I.C.C. 223.

FSA No. 35902: *Substituted service—C&NW for Steffke Freight Co.* Filed by Middlewest Motor Freight Bureau, Agent (No. 210), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Chicago, Ill., and Butler, Wis., on the one hand, and St. Paul, Minn., on the other.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 119 to Middlewest Motor Freight Bureau tariff MF-I.C.C. 223.

FSA No. 35903: *T.O.F.C. service—Commodities from Streator, Ill., to eastern destinations.* Filed by Wabash Railroad Company (No. 3), for interested rail carriers. Rates on various commodities moving on class rates, loaded in highway trailers and transported on railroad flat cars from Streator, Ill., and points taking the same rates to points in Delaware, Maryland, New Jersey, New York, and Pennsylvania.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 33 to Wabash Railroad Company's tariff I.C.C. 7882.

AGGREGATE OF INTERMEDIATES

FSA No. 35900: *Commodities between points in Texas.* Filed by Texas-Louisiana Freight Bureau, Agent (No. 375), for interested rail carriers. Rates on junk, and other commodities described in the application, in carloads, between points in Texas, over interstate routes through adjoining States.

Grounds for relief: Maintenance of depressed rates established to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff: Supplement 96 to Texas-Louisiana Freight Bureau tariff I.C.C. 865.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-10722; Filed, Dec. 17, 1959;
8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-135]

WALTER REED ARMY INSTITUTE OF RESEARCH

Notice of Proposed Issuance of Construction Permit

Please take notice that the Atomic Energy Commission proposes to issue to Walter Reed Army Institute of Research, a construction permit substantially as set forth below unless within fifteen days after the filing of this notice with the Office of the Federal Register a request for a formal hearing is filed with the Commission as provided by the Commission's rules of practice (10 CFR Part 2). Such request should be addressed to the Office of the Secretary at the AEC's office in Germantown, Maryland, or the AEC's Public Document Room, 1717 H Street NW., Washington, D.C. For further details see (1) the application submitted by Walter Reed Army Institute of Research and amendment thereto, and (2) a hazards analysis by the Hazards, Evaluation Branch, Division of Licensing and Regulation, both on file at the AEC's Public Document Room. A copy of item (2) above may be obtained at the AEC's Public Document Room or upon request addressed to the Atomic

Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

For the Atomic Energy Commission.

Dated at Germantown, Md., this 15th day of December 1959.

R. L. KIRK,
Deputy Director, Division of
Licensing and Regulation.

PROPOSED CONSTRUCTION PERMIT

1. By application dated May 20, 1959, and amendments thereto dated June 15, 1959, and June 29, 1959 (hereinafter together referred to as "the application"), Walter Reed Army Institute of Research requested a Class 104 license, defined in § 50.21 of Part 50, "Licensing of Production and Utilization Facilities", Title 10, Chapter 1, CFR, authorizing construction and operation on the Walter Reed Army Medical Center site in Washington, D.C., of a fifty kilowatt homogeneous solution type, Atomic International Model L-54 nuclear reactor (hereinafter referred to as "the facility").

2. The Atomic Energy Commission (hereinafter referred to as "the Commission") finds that:

A. The facility will be a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter 1, CFR, Part 50, "Licensing of Production and Utilization Facilities".

B. The facility will be used in the conduct of research and development activities of the types specified in section 31 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act").

C. The Walter Reed Army Institute of Research is financially qualified to construct and operate the facility in accordance with

the regulations contained in Title 10, Chapter 1, CFR.

D. The Walter Reed Army Institute of Research and its contractor, Atomic International, a Division of North American Aviation, Incorporated, are technically qualified to design and construct the facility.

E. The Walter Reed Army Institute of Research has submitted sufficient information to provide reasonable assurance that a facility of the general type proposed can be constructed and operated at the proposed location without undue risk to the health and safety of the public, and that omitted information necessary to complete the application will be supplied; and

F. The issuance of a construction permit to Walter Reed Army Institute of Research will not be inimical to the common defense and security or to the health and safety of the public.

3. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 50, "Licensing of Production and Utilization Facilities", the Commission hereby issues a construction permit to Walter Reed Army Institute of Research to construct the facility in accordance with the application. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified below:

A. The earliest completion date of the facility is May 1, 1960. The latest date for completion of the facility is October 1, 1961. The term "completion date" as used herein, means the date on which construction of the facility is completed except for the introduction of the fuel material.

B. The facility shall be constructed and located on the Walter Reed Army Medical

Center site in Washington, D.C., as specified in the application.

4. This permit is provisional to the extent that a license authorizing operation of the facility will not be issued by the Commission unless Walter Reed Army Institute of Research has submitted to the Commission (by amendment to the application) additional data, concerning (1) the experimental program, (2) performance of the recombiner at the 50 KW power level and performance characteristics of the flow meter in this range, and (3) the design features of the core tank that would prevent excessive concentration of hydrogen in the core, required to complete the hazards evaluation and the Commission has found that the final design provides reasonable assurance that the health and safety of the public will not be endangered by operation of the facility in accordance with the specified procedures.

5. Upon completion (as defined in paragraph 3.A. above) of the construction of the facility in accordance with the terms and conditions of this permit, upon the filing of the additional information needed to bring the original application up-to-date, and upon finding that the facility authorized has been constructed and will operate in conformity with the application, as amended, and in conformity with the provisions of the Act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of the Act, the Commission will issue a Class 104 license to Walter Reed Army Institute of Research pursuant to section 104c of the Act, which license shall expire twenty (20) years after the date of this construction permit.

For the Atomic Energy Commission.

[F.R. Doc. 59-10744; Filed, Dec. 18, 1959; 8:45 a.m.]

CUMULATIVE CODIFICATION GUIDE—DECEMBER

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