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TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4723]

EXCESS PROFITS ON NAVY CONTRACTS

REGULATIONS UNDER SECTION 3 OF THE ACT OF MARCH 27, 1934,
AS ORIGINALLY ENACTED AND AS AMENDED—T. D. 4434 SUPER-
SEDED

*To Officers and Employees of the Treasury Department, the
Navy Department, and Others Concerned:*

PARAGRAPH A.—Section 3 of the Act entitled "An Act to establish the composition of the United States Navy with respect to the categories of vessels limited by the treaties signed at Washington, February 6, 1923, and at London, April 22, 1930, at the limits prescribed by those treaties; to authorize the construction of certain naval vessels; and for other purposes", approved March 27, 1934, 48 Stat. L. 505 (U. S. C., title 34, sec. 496), provides:

Sec. 3. The Secretary of the Navy is hereby directed to submit annually to the Bureau of the Budget estimates for the construction of the foregoing vessels and aircraft; and there is hereby authorized to be appropriated such sums as may be necessary to carry into effect the provisions of this Act: *Provided*, That no contract shall be made by the Secretary of the Navy for the construction and/or manufacture of any complete naval vessel or aircraft, or any portion thereof, herein, heretofore, or hereafter authorized unless the contractor agrees—

(a) To make a report, as hereinafter described, under oath, to the Secretary of the Navy upon the completion of the contract.

(b) To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department, in excess of 10 per centum of the total contract price, such amount to become the property of the United States: *Provided*, That if such amount is not voluntarily paid the Secretary of the Treasury may collect the same under the usual methods employed under the internal revenue laws to collect Federal income taxes.

(c) To make no subdivisions of any contract or subcontract for the same article or articles for the purpose of evading the provisions of this Act, but any subdivision of any contract or subcontract involving an amount in excess of \$10,000 shall be subject to the conditions herein prescribed.

(d) That the manufacturing spaces and books of its own plant, affiliates, and subdivisions shall at all times be subject to inspection and audit by any person designated by the Secretary of the Navy, the Secretary of the Treasury, and/or by a duly authorized committee of Congress.

(e) To make no subcontract unless the subcontractor agrees to the foregoing conditions.

The report shall be in form prescribed by the Secretary of the Navy and shall state the total contract price, the cost of performing the contract, the net income, and the per centum such net income bears to the contract price. A copy of such report shall be transmitted to the Secretary of the Treasury for consideration in connection with the Federal income tax returns of the contractor for the taxable year or years concerned.

The method of ascertaining the amount of excess profit to be paid into the Treasury shall be determined by the Secretary of the Treasury in agreement with the Secretary of the Navy and made available to the public. The method initially fixed upon shall be so determined on or before June 30, 1934: *Provided*, That in any case where an excess profit may be found to be owing to the United States in consequence hereof, the Secretary of the Treasury shall allow credit for any Federal income taxes paid or remaining to be paid upon the amount of such excess profit.

The contract or subcontracts referred to herein are limited to those where the award exceeds \$10,000.

PAR. B. Section 3 (b) of the Act referred to above in paragraph A was amended by the Act of June 25, 1936 (Public, No. 804, 74th Cong.)¹, to read as follows:

Sec. 3. (b) To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department, in excess of 10 per centum of the total contract prices, of such contracts within the scope of this section as are completed by the particular contracting party within the income taxable year, such amount to become the property of the United States, but the surety under such contracts shall not be liable for the payment of such excess profit: *Provided*, That if there is a net loss on all such contracts or subcontracts completed by the particular contractor or subcontractor within any income taxable year, such net loss shall be allowed as a credit in determining the excess profit, if any, for the next succeeding income taxable year: *Provided further*, That if such amount is not voluntarily paid the Secretary of the Treasury shall collect the same under the usual methods employed under the internal-revenue laws to collect Federal income taxes: *Provided further*, That all provisions of law (including penalties) applicable with respect to the taxes imposed by Title I of the Revenue Act of 1934, and not inconsistent with this section, shall be applicable with respect to the assessment, collection, or payment of excess profits to the Treasury as provided by this section, and to refunds by the Treasury of overpayments of excess profits into the Treasury: *And provided further*, That this section shall not apply to contracts or subcontracts for scientific equipment used for communication, target detection, navigation, and fire control as may be so designated by the Secretary of the Navy, and the Secretary of the Navy shall report annually to the Congress the names of such contractors and subcontractors affected by this provision, together with the applicable contracts and the amounts thereof: *And provided further*, That the income-taxable years shall be such taxable years beginning after December 31, 1935, except that the above provisos relating to the assessment, collection, payment, or refunding of excess profit to or by the Treasury shall be retroactive to March 27, 1934.

Pursuant to the authority prescribed by section 3 of the Act of March 27, 1934, 48 Stat. L. 505 (U. S. C. title 34, sec. 496), as amended, the following regulations are hereby prescribed with respect to section 3 of such Act as originally enacted and as amended:

ARTICLE 1. *Definitions*.—As used in these regulations the term—

(a) "Act" means the Act of March 27, 1934, 48 Stat. L. 505 (U. S. C. title 34, sec. 496) as originally enacted and as amended by the Act of June 25, 1936 (Public, No. 804, 74th Cong.).

(b) "Person" includes an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture or other unincorporated organization or group, through or by means of which any business, financial operation or venture is carried on.

(c) "Contract" means an agreement made by authority of the Secretary of the Navy for the construction or manufacture of any complete naval vessel or aircraft, or any portion thereof.

¹ 49 Stat. 1926.



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(d) "Contractor" means a person entering into a direct contract with the Secretary of the Navy or his duly authorized representative.

(e) "Subcontract" means an agreement entered into by one person with another person for the construction or manufacture of a complete naval vessel or aircraft or any portion thereof, the prime contract having been entered into between a contractor and the Secretary of the Navy or his duly authorized representative.

(f) "Subcontractor" means any person other than a contractor entering into a subcontract.

(g) "Contracting party" means a contractor or subcontractor as the case may be.

(h) "Contract price" or "total contract price" means the amount or total amount to be received under a contract or subcontract as the case may be.

(i) "Income-taxable year" means the calendar year, the fiscal year ending during such calendar year, or the fractional part of such calendar or fiscal year, upon the basis of which the contracting party's net income is computed and for which its income tax returns are made for Federal income tax purposes.

ART. 2. *Contracts and subcontracts under which excess profit liability may be incurred.*—Except as otherwise provided with respect to contracts or subcontracts for certain scientific equipment (see article 3 of these regulations), every contract awarded for an amount exceeding \$10,000 and entered into after the enactment of the Act of March 27, 1934 for the construction or manufacture of any complete naval vessel or aircraft, or any portion thereof, is subject to the provisions of the Act relating to excess profit liability. Any subcontract made with respect to such a contract and involving an amount in excess of \$10,000 is also within the scope of the Act. If a contracting party places orders with another party, aggregating an amount in excess of \$10,000, for articles or materials which constitute a part of the cost of performing the contract or subcontract, the placing of such orders shall constitute a subcontract within the scope of the Act, unless it is clearly shown that each of the orders involving \$10,000 or less is a bona fide separate and distinct subcontract and not a subdivision made for the purpose of evading the provisions of the Act.

ART. 3. *Contracts or subcontracts for scientific equipment.*—No excess profit liability is incurred upon a contract or subcontract entered into after the amendment of section 3 (b) of the Act on June 25, 1936, if at the time or prior to the time such contract or subcontract is made it is designated by the Secretary of the Navy as being for scientific equipment used for communication, target detection, navigation, and fire control. The exemption of contracts or subcontracts for scientific equipment does not extend to any contract or subcontract entered into prior to the enactment of the amendment of section 3 (b) of the Act.

ART. 4. *Manner of determining liability.*—The first step in the determination of the excess profit to be paid to the United States is to ascertain the amount of excess profit under the applicable method which depends upon the date of completion of the contract or subcontract. See article 5 of these regulations. The second step is to ascertain the amount of credit allowed for Federal income taxes paid or remaining to be paid upon the amount of such excess profit. See article 10 of these regulations. The third step is to subtract from the amount of excess profit as computed in the first step the amount of credit for Federal income taxes as computed in the second step. The amount remaining after such subtraction is the amount of excess profit to be paid to the United States.

ART. 5. *Measure of excess profit.*—(a) *Completion of contract defined.*—The method of ascertaining the amount of excess profit in respect of a contract or subcontract coming within the scope of the Act depends upon the date of completion of the contract or subcontract (i. e. whether the contract or subcontract was completed prior to the contracting party's first income-taxable year beginning after December 31, 1935 or was completed within or subsequent to such income-taxable year). With the exception of those contracts which provide a method for determining the date of completion, the date of delivery of the vessel, aircraft or portion thereof covered by the contract or subcontract shall be considered the date of completion of the contract or subcontract unless otherwise determined by the Secretary of the Navy and the Secretary of the Treasury or their duly authorized representatives. As to a refund in case of adjustment due to subsequently incurred additional costs, see article 19 of these regulations. If a contract or subcontract is at any time cancelled or terminated, it is completed at the time of the cancellation or termination.

(b) *Contracts or subcontracts completed prior to contracting party's income-taxable year beginning after December 31, 1935.*—If a contract or subcontract is completed prior to the contracting party's first income-taxable year beginning after December 31, 1935, the excess profit shall be de-

terminated separately upon the completion of each such contract or subcontract. The amount of such excess profit shall be the amount of the profit on such contract or subcontract in excess of 10 percent of the total contract price. The amount of the profit on the contract or subcontract shall be the excess of the total contract price over the cost of performing the contract or subcontract. As to the cost of performance, see article 8 of these regulations.

(c) *Contracts or subcontracts completed within contracting party's income-taxable year beginning on or after January 1, 1936.*—In the case of contracts or subcontracts completed within, or subsequent to, the contracting party's first income-taxable year beginning after December 31, 1935, the excess profit shall be determined upon the basis of all contracts and subcontracts completed by the particular contracting party within each income-taxable year. The amount of such excess profit for an income-taxable year shall be the amount of the net profit upon all contracts and subcontracts completed by the contracting party within the income-taxable year (less the credit allowable for net loss, if any, sustained in the preceding income-taxable year) in excess of 10 percent of the total contract prices of all such contracts and subcontracts. As to the allowable credit for a net loss for the preceding income-taxable year, see article 9 of these regulations. The amount of the net profit on all contracts and subcontracts completed by a particular contracting party within the income-taxable year shall be the excess of the total contract prices of such contracts and subcontracts over the total costs of performing such contracts and subcontracts. As to the cost of performing a contract or subcontract, see article 8 of these regulations. As to the keeping of separate accounts with respect to each contract or subcontract, see article 13 of these regulations.

ART. 6. Computation of excess profit-liability. Examples.—The application of the provisions of articles 4 and 5 of these regulations may be illustrated by the following examples:

Example (1): On January 2, 1935 the A Corporation, which keeps its books and makes its Federal income tax returns on a calendar year basis, entered into a contract coming within the scope of the Act. The total contract price was \$100,000. The contract was completed on August 5, 1935 at a cost of \$85,000. A second contract for \$20,000, entered into on April 15, 1935, was completed on June 10, 1935, at a cost of \$21,000. For the year 1935 the A Corporation had a net income of \$100,000 (including \$10,000 of the profit upon the first contract), on which it paid a Federal income tax of \$13,750. A loss having been incurred upon the second contract, there is no excess profit liability in respect of such contract. The excess profit liability upon the first contract is \$5,000 computed as follows:

Total contract price.....	\$100,000
Less: Cost of performing contract.....	85,000
Profit on contract.....	15,000
Less: 10 percent of total contract price (10 percent of \$100,000).....	10,000
Excess profit.....	5,000
Less: Credit for Federal income taxes.....	None
Excess profit liability.....	5,000

Example (2): On September 1, 1935, the B Corporation which keeps its books and makes its Federal income tax returns on a calendar year basis entered into a contract coming within the scope of the Act, the total contract price of which was \$200,000. On March 10, 1936, the corporation entered into another such contract, the total contract price of which was \$40,000. Both contracts were completed within the calendar year 1936, the first at a cost of \$155,000 and the second at a cost of \$45,000. The net income of the B Corporation for the year 1936 amounted to \$96,000, which included the total net profit of \$40,000 upon the two contracts. For the year 1936 the B Corporation paid a Federal income tax of \$13,240, no part of which was surtax imposed by section 14 of the Revenue Act of 1936. The excess profit liability is \$13,600 computed as follows:

Total contract prices:		
Contract No. 1.....	\$40,000	
Contract No. 2.....	200,000	\$240,000
Less: Cost of performing contracts:		
Contract No. 1.....	45,000	
Contract No. 2.....	155,000	200,000
Net profit on contracts.....	40,000	
Less: 10 percent of total contract prices (10 percent of \$240,000).....	24,000	
Excess profit.....	16,000	
Less: Credit for Federal income taxes (normal tax on \$16,000 at 15 percent).....	2,400	
Excess profit liability.....	13,600	

ART. 7. Total contract price.—The total contract price of a particular contract or subcontract (see article 1 of these regulations) may be received in money or its equivalent. If something other than money is received, only the fair market value of the thing received, at the date of receipt, is to be included in determining the amount received. Bonuses earned for bettering performance and penalties incurred for failure to meet the contract guarantees are to be regarded as adjustments of the original contract price. Trade or other discounts are also to be deducted in determining the true total contract price.

ART. 8. Cost of performing a contract or subcontract.—(a) *General rule.*—The cost of performing a particular contract or subcontract shall be the sum of (1) the direct costs, including therein expenditures for materials, direct labor and direct expenses, incurred by the contracting party in performing the contract or subcontract; and (2) the proper proportion of any indirect costs (including therein a reasonable proportion of management expenses) incident to and necessary for the performance of the contract or subcontract.

(b) *Elements of cost.*—No definitions of the elements of cost may be stated which are of invariable application to all contractors and subcontractors. In general, the elements of cost may be defined for purposes of the Act as follows:

(1) *Manufacturing cost*, which is the sum of factory cost (see paragraph (c) of this article) and other manufacturing cost (see paragraph (d) of this article);

(2) *Cost of installation and construction* (see paragraph (e) of this article); and

(3) *General expenses*, which are the sum of indirect engineering expenses, usually termed "engineering overhead" (see paragraph (f) of this article) and expenses of administration, usually termed "administrative overhead" (see paragraph (g) of this article).

(c) *Factory cost.*—Factory cost is the sum of the following:

(1) *Direct materials.*—Materials, such as those purchased for stock and subsequently issued for contract operations and those acquired under subcontracts, which become a component part of the finished product or which are used directly in fabricating, converting or processing such materials or parts.

(2) *Direct productive labor.*—Productive labor, usually termed "shop labor", which is performed on and is properly chargeable directly to the article manufactured or constructed pursuant to the contract or subcontract, but which ordinarily does not include direct engineering labor (see subparagraph (3) of this paragraph).

(3) *Direct engineering labor.*—The compensation of professional engineers and other technicians, and of draftsmen, properly chargeable directly to the cost of the contract or subcontract.

(4) *Miscellaneous direct charges.*—Items which are properly chargeable directly to the factory cost of performing the contract or subcontract but which do not come within the classifications in subparagraphs (1), (2) and (3) of this paragraph, as for example royalties which the contracting party pays to another party and which are

properly chargeable to the cost of performing the contract or subcontract (but see paragraph (d) of this article).

(5) *Indirect factory expenses.*—Items, usually termed "factory overhead", which are not directly chargeable to the factory cost of performing the contract or subcontract but which are clearly incident to and necessary for the performance of the contract or subcontract and consist of the following:

(A) *Labor.*—Amounts expended for factory labor, such as supervision and inspection, clerical labor, time-keeping, packing and shipping, stores supply, and services in the factory employment bureau, which are not chargeable directly to productive labor of the contract or subcontract.

(B) *Material and supplies.*—The cost of materials and supplies for general use in the factory, such as shop fuel, lubricants, plating, cleaning and anodizing supplies, stationery, such as time tickets and other forms, and boxing and wrapping materials.

(C) *Service expenses.*—Factory expenses of a general nature, such as those for power, heat and light (whether purchased or produced), ventilation and air-conditioning and operation and maintenance of general plant assets and facilities used in the performance of the contract or subcontract.

(D) *Fixed charges.*—Recurring charges with respect to property used for manufacturing purposes of the contract or subcontract, such as premiums for fire and elevator insurance, property taxes, rentals and allowances for depreciation of such property.

(E) *Miscellaneous indirect factory expenses.*—Miscellaneous factory expenses not directly chargeable to the factory cost of performing the contract or subcontract, such as employees' welfare expenses; premiums or dues on compensation insurance; employers' payments to unemployment, old age and social security Federal and State funds not including payments deducted from or chargeable to employees or officers; pensions and retirement payments to factory employees; factory accident compensation (as to self-insurance, see paragraph (g) of this article); but not including any amounts which are not incident to services, operations, plant, equipment or facilities used or employed in the performance of the contract or subcontract.

(d) *Other manufacturing cost.*—Other manufacturing cost as used in paragraph (b) of this article includes items of manufacturing cost which are not properly chargeable to factory cost (see paragraph (c) of this article), as for instance, "deferred" or "unliquidated" experimental and development charges if upon a complete showing of all pertinent facts they are properly to be included as a cost of manufacturing under the contract or subcontract; and payments of royalties and amortization of the cost of patent rights, the nature of which payments or amortization precludes a satisfactory charge to the classifications of factory cost (see paragraph (c) (4) of this article).

(e) *Cost of installation and construction.*—Cost of installation and construction which is an element of cost (see paragraph (b) of this article) includes the cost of materials, labor and expenses necessary for the erection and installation after the delivery of the product or material manufactured or constructed pursuant to the contract or subcontract.

(f) *Indirect engineering expenses.*—Indirect engineering expenses, usually termed "engineering overhead", which are treated in this article as a part of general expenses in determining the cost of performing a contract or subcontract (see paragraph (b) of this article), comprise the general engineering expenses which are incident to and necessary for the performance of the contract or subcontract, such as the following:

(1) *Labor.*—Compensation of employees for personal services to the engineering department, such as supervision, which is properly chargeable to the contract or sub-

contract, but which is not chargeable as direct engineering labor (see paragraph (c) (3) of this article).

(2) *Material.*—Supplies for the engineering department, such as paper and ink for drafting and similar supplies.

(3) *Miscellaneous expenses.*—Expenses of the engineering department, such as services purchased outside of the engineering department for blue printing, drawing, computing, and like purposes.

(g) *Expenses of administration.*—Expenses of administration, usually termed "administrative overhead", which are treated in this article as a part of general expenses in determining the cost of performing a contract or subcontract (see paragraph (b) of this article) do not include any selling or "distribution" expenses but comprehend the expenses incident to and necessary for the performance of the contract or subcontract, which are incurred in the general administration of the business, such as:

(1) *Compensation for personal services of employees.*—The salaries of the corporate and general executive officers and the salaries and wages of administrative clerical employees and of the office services employees (telephone operators, janitors, cleaners, watchmen and office equipment repairmen).

(2) *Expenses.*—Miscellaneous office and administrative expenses, such as stationery and office supplies, postage, repair and depreciation of office equipment, employees' welfare expenses, premiums and dues on compensation insurance; employers' payments to unemployment, old age and social security Federal and State funds not including payments deducted from or chargeable to employees or officers; pensions and retirement payments to administrative office employees; accident compensation to office employees (except amounts for self-insurance); but including no items which are not incidental to activities necessary for the performance of the contract or subcontract.

If a party assumes its own insurable risks (usually termed "self-insurance") (a) with respect to losses arising from fire or other casualty, with respect to materials and supplies, (b) for compensation paid to employees for injuries received in the performance of their duties, or (c) for unemployment risks in States where insurance is required, such losses and payments will be allowed in the cost of performing a contract or subcontract only to the extent of the actual losses suffered or payments incurred during, and in the course of, the performance of the contract or subcontract.

Allowances for interest on invested capital are not allowable as costs of performing a contract or subcontract.

Among the items which shall not be included as a part of the cost of performing a contract or subcontract or considered in determining such cost, are the following: Selling expenses, including compensation of employees engaged in selling, operation and maintenance of sales offices, commissions, advertising and demonstrations, depreciation of sales equipment, gratis service, entertainment expenses; dues and memberships other than of regular trade associations; donations; commercial travelling expenses and the like; losses on other contracts; losses from sales or exchanges of capital assets; extraordinary expenses due to strikes or lockouts; fines and penalties; amortization of unrealized appreciation of values of assets; expenses and depreciation of idle plant; increases in reserve accounts for contingencies, repairs, compensation insurance and guarantee work; Federal and State income and excess profits taxes and surtaxes; cash discount earned up to one percent of the amount of the purchase, except that all discounts on subcontracts subject to the Act will be considered; interest incurred or earned; bond discount or finance charges; income from royalties; premiums for life insurance on the lives of officers; legal and accounting fees in connection with reorganizations, security issues, capital stock issues and the prosecution of claims against the United States (including income tax matters); taxes and expenses on issues and transfers of capital stock; losses on

investments; bad debts; and expenses of collection and exchange.

In order that the cost of performing a contract or subcontract may be accounted for clearly, the amount of any excess profits repayable to the United States pursuant to the Act should not be charged to or included in such cost.

Excessive or unreasonable payments whether in cash, stock or other property ostensibly for salaries, bonuses or other compensation for personal services, may not be included in the cost of performing a contract or subcontract.

(h) *Allocation of indirect costs.*—No general rule applicable to all cases may be stated for ascertaining the proper proportion of the indirect costs to be allocated to the cost of performing a particular contract or subcontract. Such proper proportion depends upon all the facts and circumstances relating to the performance of the particular contract or subcontract. Subject to a requirement that all items which have no relation to the performance of the contract or subcontract shall be eliminated from the amount to be allocated, the following methods of allocation are outlined as acceptable in a majority of cases:

(1) *Factory indirect expenses.*—The allowable indirect factory expenses (see paragraph (c) (5) of this article) shall ordinarily be allocated or "distributed" to the cost of the contract or subcontract on the basis of the proportion which the direct productive labor (see paragraph (c) (2) of this article) attributable to the contract or subcontract bears to the total direct productive labor of the production department or particular section thereof during the period within which the contract or subcontract is performed.

(2) *Engineering indirect expenses.*—The allowable indirect engineering expenses (see paragraph (f) of this article) shall ordinarily be allocated or "distributed" to the cost of the contract or subcontract on the basis of the proportion which the direct engineering labor attributable to the contract or subcontract (see paragraph (c) (3) of this article) bears to the total direct engineering labor of the engineering department or particular section thereof during the period within which the contract or subcontract is performed. If the expenses of the engineering department are not sufficient in amount to require the maintenance of separate accounts, the engineering indirect costs may be included in the indirect factory expenses (see paragraph (c) (5) of this article) and allocated or distributed to the cost of performing the contract or subcontract as a part of such expenses, provided the proportion so allocated or distributed is proper under the facts and circumstances relating to the performance of the particular contract or subcontract.

(3) *Administrative expenses (or "overhead").*—The allowable expenses of administration (see paragraph (g) of this article) or other general expenses except indirect engineering expenses shall ordinarily be allocated or distributed to the cost of performing a contract or subcontract on the basis of the proportion which the sum of the manufacturing cost (see paragraph (b) of this article) and the cost of installation and construction (see paragraph (e) of this article) attributable to the particular contract or subcontract bears to the total manufacturing cost and cost of installation and construction during the period within which the contract or subcontract is performed.

ART. 9. Credit for net loss in computing excess profit.—The term "net loss" as used in the Act means the amount by which the total costs of performing all contracts and subcontracts completed by a particular contracting party within the income-taxable year exceeds the total contract prices of such contracts and subcontracts. As to the meaning of income-taxable year, see article 1 of these regulations.

A net loss for any income-taxable year beginning prior to January 1, 1936 is not allowable as a credit in computing excess profit for any succeeding income-taxable year.

A net loss sustained by a contracting party for any income-taxable year beginning after December 31, 1935 is allowable as a credit in computing the contracting party's excess profit for the next succeeding income-taxable year. Credit for such a net loss may be claimed in the contracting party's report of profit filed with the collector of internal revenue (see articles 15 and 16 of these regulations), but it should be supported by separate schedules for each contract or subcontract involved showing total contract prices, costs of performance and pertinent facts relative thereto, together with a summarized computation of the net loss. The net loss claimed is subject to verification and adjustment.

Net loss for one income-taxable year may not be considered in computing net loss for another income-taxable year.

The provisions of this article may be illustrated by the following example:

Example: The A Company, which keeps its books and makes its Federal income tax returns on a calendar year basis and which entered into contracts coming within the scope of the Act, sustained a net loss of \$50,000 upon contracts completed within the calendar year 1936, but had a net profit of \$40,000 upon contracts completed within the calendar year 1937 and a net profit of \$30,000 upon contracts completed within the calendar year 1938. The net loss of \$50,000 sustained in 1936 may be taken as a credit against the net profit of \$40,000 for the year 1937, but the excess of \$10,000 (\$50,000 less \$40,000) may not be taken as a credit for the year 1938.

ART. 10. Credit for Federal income taxes.—For the purpose of computing the amount of excess profit to be paid to the United States, a credit is allowable against the excess profit for the amount of Federal income taxes paid or remaining to be paid on the amount of such excess profit. The Federal income taxes in respect of which this credit is allowable are those imposed by Titles I and IA of the Revenue Act of 1934 and Titles I and IA of the Revenue Act of 1936. In case such a credit has been claimed and the amount of Federal income taxes imposed upon the excess profit is re-determined, the credit shall be accordingly adjusted.

ART. 11. Failure of contractor to require agreement by subcontractor.—Every contract or subcontract coming within the scope of the Act is required by the Act to contain, among other things, an agreement by the contracting party to make no subcontract unless the subcontractor agrees:

(a) To make a report, as described in the Act, under oath to the Secretary of the Navy upon the completion of the subcontract;

(b) To pay into the Treasury excess profit, as determined by the Treasury Department, in the manner and amounts specified in the Act;

(c) To make no subdivision of the subcontract for the same article or articles for the purpose of evading the provisions of the Act;

(d) That the manufacturing spaces and books of its own plant, affiliates, and subdivisions shall at all times be subject to inspection and audit as provided in the Act.

If a contracting party enters into a subcontract with a subcontractor who fails to make such agreement, such contracting party shall, in addition to its liability for excess profit determined on contracts or subcontracts performed by it, be liable for any excess profit determined to be due the United States on the subcontract entered into with such subcontractor. In such event, however, the excess profit to be paid to the United States in respect of the subcontract entered into with such subcontractor shall be determined separately from any contracts or subcontracts performed by the contracting party entering into the subcontract with such subcontractor.

ART. 12. Evasion of excess profit.—Section 3 of the Act provides that the contracting party shall agree to make no subdivisions of any contract or subcontract for the same article or articles for the purpose of evading the provisions of the Act. If any such subdivision or subcontract is made it shall constitute a violation of the agreement provided for in the Act, and the cost of completing a contract or subcon-

tract by a contracting party which violates such agreement shall be determined in a manner necessary clearly to reflect the true excess profit of such contracting party.

ART. 13. *Books of account and records.*—It is recognized that no uniform method of accounting can be prescribed for all contracting parties subject to the provisions of the Act. Each contracting party is required by law to make a report of its true profit and excess profit. Such party must, therefore, maintain such accounting records as will enable it to do so. See article 8 of these regulations. Among the essentials are the following:

(1) The profit or loss upon a particular contract or subcontract shall be accounted for and fully explained in the books of account separately on each contract or subcontract.

(2) Any cost accounting methods, however standard they may be and regardless of long continued practice, shall be controlled by, and be in accord with, the objectives and purposes of the Act and of any regulations prescribed thereunder.

(3) The accounts shall clearly disclose the nature and amount of the different items of cost of performing a contract or subcontract.

In cases where it has been the custom priorly to use so-called "normal" rates of overhead expense or administrative expenses, or "standard" or "normal" prices of material or labor charges, no objection will be made to the use temporarily during the period of performing the contract or subcontract, if the method of accounting employed is such as clearly to reflect, in the final determination upon the books of account, the actual profit derived from the performance of the contract or subcontract and if the necessary adjusting entries are entered upon the books and they explain in full detail the revisions necessary to accord with the facts. As to the elements of cost, see article 8 of these regulations.

ART. 14. *Report to Secretary of the Navy.*—(a) *General requirements.*—Upon the completion of a contract or a subcontract coming within the scope of the Act, the contracting party is required to make a report, under oath, to the Secretary of the Navy. As to the date of completion of a contract or subcontract, see article 5 of these regulations. The Act requires that such report shall be in the form prescribed by the Secretary of the Navy and shall state the total contract price, the cost of performing the contract, the net income from such contract, and the per centum such income bears to the contract price. The contracting party shall also include as a part of such report a statement showing:

(1) the manner in which the indirect costs were determined and allocated to the cost of performing the contract or subcontract (see article 8 of these regulations);

(2) the name and address of every subcontractor with whom a subcontract was made, the object of such subcontract, the date when completed and the amount thereof; and

(3) the name and address of each affiliate or other organization, trade or business owned or controlled directly or indirectly by the same interests as those who so own or control the contracting party, together with a statement showing in detail all transactions which were made with such affiliate or other organization, trade or business and are pertinent to the determination of the excess profit.

(b) *Copy of report to be transmitted to Secretary of the Treasury.*—A copy of the report required to be made to the Secretary of the Navy is required to be transmitted by the contracting party to the Secretary of the Treasury. Such copy shall be filed by the contracting party with the collector of internal revenue for the collection district in which the contracting party's Federal income tax returns are required to be filed. In the case of a contract or subcontract completed prior to the contracting party's first income-taxable year beginning after December 31, 1935, a copy of the report to the Secretary of the Navy shall be filed with the collector of internal revenue at the time and as a part of the report required by article 15 of these regulations. In the

case of a contract or subcontract completed within the contracting party's first income-taxable year beginning after December 31, 1935, or completed subsequent to such income-taxable year, copies of reports to the Secretary of the Navy with respect to contracts and subcontracts completed by the contracting party within the income-taxable year shall be filed as a part of the contracting party's annual report for such income-taxable year. As to the annual report to be filed, see article 16 of these regulations.

ART. 15. *Report to be filed with collector upon completion of contract or subcontract.*—In the case of a contract or subcontract completed prior to the contracting party's first income-taxable year beginning after December 31, 1935, a separate report on the prescribed form of the profit and excess profit on each such contract or subcontract shall be filed with the collector of internal revenue for the collection district in which the contracting party's Federal income tax returns are required to be filed. Any report thus required to be filed with the collector is due on or before the 15th day of the third month following the month within which the contract or subcontract is completed. If subsequent to the approval of these regulations and prior to the issuance of a prescribed form for such report the contracting party files with the collector of internal revenue a copy of the report to the Secretary of the Navy (see article 14 of these regulations) within the time prescribed by this article for filing a report, or if prior to the approval of these regulations the contracting party has filed with the collector of internal revenue a copy of the report to the Secretary of the Navy, in the form and manner prescribed by Treasury Decision 4434 (C. B. XIII-1, 540), such copy shall be treated as a report within the meaning of this article.

ART. 16. *Annual reports for income-taxable years.*—(a) *General requirements.*—Every contracting party completing a contract or subcontract within the contracting party's income-taxable year beginning after December 31, 1935 shall file with the collector of internal revenue for the collection district in which the contracting party's Federal income tax returns are required to be filed an annual report on the prescribed form of the profit and excess profit on all contracts and subcontracts coming within the scope of this Act. There shall be included as a part of such report a statement, preferably in columnar form, showing separately for each contract or subcontract completed by the contracting party within the income-taxable year the total contract price, the cost of performing the contract or subcontract and the resulting profit or loss on each contract or subcontract together with a summary statement showing in detail the computation of the net profit or net loss upon all contracts and subcontracts completed within the income-taxable year and the amount of the excess profit, if any, for the income-taxable year covered by the report. A copy of the report made to the Secretary of the Navy (see article 15 of these regulations) with respect to each contract or subcontract covered in the annual report, shall be filed as a part of such annual report. In case the income-taxable year of the contracting party is a period of less than twelve months (see article 1 of these regulations), the report required by this article shall be made for such period and not for a full year.

(b) *Time for filing annual reports.*—Annual reports of contracts and subcontracts completed by a contracting party within an income-taxable year beginning after December 31, 1935 must be filed on or before the 15th day of the third month following the close of the contracting party's income-taxable year. It is important that the contracting party render on or before the due date an annual report as nearly complete and final as it is possible for the contracting party to prepare. An extension of time granted the contracting party for filing its Federal income tax return does not serve to extend the time for filing the annual report required by this article. Authority consistent with authorizations for granting extensions of time for filing Federal income tax returns is hereby delegated to the various collectors of internal revenue for granting extensions of time for filing the reports required by this article. Application for extensions of time for filing such reports should be addressed to

the collector of internal revenue for the district in which the contracting party files its Federal income tax returns and must contain a full recital of the causes for the delay.

ART. 17. *Payment of excess profit liability.*—The amount of the excess profit liability to be paid to the United States shall be paid on or before the due date for filing the report with the collector of internal revenue. See articles 15 and 16 of these regulations. At the option of the contracting party, the amount of the excess profit liability may be paid in four equal installments instead of in a single payment, in which case the first installment is to be paid on or before the date prescribed for the payment of the excess profit as a single payment, the second installment on or before the 15th day of the third month, the third installment on or before the 15th day of the sixth month, and the fourth installment on or before the 15th day of the ninth month, after such date.

ART. 18. *Liability of surety.*—The surety under contracts entered into after the amendment of section 3 (b) of the Act on June 25, 1936 shall not be liable for payment of excess profit due the United States in respect of such contracts.

ART. 19. *Determination of liability for excess profit, interest and penalties; assessment, collection, payment, refunds.*—The duty of determining the correct amount of excess profit liability on contracts and subcontracts coming within the scope of the Act is upon the Commissioner of Internal Revenue. Under section 3 (b) of the Act, as amended, all provisions of law (including the provisions of law relating to interest, penalties and refunds) applicable with respect to the taxes imposed by Title I of the Revenue Act of 1934 and not inconsistent with section 3 of the Act are applicable with respect to the assessment, collection, or payment of excess profits on contracts and subcontracts coming within the scope of the Act and to refunds of overpayments of profits into the Treasury under the Act. Claims by a contracting party for the refund of an amount of excess profit, interest, penalties, and additions to such excess profit shall conform to the general requirements prescribed with respect to claims for refund of overpayments of taxes imposed by Title I of the Revenue Act of 1934 and, if filed on account of any additional costs incurred pursuant to guarantee provisions in a contract, shall be supplemented by a statement under oath showing the amount and nature of such costs and all facts pertinent thereto.

Administrative procedure for the determination, assessment and collection of excess profit liability under section 3 of the Act and these regulations and the examination of reports and claims in connection therewith will be prescribed from time to time by the Commissioner of Internal Revenue.

ART. 20. *Treasury Decision 4434 superseded.*—Treasury Decision 4434 (C. B. XIII-1, 540) approved May 19, 1934, is hereby superseded.

[SEAL]

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, December 31, 1936.

JOSEPHINE ROCHE,
Acting Secretary of the Treasury.

Approved, January 6, 1937.

WILLIAM D. LEAHY,
Acting Secretary of the Navy.

[F. R. Doc. 37-76; Filed, January 8, 1937; 11:25 a. m.]

DEPARTMENT OF COMMERCE.

Bureau of Marine Inspection and Navigation.

DESIGNATION AND APPROVAL OF NAUTICAL SCHOOL SHIPS
To United States Supervising Inspectors and Others Concerned:

Under the provisions of Section 13 of the Act of March 4, 1915 (38 Stat. 1150; 46 U. S. C. 672), as amended by Section 1 of Public No. 808—74th Congress (49 Stat. 1930), graduates of school ships approved by and conducted under rules

prescribed by the Secretary of Commerce may be rated able seamen after twelve months' service at sea after graduation.

It has been made to appear to the satisfaction of the Secretary of Commerce that the school ships operated by the States in which they are located; namely, California Nautical School, Massachusetts Nautical School, New York Merchant Marine Academy, and Pennsylvania State Nautical School, have adopted a course of study complying with the rules prescribed by the Secretary of Commerce and a system of regulations adequate to equip the students with the theory and practice of navigation necessary to qualify the graduates for the rating of able seaman.

The school ships conducted by the State organizations above named are hereby approved and their graduates, if meeting the other qualifications required by law and regulations promulgated thereunder, are entitled to the rating of able seaman and to be certificated as such.

Approved, January 7, 1937.

[SEAL]

DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 37-77; Filed, January 8, 1937; 11:56 a. m.]

RULES FOR THE CONDUCT OF SCHOOL SHIPS

Section 13 of the Act of March 4, 1915 (38 Stat. 1159; 46 U. S. C. 672), as amended by Section 1 of Public No. 808—74th Congress (49 Stat. 1930), provides that graduates of school ships approved by and conducted under rules prescribed by the Secretary of Commerce may be rated able seamen after twelve months' service at sea after graduation.

Pursuant to the above cited provision, the following rules are hereby prescribed for the conduct of such school ships:

1. The course of study shall include (a) all the instruction in the fundamentals of navigation necessary to fully equip the student with the theoretical knowledge required for the proper discharge of the duties devolving on able seamen; (b) the privileges and disabilities appertaining to the rating of able seamen, their duty to obey all lawful orders coming from their superior officers, and the rules of conduct to be observed in order that proper discipline may be maintained on shipboard; (c) the fundamentals of ship sanitation as prescribed by law and regulations.

2. A thorough practical training in the mechanics of all operations incident to the sailing and management of a vessel in so far as such operations form a part of the duties of able seamen, including intensive instruction and practical training in all the operations incident to fire and lifeboat drills, both in port and at sea.

Approved, January 7, 1937.

[SEAL]

DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 37-78; Filed, January 8, 1937; 11:56 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

STATISTICAL CIRCULAR No. 1

The Commission, at a General Session, held on December 2, 1936, approved the attached Statistical Circular No. 1, as revised, for holding companies for the year 1936.

[SEAL]

JOHN B. REYNOLDS,
Acting Secretary.

GENERAL INFORMATION PERTAINING TO HOLDING COMPANIES

This circular relative to the year 1936 should be filled out in triplicate and two copies returned to the Federal Communications Commission, Washington, D. C., by March 31, 1937. Your attention is especially directed to the following provisions of the Communications Act of 1934:

Sec. 219 (a). The Commission is authorized to require annual reports under oath from all carriers subject to this Act, and from

persons directly or indirectly controlling or controlled by, or under direct or indirect common control with, any such carrier, to prescribe the manner in which such reports shall be made, and to require from such person specific answers to all questions upon which the Commission may need information. * * *

This circular is intended for the use of holding companies includible in one or more of the following classes:

1. Those controlling one or more carriers engaged in wire or radio communication, which controlled companies have aggregate average annual operating revenues not exceeding \$50,000.
2. Railways, power companies, and other companies that file detailed annual reports with agencies of the Federal Government.
3. Those interested primarily in commercial, industrial, or similar activities whose interests in communication companies constitute only a nominal portion of their aggregate assets.

It is requested that the accompanying circular¹ be completed by the insertion of a specific answer to each question applicable.

[F. R. Doc. 37-75; Filed, January 8, 1937; 9:46 a. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

[Manual Amendment]

METHOD OF RELIEF OF OWNERS OF LOST, STOLEN, OR DESTROYED BONDS

Be it resolved, That, pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 126, 129), as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647), and particularly by Sections 4-a and 4-k of said Act, as amended, the resolution prescribing the method of giving relief to owners of lost, stolen, or destroyed bonds of the Home Owners' Loan Corporation, passed by this Board on Tuesday, July 14, 1936, be amended by adding the following provision:

That the word "bond" or "bonds" where used in this resolution shall be construed to include interim receipts: *Provided*, That relief on account of the loss, destruction, or defacement of such interim receipts shall be given by the issuance of definitive bonds, rather than by payment or the issuance of duplicates.

Adopted by the Federal Home Loan Bank Board on January 7, 1937.

[SEAL]

R. L. NAGLE, *Secretary*.

[F. R. Doc. 37-79; Filed, January 8, 1937; 12:21 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of January 1937.

[File No. 7-126]

IN THE MATTER OF ATLAS CORPORATION 6% PREFERRED STOCK, PAR VALUE \$50

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The San Francisco Curb Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension

¹ Complete circular has been filed with the Division of the Federal Register; copies are available upon application to the Federal Communications Commission.

of unlisted trading privileges to the 6% Preferred Stock, Par Value \$50 of Atlas Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered that the matter be set down for hearing at 10 a. m. on Tuesday, Feb. 2, 1937, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered that Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-85; Filed, January 8, 1937; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of January 1937.

[File No. 7-126]

IN THE MATTER OF ATLAS CORPORATION COMMON STOCK, \$5.00 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The San Francisco Curb Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, \$5.00 Par Value, of Atlas Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered that the matter be set down for hearing at 10 a. m. on Tuesday, Feb. 2, 1937, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered that Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-86; Filed, January 8, 1937; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of January 1937.

[File No. 7-90]

IN THE MATTER OF BERKEY & GAY FURNITURE CO. COMMON STOCK, \$1.00 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The San Francisco Curb Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, \$1.00 Par Value, of Berkey & Gay Furniture Co.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered that the matter be set down for hearing at 10 a. m. on Tuesday, Feb. 2, 1937, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered that Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-83; Filed, January 8, 1937; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of January 1937.

[File No. 7-91]

IN THE MATTER OF BERKEY & GAY FURNITURE CO. STOCK PURCHASE WARRANTS (WARRANTS TO PURCHASE COMMON STOCK AT \$2.25 PER SHARE)

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The San Francisco Curb Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Stock Purchase Warrants (Warrants to purchase Common Stock at \$2.25 per share) of Berkey & Gay Furniture Co.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered that the matter be set down for hearing at 10 a. m. on Tuesday, Feb. 2, 1937, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered that Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and

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perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-82; Filed, January 8, 1937; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of January A. D. 1937.

[File No. 43-23]

IN THE MATTER OF NORTH AMERICAN GAS AND ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration having been duly filed with this Commission, by North American Gas and Electric Company, a registered holding company, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, for approval of the issuance of \$2,248,819.10 principal amount of 6% Cumulative Income Debentures which declarant proposes to issue, to refund its unsecured indebtedness, pursuant to the Amended Plan of Reorganization of Declarant, approved and confirmed by the United States District Court for the Southern District of New York by order of said Court entered December 24, 1936;

It is ordered that a hearing on such matter be held on January 25, 1937, at 10 o'clock in the forenoon of that day at Room 1101, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

Notice of such hearing is hereby given to said party and to any interested State, State commission, State securities commission, municipality, and any other political subdivision of a State, and to any representative of interested consumers or security holders, and any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 21, 1937.

It is further ordered that Robert P. Reeder, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-80; Filed, January 8, 1937; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of January 1937.

[File No. 7-93]

IN THE MATTER OF UNITED AIRCRAFT CORP. CAPITAL STOCK, \$5.00 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The San Francisco Curb Exchange having made application to the Commission pursuant to Rule JF1 under the

Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, \$5.00 Par Value, of United Aircraft Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered that the matter be set down for hearing at 10 a. m. on Tuesday, Feb. 2, 1937, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered that Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-88; Filed, January 8, 1937; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of January 1937.

[File No. 7-94]

IN THE MATTER OF UTAH-IDAHO SUGAR CO. COMMON STOCK,
\$5.00 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The San Francisco Curb Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, \$5.00 Par Value, of Utah-Idaho Sugar Co.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered that the matter be set down for hearing at 10 a. m. on Tuesday, Feb. 2, 1937, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered that Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-87; Filed, January 8, 1937; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of January 1937.

[File No. 7-92]

IN THE MATTER OF STUDEBAKER CORPORATION COMMON STOCK,
\$1.00 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The San Francisco Curb Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, \$1.00 Par Value, of Studebaker Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered that the matter be set down for hearing at 10:00 a. m. on Tuesday, Feb. 2, 1937, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered that Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-84; Filed, January 8, 1937; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 5th day of January A. D. 1937.

[File 2-2719]

IN THE MATTER OF MOUNT BAKER CHROMIUM CORPORATION
ORDER CONSENTING TO WITHDRAWAL OF REGISTRATION STATEMENT ON REQUEST OF APPLICANT

The Commission, having due regard to the public interest and the protection of investors, upon the request of the registrant received on January 4, 1937, consents to the withdrawal of the registration statement of the above-named registrant, and to that effect

It is so ordered.

By direction of the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-89; Filed, January 8, 1937; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of December A. D. 1936.

[File No. 2-2617]

IN THE MATTER OF OLIVER FARM EQUIPMENT COMPANY
ORDER CONSENTING TO WITHDRAWAL OF REGISTRATION STATEMENT ON REQUEST OF APPLICANT

The Commission, having due regard to the public interest and the protection of investors, upon the request of the registrant received on December 28, 1936, consents to the with-

drawal of the registration statement of the above named registrant, and to that effect

It is so ordered.

By direction of the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-90; Filed, January 8, 1937; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of January A. D. 1937.

[File No. 2-1988]

IN THE MATTER OF UNITED STATES CASUALTY COMPANY
ORDER CONSENTING TO WITHDRAWAL OF REGISTRATION STATEMENT
ON REQUEST OF APPLICANT

The Commission, having due regard to the public interest and the protection of investors, upon the request of the registrant received on December 29, 1936, consents to the withdrawal of the registration statement of the above named registrant, and to that effect

It is so ordered.

By direction of the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-91; Filed, January 8, 1937; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 5th day of January 1937.

[File No. 7-51]

IN THE MATTER OF CITY AND SUBURBAN HOMES COMPANY
CAPITAL STOCK, \$10 PAR VALUE
ORDER DENYING APPLICATION TO TERMINATE UNLISTED TRADING
PRIVILEGES

Tweedy & Company, pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule JF2 prescribed thereunder, having made application to the Commission to terminate unlisted trading privileges on the New York Curb Exchange in the Capital Stock, \$10 Par Value, of City and Suburban Homes Company; and

After appropriate notice, a hearing having been held in this matter on September 11, 1936, in Washington, D. C., at which it was established that the applicant, Tweedy & Company, are brokers and dealers who make and create a market for said security, and that on April 24, 1931, said security was admitted to unlisted trading privileges on the New York Curb Exchange and that said privileges have been continued pursuant to clause 1 of Section 12 (f) of said Act, as amended; and

The Commission, based upon the evidence introduced at said hearing, not having found that by reason of inadequate public distribution of said security in the vicinity of said exchange, or by reason of inadequate public trading activity or of the character of trading therein on said exchange, said termination of unlisted trading privileges is necessary or appropriate in the public interest or for the protection of investors;

It is ordered, pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, that said application to terminate unlisted trading privileges in the Capital Stock, \$10 Par Value, of City and Suburban Homes Company on the New York Curb Exchange be and the same is hereby denied.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-93; Filed, January 8, 1937; 12:57 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of January 1937.

[File No. 2-843]

IN THE MATTER OF JOHN L. ETHERIDGE (KETTLEMAN HILLS
SYNDICATE OF NORTH DOME ROYALTIES)

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of John L. Etheridge (Kettleman Hills Syndicate of North Dome Royalties), of Riverside, California, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement contains untrue statements of material facts and fails to state material facts required to be stated therein and fails to state material facts necessary to make the statements therein not misleading, and upon the evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement contains untrue statements of material facts and omits to state material facts required to be stated and material facts necessary to make statements made not misleading, all as more fully set forth in the Trial Examiner's Report in this matter which is hereby adopted, and being now fully advised in the premises, and the registrant having consented to the entry of a stop order,

It is ordered, pursuant to Section 8 of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by John L. Etheridge (Kettleman Hills Syndicate of North Dome Royalties), of Riverside, California, be and the same hereby is suspended.

By direction of the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-92; Filed, January 8, 1937; 12:57 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of January A. D. 1937.

IN THE MATTER OF AN OFFERING SHEET OF A WORKING INTEREST
IN THE LEONA MCCLUSKEY FARM, FILED ON DECEMBER 31,
1936, BY WOODFIN & COX, RESPONDENT

SUSPENSION ORDER, ORDER FOR HEARING (UNDER RULE 340 (A)),
AND ORDER DESIGNATING TRIAL EXAMINER

The Securities and Exchange Commission, having reasonable grounds to believe, and therefore alleging, that the offering sheet described in the title hereof and filed by the respondent named therein is incomplete or inaccurate in the following material respects, to wit:

- (1) In that the date in Division I when the information contained in the sheet will be out of date is miscalculated.
- (2) In that the names are omitted from Items 14 (b), (c), (d), Division II.
- (3) In that Item 24 of Division II implies that Item 23 (b) was answered in the negative. The text of and answer to item 23 (b) were, however, omitted.
- (4) In that Item 24 (c), Division II, does not disclose the information required by the Regulations. In view of the apparent partial dependence upon proceeds of this sale, the financial responsibility of the offeror should be shown.

It is ordered, pursuant to Rule 340 (a) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the effectiveness of the filing of said offering sheet be, and hereby is, suspended until the

5th day of February 1937 that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be incomplete or inaccurate, and whether the said order of suspension shall be revoked or continued; and

It is further ordered that Charles S. Moore, an officer of the Commission be, and hereby is, designated as trial examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed rele-

vant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered that the taking of testimony in this proceeding commence on the 20th day of January 1937 at 10:30 o'clock in the forenoon at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said examiner may designate.

Upon the completion of testimony in this matter the examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-81; Filed, January 8, 1937; 12:54 p. m.]