

Securities and Exchange Commission

NOTICES:

Texas and Pacific Railway Co.;
notice of application to strike
from listing and registration
and of opportunity for hearing..... 70

Small Business Administration

NOTICES:

Certain branch managers; delega-
tions relating to financial assist-
ance, procurement and techni-
cal assistance, investment pro-
gram, and administration (2
documents)..... 69

Treasury Department

See Internal Revenue Service.

Wage and Hour Division

NOTICES:

Certificates authorizing employ-
ment of learners at special mini-
mum rates..... 68

Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

3 CFR		26 CFR	
PROCLAMATIONS:		1.....	33
3443.....	31	PROPOSED RULES:	
EXECUTIVE ORDERS:		1 (2 documents).....	48, 50
10025 (revoked by EO 10983).....	32	45 CFR	
10983.....	32	145.....	47
5 CFR			
6 (4 documents).....	38		
7 CFR			
52.....	38		
728.....	41		
850.....	43		
12 CFR			
545.....	45		
21 CFR			
121 (3 documents).....	45-47		
PROPOSED RULES:			
121.....	54		

1961-62 Edition

UNITED STATES GOVERN- MENT ORGANIZATION MANUAL

[Revised as of June 1, 1961]

Official handbook of the Federal Govern-
ment, describing the organization and
functions of the agencies in the legislative,
judicial, and executive branches

Price: \$1.50

Published by Office of the Federal Register,
National Archives and Records Service,
General Services Administration

Order from Superintendent of Documents,
Government Printing Office,
Washington 25, D.C.



Telephone

WOrth 3-3261

prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1.50 per month or \$15.00 per year, payable in advance. The charge for individual copies (minimum 15 cents) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D.C.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER, or the CODE OF FEDERAL REGULATIONS.

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3443

ESTABLISHING THE BUCK ISLAND REEF NATIONAL MONUMENT IN THE VIRGIN ISLANDS OF THE UNITED STATES

By the President of the United States of America

A Proclamation

WHEREAS Buck Island, situated off the northeast coast of St. Croix Island in the Virgin Islands of the United States, was included in the public, government, or crown lands ceded to the United States by Denmark under the convention entered into August 4, 1916, and proclaimed by the President January 25, 1917 (39 Stat. 1706); and

WHEREAS all property thus acquired by the United States from Denmark, not reserved by the United States for public purposes prior to June 22, 1937, was placed under the control of the Government of the Virgin Islands by the act of June 22, 1936, 49 Stat. 1807 (48 U.S.C. 1405-1405c), with the legal title remaining in the United States; and

WHEREAS Buck Island was not reserved by the United States for public purposes prior to June 22, 1937, but has been owned by the United States continuously since the convention with Denmark in 1916; and

WHEREAS Buck Island and its adjoining shoals, rocks, and undersea coral reef formations possess one of the finest marine gardens in the Caribbean Sea; and

WHEREAS these lands and their related features are of great scientific interest and educational value to students of the sea and to the public; and

WHEREAS this unique natural area and the rare marine life which are dependent upon it are subject to constant threat of commercial exploitation and destruction; and

WHEREAS the Advisory Board on National Parks, Historic Sites, Buildings and Monuments, established pursuant to the act of August 21, 1935, 49 Stat. 666 (16 U.S.C. 463), impressed by the caliber and scientific importance of the coral reefs of Buck Island, has urged their prompt protection to prevent further despoliation; and

WHEREAS the Governor of the Virgin Islands, under the authority vested in him by the legislative assembly of the Virgin Islands by an act approved December 5, 1961, has relinquished to the United States, for the purposes of facilitating the establishment and administration of a national monument for the protection of the above-mentioned areas and objects of historic and scientific interest, such control as is vested in the Government of the Virgin Islands by the said act of Congress dated June 22, 1936, over the area hereinafter described; subject, however, to the condition that the United States, including any agency or instrumentality thereof, shall not adopt or attempt to enforce any rule, regulation or requirement limiting, restricting or reducing the existing fishing (including the landing of boats and the laying of fishpots outside of the marine garden), bathing or recreational privileges by inhabitants of the Virgin Islands, and shall not charge any fees for admission to the area.

WHEREAS it is in the public interest to preserve this area of outstanding scientific, aesthetic, and educational importance for the benefit and enjoyment of the people:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, under and by virtue of the authority vested in me by section 2 of the act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431), do proclaim that, subject to valid existing rights, there is hereby

reserved and set apart, as the Buck Island Reef National Monument, the area embraced within lines drawn between the coordinates of latitude and longitude recited as follows:

Beginning at latitude 17°47'58" N., longitude 64°38'16" W.; thence approximately 10,450 feet to latitude 17°47'30" N., longitude 64°36'32" W.; thence approximately 1,500 feet to latitude 17°47'15" N., longitude 64°36'32" W.; thence approximately 4,500 feet to latitude 17°47'00" N., longitude 64°37'16" W.; thence approximately 8,600 feet to latitude 17°47'35" N., longitude 64°38'37" W.; and thence approximately 3,075 feet to latitude 17°47'58" N., longitude 64°38'16" W., the place of beginning, embracing an area of approximately 850 acres.

WARNING is expressly given to all unauthorized persons not to appropriate, injure, destroy, deface, or remove any feature of this monument and not to locate or settle upon any of the lands reserved for the monument by this proclamation.

The Secretary of the Interior shall have the supervision, management, and control of this monument as provided in the act of Congress entitled "An act to establish a National Park Service, and for other purposes," approved August 25, 1916, 39 Stat. 535 (16 U.S.C. 1-3), and all acts supplementary thereto and amendatory thereof: *Provided*, that neither the Department of the Interior, nor any other agency or instrumentality of the United States, shall adopt or attempt to enforce any rule, regulation or requirement limiting, restricting or reducing the existing fishing (including the landing of boats and the laying of fishpots outside of the marine garden), bathing or recreational privileges by inhabitants of the Virgin Islands, or charge any fees for admission to the area.

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

DONE at the City of Washington this twenty-eighth day of December in the year of our Lord nineteen hundred and [SEAL] sixty-one, and of the Independence of the United States of America the one hundred and eighty-sixth.

JOHN F. KENNEDY

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 62-152; Filed, Jan. 2, 1962; 4:39 p.m.]

Executive Order 10983

DESIGNATING THE CARIBBEAN ORGANIZATION AS A PUBLIC INTERNATIONAL ORGANIZATION ENTITLED TO ENJOY CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES

By virtue of the authority vested in me by section 1 of the International Organizations Immunities Act, approved December 29, 1945 (59 Stat. 669; 22 U.S.C. 288), and by the joint resolution of June 30, 1961, 75 Stat. 194, I hereby designate the Caribbean Organization as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the said International Organizations Immunities Act.

The designation of the above-named organization as a public international organization within the meaning of the said Act is not intended to abridge in any respect privileges, exemptions, and immunities to which such international organization may otherwise be or become entitled.

This order revokes Executive Order No. 10025 of December 30, 1948, to the extent that such order relates to the Caribbean Commission.

JOHN F. KENNEDY

THE WHITE HOUSE,
December 30, 1961.

[F.R. Doc. 62-149; Filed, Jan. 2, 1962; 3:12 p.m.]

Rules and Regulations

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6587]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Distribution Pursuant to Bank Holding Company Act of 1956

On January 20, 1961, notice of proposed rule making with respect to sections 1101, 1102, and 1103 of the Internal Revenue Code of 1954, as added by the Bank Holding Company Act of 1956 (70 Stat. 139) was published in the FEDERAL REGISTER (26 F.R. 615). The regulations as proposed are hereby adopted, subject to the following changes:

PARAGRAPH 1. Paragraph (b) (7) of § 1.1101-3 is deleted.

PAR. 2. Section 1.1101-4 is revised.

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: December 26, 1961.

STANLEY S. SURREY,
Assistant Secretary of the
Treasury.

The following regulations relating to distributions by qualified bank holding corporations are hereby prescribed under sections 1101, 1102, and 1103 of the Internal Revenue Code of 1954, as added by section 10(a) of the Bank Holding Company Act of 1956 (70 Stat. 133, 139):

DISTRIBUTIONS PURSUANT TO BANK HOLDING COMPANY ACT OF 1956

Sec.

- 1.1101 Statutory provisions; distributions pursuant to Bank Holding Company Act of 1956.
- 1.1101-1 In general.
- 1.1101-2 Certification by Board.
- 1.1101-3 Tax avoidance.
- 1.1101-4 Records to be kept and information to be filed with returns.
- 1.1102 Statutory provisions; distributions pursuant to Bank Holding Company Act of 1956; special rules.
- 1.1102-1 Basis of property acquired in distributions by qualified bank holding corporations.
- 1.1102-2 Filing of notification under section 1102(b) by qualified bank holding corporations.
- 1.1102-3 Allocation of earnings and profits in certain distributions by qualified bank holding corporations.
- 1.1103 Statutory provisions; distributions pursuant to Bank Holding Company Act of 1956; definitions.

AUTHORITY: §§ 1.1101 to 1.1103 issued under sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805.

DISTRIBUTIONS PURSUANT TO BANK HOLDING COMPANY ACT OF 1956

§ 1.1101 Statutory provisions; distributions pursuant to Bank Holding Company Act of 1956.

SEC. 1101. *Distributions pursuant to Bank Holding Company Act of 1956—(a) Distributions of certain non-banking property—(1) Distributions of prohibited property. If—*

(A) A qualified bank holding corporation distributes prohibited property (other than stock received in an exchange to which subsection (c) (2) applies)—

(i) To a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation; or

(ii) To a shareholder, in exchange for its preferred stock; or

(iii) To a security holder, in exchange for its securities; and

(B) The Board has, before the distribution, certified that the distribution of such prohibited property is necessary or appropriate to effectuate section 4 of the Bank Holding Company Act of 1956,

then no gain to the shareholder or security holder from the receipt of such property shall be recognized.

(2) *Distributions of stock and securities received in an exchange to which subsection (c) (2) applies. If—*

(A) A qualified bank holding corporation distributes—

(i) Common stock received in an exchange to which subsection (c) (2) applies to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation; or

(ii) Common stock received in an exchange to which subsection (c) (2) applies to a shareholder, in exchange for its common stock; or

(iii) Preferred stock or common stock received in an exchange to which subsection (c) (2) applies to a shareholder, in exchange for its preferred stock; or

(iv) Securities or preferred or common stock received in an exchange to which subsection (c) (2) applies to a security holder, in exchange for its securities; and

(B) Any preferred stock received has substantially the same terms as the preferred stock exchanged, and any securities received have substantially the same terms as the securities exchanged,

then, except as provided in subsection (f), no gain to the shareholder or security holder from the receipt of such stock or such securities or such stock and securities shall be recognized.

(3) *Non pro rata distributions.* Paragraphs (1) and (2) shall apply to a distribution whether or not the distribution is pro rata with respect to all of the shareholders of the distributing qualified bank holding corporation.

(4) *Exception.* This subsection shall not apply to any distribution by a corporation which has made any distribution pursuant to subsection (b).

(5) *Distributions involving gift or compensation.* In the case of a distribution to which paragraph (1) or (2) applies, but which—

(A) Results in a gift, see section 2501, and following, or

(B) Has the effect of the payment of compensation, see section 61(a) (1).

(b) *Corporation ceasing to be a bank holding company—(1) Distributions of property which cause a corporation to be a bank holding company. If—*

(A) A qualified bank holding corporation distributes property (other than stock received in an exchange to which subsection (c) (3) applies)—

(i) To a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation; or

(ii) To a shareholder, in exchange for its preferred stock; or

(iii) To a security holder, in exchange for its securities; and

(B) The Board has, before the distribution, certified that—

(i) Such property is all or part of the property by reason of which such corporation controls (within the meaning of section 2 (a) of the Bank Holding Company Act of 1956) a bank or bank holding company, or such property is part of the property by reason of which such corporation did control a bank or a bank holding company before any property of the same kind was distributed under this subsection or exchanged under subsection (c) (3); and

(ii) The distribution is necessary or appropriate to effectuate the policies of such Act,

then no gain to the shareholder or security holder from the receipt of such property shall be recognized.

(2) *Distributions of stock and securities received in an exchange to which subsection (c) (3) applies. If—*

(A) A qualified bank holding corporation distributes—

(i) Common stock received in an exchange to which subsection (c) (3) applies to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation; or

(ii) Common stock received in an exchange to which subsection (c) (3) applies to a shareholder, in exchange for its common stock; or

(iii) Preferred stock or common stock received in an exchange to which subsection (c) (3) applies to a shareholder, in exchange for its preferred stock; or

(iv) Securities or preferred or common stock received in an exchange to which subsection (c) (3) applies to a security holder, in exchange for its securities; and

(B) Any preferred stock received has substantially the same terms as the preferred stock exchanged, and any securities received have substantially the same terms as the securities exchanged,

then, except as provided in subsection (f), no gain to the shareholder or security holder from the receipt of such stock or such securities or such stock and securities shall be recognized.

(3) *Non pro rata distributions.* Paragraphs (1) and (2) shall apply to a distribution whether or not the distribution is pro rata with respect to all of the shareholders of the distributing qualified bank holding corporation.

(4) *Exception.* This subsection shall not apply to any distribution by a corporation which has made any distribution pursuant to subsection (a).

(5) *Distributions involving gift or compensation.* In the case of a distribution to which paragraph (1) or (2) applies, but which—

(A) Results in a gift, see section 2501, and following, or

(B) Has the effect of the payment of compensation, see section 61(a)(1).

(c) *Property acquired after May 15, 1955—*
(1) *In general.* Except as provided in paragraphs (2) and (3), subsection (a) or (b) shall not apply to—

(A) Any property acquired by the distributing corporation after May 15, 1955, unless (i) gain to such corporation with respect to the receipt of such property was not recognized by reason of subsection (a) or (b), or (ii) such property was received by it in exchange for all of its stock in an exchange to which paragraph (2) or (3) applies, or (iii) such property was acquired by the distributing corporation in a transaction in which gain was not recognized under section 305(a) or section 332, or under section 354 with respect to a reorganization described in section 368(a)(1) (E) or (F), or

(B) Any property which was acquired by the distributing corporation in a distribution with respect to stock acquired by such corporation after May 15, 1955, unless such stock was acquired by such corporation (i) in a distribution (with respect to stock held by it on May 15, 1955, or with respect to stock in respect of which all previous applications of this clause are satisfied) with respect to which gain to it was not recognized by reason of subsection (a) or (b), or (ii) in exchange for all of its stock in an exchange to which paragraph (2) or (3) applies, or (iii) in a transaction in which gain was not recognized under section 305(a) or section 332, or under section 354 with respect to a reorganization described in section 368(a)(1) (E) or (F), or

(C) Any property acquired by the distributing corporation in a transaction in which gain was not recognized under section 332, unless such property was acquired from a corporation which, if it had been a qualified bank holding corporation, could have distributed such property under subsection (a)(1) or (b)(1).

(2) *Exchanges involving prohibited property.* If—

(A) Any qualified bank holding corporation exchanges (i) property which, under subsection (a)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain to such shareholders or security holders, and other property (except property described in subsection (b)(1)(B)(i)), for (ii) all of the stock of a second corporation created and availed of solely for the purpose of receiving such property;

(B) Immediately after the exchange, the qualified bank holding corporation distributes all of such stock in a manner prescribed in subsection (a)(2)(A); and

(C) Before such exchange, the Board has certified (with respect to the property exchanged which consists of property which, under subsection (a)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain) that the exchange and distribution are necessary or appropriate to effectuate section 4 of the Bank Holding Company Act of 1956,

then paragraph (1) shall not apply with respect to such distribution.

(3) *Exchanges involving interests in banks.* If—

(A) Any qualified bank holding corporation exchanges (i) property which, under subsection (b)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain to such shareholders or security holders, and other property (except prohibited property), for (ii) all of the stock of a second corporation created and availed of solely for the purpose of receiving such property;

(B) Immediately after the exchange, the qualified bank holding corporation distributes all of such stock in a manner prescribed in subsection (b)(2)(A); and

(C) Before such exchange, the Board has certified (with respect to the property exchanged which consists of property which, under subsection (b)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain) that—

(i) Such property is all or part of the property by reason of which such corporation controls (within the meaning of section 2(a) of the Bank Holding Company Act of 1956) a bank or bank holding company, or such property is part of the property by reason of which such corporation did control a bank or a bank holding company before any property of the same kind was distributed under subsection (b)(1) or exchanged under this paragraph; and

(ii) The exchange and distribution are necessary or appropriate to effectuate the policies of such Act,

then paragraph (1) shall not apply with respect to such distribution.

(d) *Distributions to avoid Federal income tax—*(1) *Prohibited property.* Subsection (a) shall not apply to a distribution if, in connection with such distribution, the distributing corporation retains, or transfers after May 15, 1955, to any corporation, property (other than prohibited property) as part of a plan one of the principal purposes of which is the distribution of the earnings and profits of any corporation.

(2) *Banking property.* Subsection (b) shall not apply to a distribution if, in connection with such distribution, the distributing corporation retains, or transfers after May 15, 1955, to any corporation, property (other than property described in subsection (b)(1)(B)(i)) as part of a plan one of the principal purposes of which is the distribution of the earnings and profits of any corporation.

(3) *Certain contributions to capital.* In the case of a distribution a portion of which is attributable to a transfer which is a contribution to the capital of a corporation, made after May 15, 1955, and prior to the date of the enactment of this part, if subsection (a) or (b) would apply to such distribution but for the fact that, under paragraph (1) or (2) (as the case may be) of this subsection, such contribution to capital is part of a plan one of the principal purposes of which is to distribute the earnings and profits of any corporation, then, notwithstanding paragraph (1) or (2), subsection (a) or (b) (as the case may be) shall apply to that portion of such distribution not attributable to such contribution to capital, and shall not apply to that portion of such distribution attributable to such contribution to capital.

(e) *Final certification—*(1) *For subsection (a).* Subsection (a) shall not apply with respect to any distribution by a corporation unless the Board certifies that, before the expiration of the period permitted under section 4(a) of the Bank Holding Company Act of 1956 (including any extensions thereof granted to such corporation under section 4(a)), the corporation has disposed of all the property the disposition of which is necessary or appropriate to effectuate section 4 of such Act (or would have been so necessary or appropriate if the corporation had continued to be a bank holding company).

(2) *For subsection (b)—*(A) Subsection (b) shall not apply with respect to any distribution by any corporation unless the Board certifies that, before the expiration of the period specified in subparagraph (B), the corporation has ceased to be a bank holding company.

(B) The period referred to in subparagraph (A) is the period which expires 2 years after the date of the enactment of this part or 2 years after the date on which the corporation becomes a bank holding company, whichever date is later. The Board is authorized, on application by any corporation, to extend such period from time to time with respect to such corporation for not more than one year at a time if, in its judgment, such an extension would not be detrimental to the public interest; except that such period may not in any case be extended beyond the date 5 years after the date of the enactment of this part or 5 years after the date on which the corporation becomes a bank holding company, whichever date is later.

(f) *Certain exchanges of securities.* In the case of an exchange described in subsection (a)(2)(A)(iv) or subsection (b)(2)(A)(iv), subsection (a) or subsection (b) (as the case may be) shall apply only to the extent that the principal amount of the securities received does not exceed the principal amount of the securities exchanged.

[Sec. 1101 as added by sec. 10(a), Bank Holding Company Act 1956 (70 Stat. 139)]

§ 1.1101-1 In general.

The Bank Holding Company Act of 1956 (12 U.S.C. ch. 17) requires, in certain cases, the separation of interests in nonbanking businesses held by a bank holding company, as defined in section 2(a) of the Act (12 U.S.C. 1841(a)), from its interests in banking and closely related businesses. In order to facilitate such separation, part VIII (section 1101 and following), subchapter O, chapter 1 of the Code, provides, to a limited extent, for the nonrecognition of gain on the receipt, by shareholders or security holders of a qualified bank holding corporation, of property distributed pursuant to a certification by the Board of Governors of the Federal Reserve System that such distribution is necessary or appropriate to effectuate the policies of the Act. The provisions of such part VIII of subchapter O supersede other provisions of chapter 1 of the Code only to the extent that such provisions of part VIII specifically apply to a transaction and, where they are not applicable, do not prevent the application of any other provisions of law under which nonrecognition of gain may occur. For example, a bank holding company may retain, under section 4(c)(5) of the Act (12 U.S.C. 1843(c)(5)), up to five percent of the voting stock of another company. In such a case, a distribution of all the stock of such other company pursuant to a certification by the Board would result in nonrecognition of gain under section 1101 as to only 95 percent of such distribution. However, assuming the distribution is one that qualifies for nonrecognition of gain under section 355, relating to distribution of stock and securities of a controlled corporation, as well as under section 1101, nonrecognition of gain may be obtained under section 355 with respect to the five percent not qualifying for nonrecognition under section 1101. Further, the provisions of such part VIII of subchapter O do not provide for nonrecognition of gain to the distributing bank holding company. Accordingly, gain will be recognized to the distributing corporation in appropriate cases. For example, if a bank holding

company, in a distribution qualifying under section 1101, distributes installment obligations, LIFO inventory, or property subject to a liability in excess of its adjusted basis, gain may be recognized to the corporation under section 453(d) or section 311. If, pursuant to section 1101(c)(2) or 1101(c)(3), a bank holding company places the property to be disposed of in a newly created corporation in exchange for all its stock which is then distributed by the bank holding company to its shareholders, the extent, if any, to which gain will be recognized to the bank holding company on either the exchange or the subsequent distribution is not affected by such part VIII of subchapter O and must be determined under other provisions of the Internal Revenue Code. For example, if the conditions of section 351 are satisfied, the exchange of property for stock will result in nonrecognition of gain to the bank holding company under that section.

§ 1.1101-2 Certification by Board.

(a) *Requirement of certification.* Part VIII (section 1101 and following), subchapter O, chapter 1 of the Code, is applicable only with respect to distributions and exchanges by a qualified bank holding corporation as defined in section 1103(b). A bank holding company shall be treated as a qualified bank holding corporation only if the Board of Governors of the Federal Reserve System issues a certification that the company satisfies the requirements of section 1103(b). (See 12 CFR 222.5(c).)

(b) *Nonrecognition of gain.* Distributions of property (other than stock and securities in a corporation created in accordance with the provisions of section 1101(c)(2) or (c)(3)) will not result in nonrecognition of gain to the shareholders and security holders of a bank holding company under section 1101(a)(1) or (b)(1) unless, before the distribution, the Board has issued a certification pursuant to section 1101(a)(1)(B) or (b)(1)(B), whichever is applicable. Distributions of stock and securities in a corporation created in accordance with section 1101(c)(2) or (c)(3) will not result in nonrecognition of gain to the shareholders and security holders of a bank holding company under section 1101(a)(2) or (b)(2) unless, before the exchange described in section 1101(c)(2)(A) or (c)(3)(A), the Board has issued a certification pursuant to section 1101(c)(2)(C) or (c)(3)(C), whichever is applicable. Further, unless a final certification is also made by the Board in accordance with section 1101(e), section 1101(a) or (b) will not apply to any distribution made by a bank holding company. Provisionally, however, pending the issuance of such final certification, section 1101(a) or (b) shall be deemed applicable to distributions otherwise qualifying under such part VIII of subchapter O which are made within the period described in section 1101(e)(1) or (e)(2)(B), whichever is applicable.

(c) *Limitations.* The period of limitations in section 6501 with respect to any deficiency resulting solely from the receipt by a shareholder or security

holder of property, in a distribution certified by the Board in accordance with section 1101(a)(1)(B), (b)(1)(B), (c)(2)(C), or (c)(3)(C), shall not expire prior to the period prescribed in section 1102(b), notwithstanding that the shareholder or security holder relied on a provision of law other than section 1101(a) or (b), for example section 355, to obtain nonrecognition of gain on the distribution. (See § 1.1102-2.)

§ 1.1101-3 Tax avoidance.

(a) *Recognition of gain.* Irrespective of whether the transaction meets the other requirements of sections 1101, 1102, and 1103, a distribution will not qualify for nonrecognition of gain pursuant to the provisions of section 1101 if, in connection with such distribution, the distributing corporation retains, or transfers to any corporation after May 15, 1955, property pursuant to a plan one of the principal purposes of which is the distribution of earnings and profits of a corporation so as to avoid the Federal income tax on dividends. A certification that a particular distribution of property is necessary or appropriate in order to comply with the Bank Holding Company Act of 1956 (12 U.S.C. ch. 17) shall not be considered as permitting nonrecognition of gain where such distribution is a part of a plan to distribute earnings and profits in avoidance of the Federal income tax on dividends.

(b) *Continuity and other factors.* Section 1101 contemplates a continuity of the enterprise as modified and a continuity of interest in all or part of the property received or retained on the part of those who, directly or indirectly, were the owners of the enterprise prior to the distribution or exchange. Whether or not a distribution is made under section 1101 in such a manner as to be in avoidance of Federal income tax is a question to be decided in the light of all the facts and circumstances surrounding the transaction. Some of the factors which may evidence a tax avoidance plan in appropriate circumstances are the following:

(1) A company making acquisitions of property shortly before May 15, 1955, in anticipation of the legislation in order to qualify under the Bank Holding Company Act of 1956.

(2) A greatly disproportionate shift to banking or nonbanking assets shortly before or after May 15, 1955, from the normal course of holdings or any unusual shift within such groups of assets that is inconsistent with prior holdings, particularly if made to such assets that are or may be more readily marketable.

(3) A separation of assets, the acquisition of which was substantially financed out of the earnings of particular properties, from such properties (whether or not such properties are retained), particularly where said assets are in the form of cash or highly marketable securities, stocks, or other investments, and where such separation is not necessary or appropriate to effectuate the policies of the Bank Holding Company Act of 1956.

(4) A transfer of "other property" in an exchange described in section 1101

(c)(2) or (c)(3), which property is greater in amount than that reasonably required by the newly created corporation for its working capital or is disproportionate to or inconsistent with the holding operations previously engaged in.

(5) An indication that a liquidation of either of the corporations separated pursuant to section 1101(c)(2) or 1101(c)(3) is contemplated or that dominant shareholders thereof intended to sell the stock received or retained.

(6) An indication that dominant shareholders contemplated the sale of property distributed directly.

A shift of assets to a corporation to be separated will not in itself establish a plan to avoid tax if such action is consistent with the holding operations previously engaged in and in conformity with good business practice. Similarly, a reasonable transfer of cash and securities to a corporation availed of under section 1101(c)(2) or 1101(c)(3) for the reasonable working capital needs of a newly organized corporation will not, by itself, establish an attempt to distribute earnings and profits. Where it is established that a contribution to capital was made after May 15, 1955, and prior to the enactment of the Bank Holding Company Act of 1956 with one of the principal purposes of distributing earnings and profits of any corporation, such action will not in itself cause the proportionate remainder of a distribution to fail to qualify for treatment under section 1101. (See section 1101(d)(3).)

§ 1.1101-4 Records to be kept and information to be filed with returns.

Each stock or security holder who receives stock or securities or other property upon a distribution made by a qualified bank holding corporation under section 1101 shall maintain records of, and file as a part of his income tax return for the taxable year in which such distribution is received a complete statement of, all facts pertinent to the nonrecognition of gain upon such distribution, including—

(a) Name and address of the corporation from which the distribution is received; the date the distribution is received; and that the distribution was made pursuant to the Bank Holding Company Act of 1956.

(b) A statement of the name or designation, type, class, number, and fair market value on the date of receipt of the stock or securities or other property received upon the distribution and a record of the disposition made thereof, or of any stock or securities retained in the distributing corporation in the year of receipt.

(c) If preferred stock is exchanged for preferred stock or securities are exchanged for securities within the meaning of section 1101(a)(2)(A) or section 1101(b)(2)(A), a statement of the terms and amount of such newly issued securities or preferred stock, as well as of those surrendered.

(d) A statement as to the distributee's holdings immediately prior to the record date for the distribution of each class of stock or securities outstanding of the distributing corporation, together with

the date and manner of acquisition thereof.

(e) The value of the distributing corporation's stock per share or securities immediately prior to and after the distribution.

In the case of a return filed on or before January 4, 1962, such information shall be filed on or before April 4, 1962, by the taxpayer with the district director for the internal revenue district in which such return was filed.

§ 1.1102 Statutory provisions; distributions pursuant to Bank Holding Company Act of 1956; special rules.

Sec. 1102. Special rules—(a) Basis of property acquired in distributions. If, by reason of section 1101, gain is not recognized with respect to the receipt of any property, then, under regulations prescribed by the Secretary or his delegate—

(1) If the property is received by a shareholder with respect to stock, without the surrender by such shareholder of stock, the basis of the property received and of the stock with respect to which it is distributed shall, in the distributee's hands, be determined by allocating between such property and such stock the adjusted basis of such stock; or

(2) If the property is received by a shareholder in exchange for stock or by a security holder in exchange for securities, the basis of the property received shall, in the distributee's hands, be the same as the adjusted basis of the stock or securities exchanged, increased by—

(A) The amount of the property received which was treated as a dividend, and

(B) The amount of gain to the taxpayer recognized on the property received (not including any portion of such gain which was treated as a dividend).

(b) *Periods of limitation.* The periods of limitation provided in section 6501 (relating to limitations on assessment and collection) shall not expire, with respect to any deficiency (including interest and additions to the tax) resulting solely from the receipt of property by shareholders in a distribution which is certified by the Board under subsection (a), (b), or (c) of section 1101, until five years after the distributing corporation notifies the Secretary or his delegate (in such manner and with such accompanying information as the Secretary or his delegate may by regulations prescribe) that the period (including extensions thereof) prescribed in section 4(a) of the Bank Holding Company Act of 1956, or section 1101(e) (2) (B), whichever is applicable, has expired; and such assessment may be made notwithstanding any provision of law or rule of law which would otherwise prevent such assessment.

(c) *Allocation of earnings and profits—(1) Distribution of stock in a controlled corporation.* In the case of a distribution by a qualified bank holding corporation under section 1101 (a) (1) or (b) (1) of stock in a controlled corporation, proper allocation with respect to the earnings and profits of the distributing corporation and the controlled corporation shall be made under regulations prescribed by the Secretary or his delegate.

(2) *Exchanges described in section 1101(c) (2) or (3).* In the case of any exchange described in section 1101(c) (2) or (3), proper allocation with respect to the earnings and profits of the corporation transferring the property and the corporation receiving such property shall be made under regulations prescribed by the Secretary or his delegate.

(3) *Definition of controlled corporation.* For purposes of paragraph (1), the term "controlled corporation" means a corporation with respect to which at least 80 percent of the total combined voting power of all

classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock is owned by the distributing qualified bank holding corporation.

(d) *Itemization of property.* In any certification under this part, the Board shall make such specification and itemization of property as may be necessary to carry out the provisions of this part.

[Sec. 1102 as added by sec. 10(a), Bank Holding Company Act 1956 (70 Stat. 139)]

§ 1.1102-1 Basis of property acquired in distributions by qualified bank holding corporations.

In the case of a distribution to a shareholder with respect to stock, without the surrender by such shareholder of stock, to which section 1101 (a) or (b) applies, the sum of the basis of all the stock in the distributing corporation held immediately after the transaction plus the basis of all the nonrecognition property received in the transaction shall be the same as the basis of all the stock in such corporation held immediately before the transaction allocated in proportion to the respective fair market value of each. In the case of an exchange to which section 1101, (a) or (b) applies, in which property is received by a shareholder in exchange for stock or by a security holder in exchange for securities, the basis of all the property received in the exchange and as a part thereof shall be the same as the adjusted basis of the stock or securities exchanged, increased by—

(a) The amount of the property received as part of the exchange which was treated as a dividend, and

(b) The amount of gain to the taxpayer recognized on the property received as part of the exchange (not including any portion of such gain which was treated as a dividend).

The basis, in a case involving an exchange, must be apportioned to the properties received, and for this purpose there must be allocated to such other property received as part of the exchange (not permitted to be received without the recognition of gain) an amount of such basis equivalent to the fair market value of such other property at the date of the exchange. Any other property received in connection with a transaction under section 1101 on which gain is realized shall receive a basis in accordance with whichever Code section may be applicable to that portion of the transaction.

§ 1.1102-2 Filing of notification under section 1102(b) by qualified bank holding corporations.

Every distributing corporation which is certified as being a qualified bank holding corporation under section 1103 (b) shall, as soon as practical, by written statement notify the Commissioner of Internal Revenue, Washington 25, D.C., Attention: T:R:R, that the period (including extensions thereof granted by the Board of Governors of the Federal Reserve System) prescribed in section 4(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)), or section 1101(e) (2) (B) of the Code, whichever is applicable, has expired. In order for

such statement to satisfy the requirements for notification under section 1102 (b), there shall be included a complete statement of all facts pertinent to the divestment of assets under part VIII (section 1101 and following), subchapter O, chapter 1 of the Code, including the following:

(a) Name and address of the distributing corporation.

(b) A copy of the plan of divestment forming the basis of the issuance by the Board of any certification under section 1101(a) (1) (B), section 1101(b) (1) (B), section 1101(c) (2) (C), or section 1101(c) (3) (C), as the case may be.

(c) A copy of any such certifications issued to the distributing corporation by the Board.

(d) A certified copy of the corporate resolution authorizing every distribution under section 1101.

(e) Identification and date of acquisition by the distributing corporation of all property distributed under section 1101.

(f) Identification and date of acquisition by the distributing corporation of all property which was transferred to a new corporation under section 1101(c) (2) or (3).

(g) If the date of acquisition in paragraph (e) or (f) of this section was after May 15, 1955, a complete statement of details surrounding the acquisition. If any of such property was acquired in a distribution under section 1101, a copy of the certification covering such distribution.

(h) A statement as to whether any of the distributions under section 1101 contained installment obligations, LIFO inventory, or property either subject to a liability in excess of its basis or in connection with the receipt of which any shareholder assumed a liability in excess of its basis. If so, the statement shall include complete details, including dates of distribution.

(i) [Reserved.]

(j) Name and address of each distributee.

(k) Number of shares of outstanding stock of the corporation, by class, and amount of securities actually owned by each distributee prior to the distribution.

(l) If preferred stock was exchanged for preferred stock or securities were exchanged for securities, under section 1101(a) (2) (A) or section 1101(b) (2) (A), the terms and amount of the newly issued securities or preferred shares received and of those surrendered.

(m) Identification of the property distributed to each distributee under section 1101, by date, together with the fair market value at date of distribution.

(n) Fair market value of the distributing corporation's outstanding securities and stock per share immediately after a distribution.

(o) The amount of the undistributed earnings and profits of the distributing corporation accumulated after February 28, 1913, to date of transfer to a new corporation in an exchange to which section 1101(c) (2) or (3) applies.

(p) If property was transferred to a new corporation under the provisions of section 1101(c) (2) or (3), a statement

giving the value of the assets transferred together with the value of assets retained. If cash was transferred, a complete substantiation thereof.

(q) If stock in a controlled corporation within the meaning of section 1102(c)(3) is distributed under section 1101(a)(1) or (b)(1), a statement giving the accumulated earnings and profits of the controlled corporation (or deficit in earnings as the case may be) immediately prior to the distribution.

(r) A copy of the final certification if issued to the distributing corporation by the Board pursuant to section 1101(e).

(s) The date of expiration of the period (including extensions thereof) prescribed in section 4(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)), or section 1101(e)(2)(B), whichever is applicable.

(t) A statement showing, for the 5-year period preceding any exchange or distribution described in section 1101, the amount of income and expenditures attributable to each of the respective activities and holdings of the bank holding company and further showing the holdings and activities, after the distributions and exchanges described in section 1101, of the bank holding company and the corporations the stock of which is distributed under section 1101.

The periods of limitation (section 6501) with respect to any deficiency, including interest and additions to the tax, resulting solely from the receipt of property by shareholders in a distribution certified by the Board under subsection (a), (b), or (c) of section 1101 shall not expire until 5 years following the date of the notification required under section 1102(b) and this section.

§ 1.1102-3 Allocation of earnings and profits in certain distributions by qualified bank holding corporations.

(a) *Exchanges described in section 1101(c)(2) or (3).* Under section 1102(c), if a qualified bank holding corporation transfers property to a newly created corporation in exchange for all of its stock in a transaction described in section 1101(c)(2)(A) or (3)(A) and immediately thereafter the stock and securities of the controlled corporation are distributed in a distribution or exchange to which section 1101(a)(2) or (b)(2) applies, the earnings and profits of the bank holding corporation immediately before the transaction shall be allocated between such bank holding corporation and the controlled corporation. Such allocation generally shall be made in proportion to the fair market value of the assets retained by the bank holding corporation and the assets of the controlled corporation immediately after the transaction. In a proper case, allocation shall be made in proportion to the net basis of the assets transferred and of the assets retained or by such other method as may be appropriate under the facts and circumstances of the case. The term "net basis" means

the basis of the assets less liabilities assumed or liabilities to which such assets are subject. The part of the earnings and profits of the taxable year of the bank holding corporation in which the transaction occurs allocable to the controlled corporation shall be included in the computation of the earnings and profits of the first taxable year of the controlled corporation ending after the date of the transaction.

(b) *Distribution of stock in a controlled corporation under section 1101(a)(1) or (b)(1).* If a qualified bank holding corporation distributes stock of a controlled corporation (as defined in section 1102(c)(3)) in a distribution or exchange to which section 1101(a)(1) or (b)(1) applies, the earnings and profits of the bank holding corporation shall be decreased by the lesser of the following amounts:

(1) The amount by which the earnings and profits of the bank holding corporation would have been decreased if it had transferred the stock of the controlled corporation to a new corporation in a transaction to which section 1101(c)(2) or (3) applied and immediately thereafter distributed the stock of such new corporation under section 1101(a)(2) or (b)(2) or,

(2) The net worth of the controlled corporation. (For this purpose the term "net worth" means the sum of the bases of all of the properties plus cash minus all liabilities.)

If the earnings and profits of the controlled corporation immediately before the transaction are less than the amount of the decrease in earnings and profits of the bank holding corporation (including the case in which the controlled corporation has a deficit) the earnings and profits of the controlled corporation, after the transaction, shall be equal to the amount of such decrease. If the earnings and profits of the controlled corporation immediately before the transaction are more than the amount of the decrease in the earnings and profits of the bank holding corporation they shall remain unchanged.

(c) *Deficits.* A deficit of the distributing corporation shall in no case be allocated to a controlled corporation.

§ 1.1103 Statutory provisions; distributions pursuant to Bank Holding Company Act of 1956; definitions.

Sec. 1103. Definitions.—(a) *Bank holding company.* For purposes of this part, the term "bank holding company" has the meaning assigned to such term by section 2 of the Bank Holding Company Act of 1956.

(b) *Qualified bank holding corporation.*—(1) *In general.* Except as provided in paragraph (2), for purposes of this part the term "qualified bank holding corporation" means any corporation (as defined in section 7701(a)(3)) which is a bank holding company and which holds prohibited property acquired by it—

(A) On or before May 15, 1955,

(B) In a distribution in which gain to such corporation with respect to the receipt of such property was not recognized by reason of subsection (a) or (b) of section 1101, or

(C) In exchange for all of its stock in an exchange described in section 1101(c)(2) or (c)(3).

(2) *Limitations.* (A) A bank holding company shall not be a qualified bank holding corporation, unless it would have been a bank holding company on May 15, 1955, if the Bank Holding Company Act of 1956 had been in effect on such date, or unless it is a bank holding company determined solely by reference to—

(i) Property acquired by it on or before May 15, 1955,

(ii) Property acquired by it in a distribution in which gain to such corporation with respect to the receipt of such property was not recognized by reason of subsection (a) or (b) of section 1101, and

(iii) Property acquired by it in exchange for all of its stock in an exchange described in section 1101(c)(2) or (3).

(B) A bank holding company shall not be a qualified bank holding corporation by reason of property described in subparagraph (B) of paragraph (1) or clause (ii) of subparagraph (A) of this paragraph, unless such property was acquired in a distribution with respect to stock, which stock was acquired by such bank holding company—

(i) On or before May 15, 1955,

(ii) In a distribution (with respect to stock held by it on May 15, 1955, or with respect to stock in respect of which all previous applications of this clause are satisfied) with respect to which gain to it was not recognized by reason of subsection (a) or (b) of section 1101, or

(iii) In exchange for all of its stock in an exchange described in section 1101(c)(2) or (3).

(C) A corporation shall be treated as a qualified bank holding corporation only if the Board certifies that it satisfies the foregoing requirements of this subsection.

(c) *Prohibited property.* For purposes of this part, the term "prohibited property" means, in the case of any bank holding company, property (other than nonexempt property) the disposition of which would be necessary or appropriate to effectuate section 4 of the Bank Holding Company Act of 1956 if such company continued to be a bank holding company beyond the period (including any extensions thereof) specified in subsection (a) of such section or in section 1101(e)(2)(B) of this part, as the case may be. The term "prohibited property" does not include shares of any company held by a bank holding company to the extent that the prohibitions of section 4 of the Bank Holding Company Act of 1956 do not apply to the ownership by such bank holding company of such property by reason of subsection (c)(5) of such section.

(d) *Nonexempt property.* For purposes of this part, the term "nonexempt property" means—

(1) Obligations (including notes, drafts, bills of exchange, and bankers' acceptances) having a maturity at the time of issuance of not exceeding 24 months, exclusive of days of grace;

(2) Securities issued by or guaranteed as to principal or interest by a government or subdivision thereof or by any instrumentality of a government or subdivision; or

(3) Money, and the right to receive money not evidenced by a security or obligation (other than a security or obligation described in paragraph (1) or (2)).

(e) *Board.* For purposes of this part, the term "Board" means the Board of Governors of the Federal Reserve System.

[Sec. 1103 as added by sec. 10(a), Bank Holding Company Act 1956 (70 Stat. 139)]

[F.R. Doc. 62-32; Filed, Jan. 3, 1962; 8:45 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of the Interior

Effective upon publication in the FEDERAL REGISTER, subparagraph (24) is added to paragraph (a) of § 6.310 as set out below.

§ 6.310 Department of the Interior.

(a) *Office of the Secretary.* * * *
(24) The Administrator, Defense Electric Power Administration, Office of the Assistant Secretary for Water and Power Development.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DAVID F. WILLIAMS,
Director,
Bureau of Management Services.

[F.R. Doc. 62-72; Filed, Jan. 3, 1962; 8:48 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of State

Effective upon publication in the FEDERAL REGISTER, subparagraph (9) of paragraph (a) of § 6.302 is amended as set out below.

§ 6.302 Department of State.

(a) *Office of the Secretary.* * * *
(9) Three Confidential Assistants and one Private Secretary to the Under Secretary.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DAVID F. WILLIAMS,
Director,
Bureau of Management Services.

[F.R. Doc. 62-73; Filed, Jan. 3, 1962; 8:48 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Post Office Department

Effective upon publication in the FEDERAL REGISTER, subparagraph (7) is added to paragraph (b) of § 6.309 as set out below.

§ 6.309 Post Office Department.

(b) *Bureau of Facilities.* * * *
(7) One Assistant Director for Community Programs.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DAVID F. WILLIAMS,
Director,
Bureau of Management Services.

[F.R. Doc. 62-74; Filed, Jan. 3, 1962; 8:48 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Housing and Home Finance Agency

Effective upon publication in the FEDERAL REGISTER, subparagraph (37) is added to paragraph (a) of § 6.342 as set out below.

§ 6.342 Housing and Home Finance Agency.

(a) *Office of the Administrator.* * * *
(37) One Private Secretary to the Assistant Administrator (Urban Transportation).

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DAVID F. WILLIAMS,
Director,
Bureau of Management Services.

[F.R. Doc. 62-75; Filed, Jan. 3, 1962; 8:48 a.m.]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Canned Mushrooms¹

On October 22, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 10099) regarding a proposed revision of the United States Standards for Grades of Canned Mushrooms.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Grades of Canned Mushrooms are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202-208, 60 Stat. 1087, as amended; 7 U.S.C. 1621-1627).

¹ Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

PRODUCT DESCRIPTION, COLOR TYPES, STYLES, AND GRADES

Sec.
52.1481 Product description.
52.1482 Color types of canned mushrooms.
52.1483 Styles of canned mushrooms.
52.1484 Grades of canned mushrooms.

SIZES, FILL OF CONTAINERS, AND DRAINED WEIGHTS

52.1485 Sizes of mushrooms in whole and button mushrooms.
52.1486 Fill of container for canned mushrooms.
52.1487 Minimum drained weights for canned mushrooms.

FACTORS OF QUALITY

52.1488 Ascertaining the grade.
52.1489 Ascertaining the rating for the factors which are scored.
52.1490 Color.
52.1491 Uniformity of size and shape.
52.1492 Defects.
52.1493 Character.

LOT INSPECTION AND CERTIFICATION

52.1494 Ascertaining the grade of a lot.

SCORE SHEET

52.1495 Score sheet for canned mushrooms.

AUTHORITY: §§ 52.1481 to 52.1495 issued under sec. 202-208, 60 Stat. 1087, as amended; 7 U.S.C. 1621-1627.

PRODUCT DESCRIPTION, COLOR TYPES, STYLES, AND GRADES

§ 52.1481 Product description.

"Canned mushrooms", as defined in the definitions and standards of identity for canned vegetables (21 CFR 51.990) issued pursuant to the Federal Food, Drug, and Cosmetic Act, means the product prepared from the sound, succulent, fresh mushroom by proper trimming, washing, and sorting and is packed with the addition of water in hermetically sealed containers and sufficiently processed by heat to assure preservation of the product. Salt, or monosodium glutamate, or both may be added in a quantity sufficient to season the product. Ascorbic acid (Vitamin C) may be added in a quantity not to exceed 37.5 milligrams for each ounce of drained weight of mushrooms.

§ 52.1482 Color types of canned mushrooms.

- (a) White or cream.
(b) Brown.

§ 52.1483 Styles of canned mushrooms.

(a) "Whole" is the style of canned mushrooms that consists of the caps with attached stems which are more than 1/8 inch in length when measured from the under side of the cap to the cut end of the stem.

(b) "Buttons" is the style of canned mushrooms that consists of the caps with attached stems which are cut transversely below the veil so that in 85 percent or more, by count, of the units the attached stem when measured from the under side of the cap to the cut end of the stem does not exceed 1/8 inch in length; and in the remaining units none of the attached stems may be more than 1/4 inch in length.

(c) "Sliced whole" is the style of canned mushrooms that consists of units which have been sliced from whole mushrooms so that in 80 percent or more, by weight, of all the units the direction of the slice is approximately parallel to the longitudinal axis of the stem; and not more than 5 percent, by weight of all the units may be detached portions of stems.

(d) "Random sliced whole" is the style of canned mushrooms that consists of units which have been sliced from whole mushrooms in a random manner so that the direction of the slice may materially deviate from approximately parallel to the longitudinal axis of the stem; and not more than 15 percent, by weight of all the units may be detached portions of stem.

(e) "Sliced buttons" is the style of canned mushrooms that consists of units which have been sliced from button mushrooms so that in 90 percent or more, by weight, of all the units the direction of the slice is approximately parallel to the longitudinal axis of the stem.

(f) "Stems and pieces" or "pieces and stems" (hereinafter referred to as "stems and pieces") is the style of canned mushrooms that consists of units which do not conform to any of the foregoing styles and are predominantly cut or broken portions of the caps and stems and may contain units of any of the foregoing styles.

§ 52.1484 Grades of canned mushrooms.

(a) "U.S. Grade A" or ("U.S. Fancy") is the quality of canned mushrooms that possess similar varietal characteristics; that possess a normal flavor and odor; that possess a good color; that are practically uniform in size and shape, except for the style of "stems and pieces"; that are practically free from defects; that possess a good character, and that for those factors which are scored in accordance with the scoring system outlined in this subpart the total score is not less than 90 points: *Provided*, That canned mushrooms may be fairly uniform in size and shape for the applicable styles if the total score is not less than 90 points.

(b) "U.S. Grade B" or ("U.S. Extra Standard") is the quality of canned mushrooms that possess similar varietal characteristics; that possess a normal flavor and odor; that possess a fairly good color; that are fairly uniform in size and shape, except for the style of "stems and pieces"; that are fairly free from defects; that possess a fairly good character; and that for those factors which are scored in accordance with the scoring system outlined in this subpart the total score is not less than 80 points: *Provided*, That canned mushrooms may fail to meet the requirements for U.S. Grade B for the factor of uniformity of size and shape for the applicable styles if the total score is not less than 80 points.

(c) "Substandard" is the quality of canned mushrooms that fail to meet the requirements of U.S. Grade B.

SIZES, FILL OF CONTAINER, AND DRAINED WEIGHTS

§ 52.1485 Sizes of canned mushrooms in the styles of whole and buttons.

(a) No. 0 (Midget) size mushrooms will pass through a round opening 1/2 inch in diameter.

(b) No. 1 (Tiny) size mushrooms will pass through a round opening 5/8 inch in diameter but will not pass through a round opening 1/2 inch in diameter.

(c) No. 2 (Small) size mushrooms will pass through a round opening 7/8 inch in diameter but will not pass through a round opening 5/8 inch in diameter.

(d) No. 3 (Medium) size mushrooms will pass through a round opening 1 1/8 inches in diameter but will not pass through a round opening 7/8 inch in diameter.

(e) No. 4 (Large) size mushrooms will pass through a round opening 1 5/8 inches in diameter but will not pass through a round opening 1 1/8 inches in diameter.

(f) No. 5 (Extra Large) size mushrooms are those too large to pass through a round opening 1 5/8 inches in diameter.

§ 52.1486 Fill of container for canned mushrooms.

The standard for fill of container for canned mushrooms is not incorporated in the grades of the finished product, since fill of container, as such, is not a factor of quality for the purpose of these grades. The standard of fill of container for canned mushrooms is such that the drained weight of mushrooms is not less than 56 percent of the water capacity of the container if such capacity is less than 11.0 ounces avoirdupois; not less than 59 percent of the water capacity of the container if such capacity is 11.0 ounces or more but less than 25 ounces avoirdupois; and not less than 62 percent of the water capacity of the container if such capacity is 25 ounces avoirdupois or more. Canned mushrooms which do not meet this requirement are "Below Standard in Fill".

§ 52.1487 Minimum drained weights for canned mushrooms.

(a) *General*. The total weight of drained mushrooms (drained weight) shall be not less than that shown for the respective size of containers in Table I of this section.

(b) *Method of ascertaining the drained weight*. The total weight of drained mushrooms is determined by emptying the contents of the container upon a United States Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.0937—± 3 percent, square openings) so as to distribute the product evenly, inclining the sieve slightly to facilitate drainage, and allowing to drain for two minutes. The drained weight is the weight of the sieve and mushrooms less the weight of the dry sieve. A sieve 8 inches in diameter is used for the equivalent of a No. 3 size can (404 x 700) and smaller and a sieve 12 inches in diameter is used for containers larger than the equivalent of a No. 3 size can.

TABLE I
(Minimum drained weight of canned mushrooms)

Container designation (metal, unless otherwise stated)	Container size overall dimensions		Capacity weight H ₂ O at 68° F	Minimum drained weight ounces (avoirdupois)
	Diameter (inches)	Height (inches)		
2 Z Mushroom	2 1/8	2 1/8	3.57	2.0
2 1/2 Z Glass	2 1/8	2 1/8	4.61	2.6
3 Z Mushroom	2 1/8	3 1/8	5.36	3.0
4 Z Mushroom	2 1/8	3 1/2	7.15	4.0
8 Z Mushroom	3	4	13.55	8.0
Jumbo	3 1/8	5 1/8	25.70	16.0
No. 10	6 1/8	7	103.45	68.0

FACTORS OF QUALITY

§ 52.1488 Ascertaining the grade.

(a) The grade of canned mushrooms is ascertained by considering in conjunction with the requirements of the respective grade the respective ratings for the factors of color, uniformity of size and shape, defects, and character.

(b) The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given each such factor is:

Factors	Points
Color	30
Uniformity of size and shape	20
Defects	30
Character	20
Total score	100

(c) "Normal flavor and odor" means that the product is free from objectionable flavors and objectionable odors of any kind.

§ 52.1489 Ascertaining the rating for the factors which are scored.

The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.1490 Color.

(a) (A) *Classification*. Canned mushrooms that possess a good color may be given a score of 27 to 30 points. "Good color" means that the canned mushrooms possess a color that is practically uniform, bright, and typical of canned mushrooms produced from mushrooms of similar varietal characteristics and meet the following additional requirements for the respective color type:

(1) *White or Cream*. The color of the surface of the individual caps or portions thereof is not darker than medium cream, which color may possess a slight tannish cast that does not more than slightly affect the overall color appearance of the units, individually or collectively; and with respect to the styles of sliced buttons, sliced whole, random sliced whole, and stems and pieces, the color of gills of the sliced units is not darker than light tannish gray: *Provided*, That in sliced units the contrast in color

between the gills and the surface of the cap of such sliced units does not more than slightly affect the overall color appearance of the product.

(2) *Brown*. The color of the surface of the individual caps is not darker than light brown, which color may possess a slight grayish cast that does not more than slightly affect the overall color appearance; and with respect to the styles of sliced buttons, sliced whole, random sliced whole, and stems and pieces, the color of the gills of the sliced units is not darker than medium brownish gray: *Provided*, That in sliced units the contrast in color between the gills and the surface of the cap of such sliced units does not more than slightly affect the overall color appearance of the product.

(b) *(B) classification*. Canned mushrooms that possess a fairly good color may be given a score of 24 to 26 points. Canned mushrooms that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Fairly good color" means that the canned mushrooms possess a color that is typical of canned mushrooms produced from mushrooms of similar varietal characteristics and that such color may be dull but not to the extent that the appearance of the product is seriously affected; and that the canned mushrooms meet the following additional requirements for the respective color types:

(1) *White or Cream*. The color of the surface of the individual caps may be dark cream, which color may possess a gray or brown cast that does not seriously affect the overall color appearance of the product; and with respect to the styles of sliced buttons, sliced whole, random sliced whole, and stems and pieces, the color of the gills of the sliced units is not darker than tannish gray: *Provided*, That in sliced units the contrast in color between the gills and surface of the cap of such sliced units does not seriously affect the overall color appearance of the product.

(2) *Brown*. The color of the surface of the individual caps may be medium brown in color which color may possess a grayish cast that does not seriously affect the overall color appearance of the product, and with respect to the styles of sliced buttons, sliced whole, random sliced whole, and stems and pieces, the color of the gills of the sliced units may be dark brownish gray: *Provided*, That in sliced units the contrast in color between the gills and surface of the cap of such sliced units does not seriously affect the overall color appearance of the product.

(c) *(SStd.) classification*. Canned mushrooms that fail to meet the requirements of paragraph (b) of this section may be given a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.1491 Uniformity of size and shape.

(a) *General*. The factor of uniformity of size and shape for the style of stems and pieces of canned mushrooms is not scored; the other three factors (color, defects, and character, as appli-

cable) are scored and the total multiplied by 100 and divided by 80, dropping any fractions to determine the total score.

(b) *Definitions of terms*—(1) *Diameter*. The diameter of a cap in the styles of whole, buttons, sliced whole mushrooms, and sliced buttons means the greatest width of the cap when measured parallel with the under side of the cap.

(2) *Center slice*. "Center slice" in the styles of sliced buttons and sliced whole mushrooms means a unit sliced from a mushroom button or from a whole mushroom approximately parallel to the longitudinal stem axis; possesses two cut surfaces; and measures more than $\frac{1}{2}$ inch in the longest dimension.

(3) *Small side-slice*. "Small side-slice" in the styles of sliced buttons, sliced whole mushrooms, and random sliced whole mushrooms means a slice without attached stem or portion of stem; which possesses only one cut surface; and which measures $\frac{1}{2}$ inch or less in the longest dimension.

(c) *(A) classification*. Except in the style of stems and pieces, canned mushrooms that are practically uniform in size and shape may be given a score of 18 to 20 points. "Practically uniform in size and shape" has the following meanings with respect to the applicable styles of canned mushrooms:

(1) *Whole; buttons*. The units are practically uniform in shape; the stems are cut transversely; and the diameter of the cap with the largest diameter does not exceed the diameter of the cap with the smallest diameter by more than $\frac{1}{4}$ inch; and of all the units in the container, in the 85 percent, by count, with the most uniform diameters, the diameter of the cap with the largest diameter does not exceed the diameter of the cap with the smallest diameter by more than $\frac{1}{8}$ inch.

(2) *Sliced whole mushrooms, sliced buttons*. The presence of irregular-shaped units does not materially affect the appearance of the product; not more than 5 percent, by weight, of the units may be small side-slices; and the diameter of the center slice with the largest diameter does not exceed the diameter of the center slice with the smallest diameter by more than $\frac{3}{8}$ inch.

(3) *Random sliced whole mushrooms*. Not more than 5 percent, by weight, of all the units may be small side-slices.

(d) *(B) classification*. Except in the styles of stems and pieces, canned mushrooms that are fairly uniform in size and shape may be given a score of 16 or 17 points. "Fairly uniform in size and shape" has the following meanings with respect to the applicable styles of canned mushrooms:

(1) *Whole; buttons*. The units are fairly uniform in shape; the stems are cut transversely; and of all the units in the container, in the 85 percent, by count, with the most uniform diameters, the diameter of the cap with the largest diameter does not exceed the diameter of the cap with the smallest diameter by more than $\frac{1}{4}$ inch.

(2) *Sliced whole mushrooms; sliced buttons*. The presence of irregular shaped units does not seriously affect the

appearance of the product; not more than 10 percent, by weight, of the units may be small side-slices; and the diameter of the center slice with the largest diameter does not exceed the diameter of the center slice with the smallest diameter by more than $\frac{3}{8}$ inch.

(3) *Random sliced mushrooms*. Not more than 10 percent, by weight, of the units may be small side-slices.

(e) *(SStd.) classification*. Canned mushrooms that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 15 points. Canned mushrooms that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a partial limiting rule).

§ 52.1492 Defects.

(a) *General*. The factor of defects refers to the degree of freedom from units which are crushed or broken, damaged, or seriously damaged.

(b) *Definitions of terms*. (1) "Crushed or broken unit" with respect to all styles other than the style of "stems and pieces" means a unit that is crushed to the extent so as to destroy its normal shape or that is severed into two or more separate parts.

(2) "Damaged" means damaged by discoloration, pathological injury, mechanical injury, or damaged by other means to such an extent that the appearance or eating quality of the unit is materially affected. Knife marks resulting from the preparation of sliced whole mushrooms, random sliced whole mushrooms, or sliced buttons are not considered mechanical injury.

(3) "Seriously damaged" means damaged to such an extent that the appearance or eating quality of the unit is seriously affected.

(c) *(A) classification*. Canned mushrooms that are practically free from defects may be given a score of 27 to 30 points. "Practically free from defects" means:

(1) The product does not exceed the applicable allowances prescribed for the respective type of defect in Table II of this section; and

(2) Notwithstanding the specified allowances, the presence of crushed or broken units in the applicable styles, damaged, and seriously damaged units does not materially affect the appearance or eating quality of the product.

(d) *(B) classification*. Canned mushrooms that are fairly free from defects may be given a score of 24 to 26 points. Canned mushrooms that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means:

(1) The product does not exceed the applicable allowances prescribed for the respective type of defect in Table II of this section; and

(2) Notwithstanding the specified allowances, the presence of crushed or broken units in the applicable styles, damaged, and seriously damaged units does not seriously affect the appearance or eating quality of the product.

(e) *(SStd.) classification*. Canned mushrooms that fail to meet the require-

ments of paragraph (d) of this section may be given a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

TABLE II
(Summary of allowances for defects)

Grade classification	Maximum allowances		
	All styles except "Stems and Pieces"	All styles	
	Crushed or broken	Damaged	Seriously damaged ¹
A.....	5% by weight...	5% by weight including 1% by weight	1% by weight
B.....	10% by weight...	10% by weight including 2% by weight	2% by weight
SStd.....	Fails to meet foregoing requirements for Grade B classification.		

¹ One unit in a container is permitted to be seriously damaged; *Provided*, That the total number of such seriously damaged units in all of the containers comprising the sample is within the percentage permitted for such defect.

§ 52.1493 Character.

(a) *General*. The factor of character refers to the tenderness and texture of the canned mushrooms and the development of the cap in the styles of whole, buttons, sliced whole mushrooms, random sliced whole, and sliced buttons.

(b) *Definition of closed veil*. "Closed veil" means that the membrane which extends from the inner edge of the cap to the stem practically covers the gills.

(c) (A) *classification*. Canned mushrooms that possess a good character may be given a score of 18 to 20 points. "Good character" means that the units are firm and tender; the product is practically free from fibrous or rubbery units; and that with respect to the styles of "Whole", "Buttons", "Sliced whole", "Random sliced whole", and "Sliced buttons" not less than 95 percent, by weight, of all the units possess closed veils. One unit which fails to meet the requirements for closed veil is permitted in a container: *Provided*, That the average for such units in all the containers comprising the sample does not exceed 5 percent, by weight.

(d) (B) *classification*. Canned mushrooms that possess a fairly good character may be given a score of 16 or 17 points. Canned mushrooms that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Fairly good character" means that the units are reasonably tender; may be slightly soft; the product is reasonably free from fibrous or rubbery units; and that with respect to the styles of "Whole", "Buttons", "Sliced whole", "Random sliced whole", and "Sliced buttons" not less than 90 percent, by weight, of all the units possess closed veils. One unit which fails to meet the requirements for closed veil is permitted in a container: *Provided*, That the average for such units in all the containers comprising the sample does not exceed 10 percent, by weight.

(e) (SStd.) *classification*. Canned mushrooms that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 15 points and shall not be graded above Substandard,

regardless of the total score for the product (this is a limiting rule).

LOT INSPECTION AND CERTIFICATION

§ 52.1494 Ascertaining the grade of a lot.

The grade of a lot of canned mushrooms covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (7 CFR §§ 52.1 through 52.87 of this title).

SCORE SHEET

§ 52.1495 Score sheet for canned mushrooms.

Size and kind of container.....
 Container mark or identification.....
 Label.....
 Net weight (ounces).....
 Vacuum (inches).....
 Drained weight (ounces).....
 Style.....
 Size.....
 Color.....

Factors	Score points
Color.....	30 {(A) 27-30 {(B) 24-26 {(SStd.) 10-23
Uniformity of size and shape.....	20 {(A) 18-20 {(B) 16-17 {(SStd.) 20-15
Defects.....	30 {(A) 27-30 {(B) 24-26 {(SStd.) 10-23
Character.....	20 {(A) 18-20 {(B) 16-17 {(SStd.) 10-15
Total score.....	100

Grade.....
 Normal flavor and odor.....

¹ Indicates limiting rule.
² Indicates partial limiting rule.

The United States Standards for Grades of Canned Mushrooms (which is the fourth issue) contained in this subpart shall become effective 45 days after the date of publication hereof in the FEDERAL REGISTER, and thereupon will supersede the United States Standards for Grades of Canned Mushrooms (7 CFR, Part 52) which have been in effect since January 19, 1953.

Dated: December 28, 1961.

G. R. GRANGE,
*Deputy Administrator,
 Marketing Services.*

[F.R. Doc. 62-61; Filed, Jan. 3, 1962;
 8:46 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[Amdt. 16]

PART 728—WHEAT

Subpart—Regulations Pertaining to Farm Acreage Allotments for 1960 and Subsequent Crops of Wheat

INCREASED DURUM WHEAT (CLASS II)
 ALLOTMENTS FOR 1962

The amendments herein are issued pursuant to and in accordance with the

Agricultural Adjustment Act of 1938, as amended, including the amendments in section 125 of the Agricultural Act of 1961, and prescribe the percentage of increase and govern the establishment of increased 1962 farm wheat acreage allotments and marketing quotas in designated counties for the purpose of increasing the production of Durum Wheat (Class II) for 1962.

Section 125 of the Agricultural Act of 1961 amended 334(e) of the Agricultural Adjustment Act of 1938, as amended, to authorize the Secretary of Agriculture to determine with respect to each of the 1962, 1963 and 1964 crops of Durum Wheat (Class II) whether the acreage allotments for such crop for farms producing such wheat will be inadequate to provide for the production of a sufficient quantity of Durum Wheat (Class II) to satisfy the demand therefor (but not including export demand involving a subsidy by, or loss to, the Federal Government). If with respect to any such year's crop of Durum Wheat (Class II) the Secretary should determine that the acreage allotments of farms producing such wheat are inadequate to provide for the production of a sufficient quantity to satisfy such demands, the statute directs him to determine and designate the counties in the States of North Dakota, Minnesota, Montana, South Dakota, and California which are capable of producing Durum Wheat (Class II) and which have produced such wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested, and determine the percentage factor by which the average annual production of Durum Wheat (Class II) in the two years 1960 and 1961 must be increased to supply such demand.

Notice was given (26 F.R. 9912) that the Secretary of Agriculture was preparing to make such determination with respect to the 1962 crop of Durum Wheat (Class II); and growers and millers of Durum Wheat (Class II), manufacturers of semolina products, and other interested persons were invited to submit data, views, and recommendations with respect thereto. The data, views, and recommendations which were submitted pursuant to such notice have been duly considered in the issuance of the amendments herein within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

In making the determination of counties in which the increased allotments and quotas for 1962 will be applicable and which are to be designated in § 728.1026, paragraph (h), the Durum Wheat (Class II) acreage estimates of the Statistical Reporting Service, farm data obtained from wheat producers' production as reported by the grain trade, and reports from agronomists and experiment stations will be used to determine whether Durum Wheat (Class II) has been produced for commercial food products in one or more of the five years 1957 through 1961, which are the five years immediately preceding the crop year 1962.

The amendments herein which govern the increase in farm wheat acreage allotments provide for the determination

with respect to an eligible farm of an "original" allotment, which is the 1962 farm acreage allotment after the reduction required by § 728.1020a; a "conditional" allotment, computed by multiplying the average acreage of durum wheat on the farm during the years 1960 and 1961 by the percentage prescribed in § 728.1027(a) and adding such product to the original allotment; and a "final" allotment, determined after performance on the farm has been checked.

Section 334(e) of the Agricultural Adjustment Act of 1938, as amended, also provides that the increased allotments under that section shall be conditioned upon the producer planting to Durum Wheat (Class II) an acreage equal to the 1960-61 average acreage of Durum Wheat (Class II) plus the amount of increase. In view of the fact that wheat allotments for 1962 are ten percent less than they were for 1960 and 1961, this provision, if applied literally, would require some producers who receive increased allotments for 1962 and who planted all or nearly all their 1960 and 1961 allotments to Durum Wheat (Class II) to produce excess wheat in order to be eligible for the increase. Accordingly, in order to prevent such a result, provision is made in § 728.1027 to have the increased allotment and final allotment determinations for such farms made on the basis of the smaller of the 1960-61 average acreage of Durum Wheat (Class II) or the 1962 original allotment.

Section 334(e) of the 1938 Act, as amended, would also place many producers who planted Durum Wheat (Class II) in excess of the 1960-61 average acreage of such wheat but who did not plant to Durum Wheat (Class II) in 1962 the full amount of the increase in an excess position with respect to the original allotment for the farm. Therefore, in order to avoid the necessity of a producer planting to Durum Wheat (Class II) the exact amount of his increased allotment, § 728.1027 provides that the final allotment will be the 1962 original allotment plus the amount by which the 1962 acreage of Durum Wheat (Class II) on the farm exceeds the 1960-1961 average acreage of such wheat on the farm, but not to exceed the conditional allotment.

As indicated above, public notice was given that the Secretary of Agriculture was preparing to make certain determinations required by section 334(e) of the Agricultural Adjustment Act of 1938, as amended, with respect to the 1962 crop of wheat. Public notice was not specifically given of the proposed issuance of amendments to the regulations for determining wheat acreage allotments for 1962 to provide for the increases in allotment necessary to increase the production of Durum Wheat (Class II) for 1962. In order that producers may proceed with plans for seeding Durum Wheat (Class II) and other classes of wheat of the 1962 crop of wheat as expeditiously as possible and particularly to enable producers to determine whether to participate in the 1962 wheat stabilization program, it is hereby found that with respect to the amendments herein of which public notice has not

been given compliance with the public notice and procedure requirements of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest; and that as to all the amendments herein compliance with the 30-day effective date provisions of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest. Therefore, the amendments herein shall become effective upon filing of this document with the Director, Office of the Federal Register.

§ 728.1011 [Amendment]

1. Section 728.1011 is amended by adding a new paragraph (k) to read as follows:

(k) "Cropland well suited to wheat" means that acreage of cropland which is determined by the county committee in accordance with generally accepted local standards to be well suited to the production of wheat, considering topography, type of soil, drainage, freedom from overflow, and freedom from serious wind erosion.

2. A new § 728.1027 is added to read as follows:

§ 728.1027 Increase in 1962 acreage allotments for production of Durum Wheat (Class II).

(a) It is estimated that the domestic utilization of the 1962 crop of durum wheat will be from 27 to 30 million bushels, exports of such crop (without benefit of subsidy by, or loss to, the Federal Government) will be from 5 to 7 million bushels, and carry-over requirements of such crop will be from 5 to 8 million bushels, making total requirements of from 37 to 45 million bushels. For the purposes hereof the demands for the 1962 crop of such wheat are determined to be 37,856,000 bushels. It is determined that the average acreage planted to durum wheat during the years 1960 and 1961 was 1,690,000 acres. It is determined that because of less than average current subsoil conditions the estimated yield for the 1962 crop of durum wheat will be 16 bushels per planted acre. A 1962 planted acreage of durum wheat of 1,690,000 acres (the 1960-1961 average acreage) at a yield of 16 bushels per planted acre would produce a 1962 crop of durum wheat of 27,040,000 bushels, which is determined to be inadequate to meet the demands determined above. The increase in acreage planted to the 1962 crop of durum wheat over the average acreage planted to such wheat during the years 1960 and 1961 (i.e., 1,690,000) which would be required, at an estimated average yield of 16 bushels per acre, to produce a 1962 crop of such wheat required to meet the demands for the 1962 crop of such wheat determined at 37,856,000 bushels, would be 40 per centum. It is therefore determined that the acreage allotments for the 1962 crop of wheat for farms eligible for increases under this section shall be increased by forty per centum of the average acreage planted to durum wheat on such farms during the years 1960 and 1961, as determined under paragraph (e) of this section.

(b) Upon written application signed by the producer prior to the closing of the spring signup period under the 1962 wheat stabilization program, which will be March 30, 1962, the conditional acreage allotment established under the provisions of this section for any farm in any of the approved Durum Wheat (Class II) counties designated in paragraph (i) of this section shall be computed by multiplying the average acreage of Durum Wheat (Class II) on the farm during the years 1960 and 1961, as determined under paragraph (e) of this section, by 40 percent and adding such product to the 1962 farm acreage allotment after reduction as required by § 728.1020a, hereinafter referred to as the "original allotment": *Provided*, That such conditional allotment shall not exceed the cropland on the farm well suited to wheat.

(c) The final allotment for the farm shall, upon proof of performance, be the 1962 original allotment increased by the amount by which the 1962 acreage of Durum Wheat (Class II) on the farm is greater than the average acreage of Durum Wheat (Class II) on the farm during the two years 1960 and 1961, as determined under paragraph (e) of this section: *Provided*, That the final allotment shall not exceed the smaller of the conditional allotment or the 1962 acreage of Durum Wheat (Class II) on the farm plus the 1962 acreage of other wheat on the farm. Notwithstanding the above, if the total of all wheat acreage for 1962 does not exceed the original allotment, or if the 1962 acreage of Durum Wheat (Class II) is not greater than the average Durum Wheat (Class II) acreage on the farm during the years 1960 and 1961, as determined in paragraph (e) of this section, the final allotment shall be the original allotment.

(d) The increase in wheat acreage allotments authorized by this section shall be in addition to the National, State, and county wheat acreage allotments, and the acreage of Durum Wheat (Class II) on such increased allotments shall not be considered in establishing future State, county, and farm acreage allotments.

(e) For the purpose of the determinations in paragraphs (b) and (c) of this section, the 1960-61 average acreage of Durum Wheat (Class II) shall be considered to be the smaller of the actual 1960-61 average acreage of Durum Wheat (Class II) or the 1962 original allotment.

(f) For purposes of the determinations in paragraphs (b) and (c) of this section, in the counties of Modoc and Siskiyou, California, the 1962 original allotment shall be considered to be the allotment established under provisions of § 728.1020a or, if applicable to the farm, the special acreage allotment determined therefor under § 728.1026.

(g) If the total 1962 acreage of all wheat on the farm exceeds the final allotment, any wheat acreage in excess of such final allotment shall be regarded as excess wheat acreage.

(h) Any farm receiving an increased allotment in accordance with paragraphs (b) and (c) of this section shall

not be permitted to participate in the 1962 wheat stabilization program.

(i) Approved Durum Wheat (Class II) counties are counties which (1) are capable of producing Durum Wheat (Class II), (2) have produced such wheat for commercial food products during one or more of the five years 1957 through 1961, and (3) are located in the States of North Dakota, Minnesota, Montana, South Dakota and California. A listing of such counties will be provided by a subsequent amendment.

(Secs. 334, 375, 52 Stat. 54, as amended, 66 75 Stat. 300; 7 U.S.C. 1334, 1375)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 28, 1961.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-65; Filed, Jan. 3, 1962;
8:46 a.m.]

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

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[Sugar Determination 850.145]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

Proportionate Shares for Farms—1962 Crop

Pursuant to the provisions of section 302 of the Sugar Act of 1948, as amended (hereinafter referred to as "act"), the following determination is hereby issued:

§ 850.145 Proportionate shares for farms in the domestic beet sugar area.

(a) *Definitions.* For the purpose of this section, the terms:

(1) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the United States Department of Agriculture to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(2) "State Committee" means the persons in a State designated by the Secretary as the Agricultural Stabilization and Conservation State Committee, under section 3(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(3) "County Committee" means the persons elected within a county as the County Committee pursuant to regulations governing the selection and function of Agricultural Stabilization and Conservation County and Community Committees, under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(4) "Planted acres" means the acreage of sugar beets which is either harvested for the extraction of sugar or liquid sugar or was determined by a member of the County Committee to have been bona fide abandoned acreage to the extent of fulfilling at least the requirements for abandonment payment set forth in subparagraphs (1) through (5) of § 842.2(a) of this chapter, as shown

by the office records of the County Committee.

(5) "Operator" means the person (or persons) who controls and directs the sugar beet operations on the farm and who bears the major portion of the risk of financial loss or the opportunity for financial gain resulting from such operations.

(6) "Farm" shall have the meaning set forth in Part 822 of this chapter.

(7) "Producer" shall have the meaning set forth in section 101(k) of the act.

(b) *Proportionate shares.* The proportionate share of the 1962 crop for each farm in the Domestic Beet Sugar Area shall be the number of acres planted thereon for the production of sugar beets to be marketed (or processed by the producer) for the extraction of sugar or liquid sugar during the 1962-crop season. For the purpose of establishing farm proportionate shares for subsequent crops, the sugar beet production record for any of the crop years 1958 through 1962 of any land removed from sugar beet production either because of transfer of such land by sale, lease or donation to any Federal, State or other agency or entity having the right of eminent domain, shall, upon application to the appropriate State Committee within three years from the date of such transfer, be added to the sugar beet production record for such crop years, if any, of other land within the State owned or purchased by the owner of the land so transferred.

(c) *Eligibility for payment under the act.* For any producer of 1962-crop sugar beets on the farm to be eligible for payment under the act, the requirements of the act with respect to child labor shall have been met and the requirements of the act and of the regulations issued pursuant thereto with respect to wage rates, and, in the case of a processor-producer (a producer who is also a processor), prices paid for sugar beets shall have been met.

(d) *Filing application for payment.* Application for payments authorized under Title III of the act with respect to sugar beets planted on a farm for harvest during the 1962-crop season shall be made on Form SU-110 by the producer on the farm, or his legal representative, who must sign the form and file it in the ASCS county office for the county wherein the farm is located, or with a representative of such office, no later than December 31, 1964.

(e) *Determination of eligibility and basis for payment; and appeals for review thereof.* Compliance with the conditions prescribed by the act and regulations for any payment authorized under Title III of the act, the facts constituting the basis for any such payment, and the amount thereof, shall be determined by the County Committee, such determination to be subject to review and approval or reversal and redetermination by the State Committee or by the Secretary. Determinations by the County Committee and redeterminations by the State Committee or the Secretary shall be made and decided in accordance with the applicable provisions of the act and regulations issued by the Secretary

thereunder, and on the facts in the individual case. Within 15 days after the notice of a determination by the County Committee is mailed to or otherwise made available to a producer, he may request the County Committee in writing to reconsider such determination. Within 5 days after all facts in the case have been considered, the County Committee shall notify him of its decision in writing. If the producer is dissatisfied with the decision of the County Committee, he may, within 15 days after the date of mailing of the decision to him, appeal in writing to the State Committee. The State Committee shall notify him in writing of its decision within 5 days after all facts in the case have been considered. The producer or his representative shall be afforded the opportunity of appearing in person before the County Committee with respect to his request for reconsideration of a determination, and before the State Committee in regard to his appeal. If the producer is dissatisfied with the decision of the State Committee, he may, within 15 days after the notice of the decision is forwarded to or otherwise made available to him, appeal the decision of the State Committee to the Secretary. The appeal to the Secretary shall be in writing, and the decision of the Secretary to affirm or modify the decision of the State Committee shall be final. The procedures applicable to claims for unpaid wages are provided for under regulations pertaining thereto, as issued by the Secretary.

(f) *Obtaining information regarding eligibility for payment.* Where it is necessary to obtain information to assist the County Committee in determining compliance with the conditions prescribed by the act and regulations for any payment authorized under Title III of the act, the facts constituting the basis for any such payment or the amount thereof, or to assist the State Committee or the Secretary in reviewing, and acting upon, any such determination by the County Committee, any such information with respect to acreage or compliance shall be obtained to the extent possible as provided in the applicable provisions of Part 718 of Chapter VII of this title (24 F.R. 4223), as amended. In the absence of a provision in such Part 718 for obtaining any such information, any employee of the County Committee or employees of the State Committees designated respectively by the County Office Manager or by the State Executive Director to be qualified to perform such a duty may obtain such information. If the operator, or his representative, of any farm with respect to which application is made for any payment authorized under Title III of the act prevents the obtaining of the information necessary to determine compliance with the conditions for any such payment, the facts constituting the basis of any such payment or the amount thereof, as provided in this paragraph, the conditions prescribed by the act and regulations for any such payment shall be deemed not to have been met until such farm operator or his representative permits such information to be obtained.

STATEMENT OF BASES AND CONSIDERATIONS

Sugar Act requirements. As a condition for payment, section 301(b) of the act provides that there shall not have been marketed (or processed), except for livestock feed or for the production of livestock feed, an acreage of sugar beets grown on the farm and used for the production of sugar or liquid sugar in excess of the proportionate share for the farm, as determined by the Secretary pursuant to section 302 of the act.

Section 302(a) of the act provides that the amount of sugar with respect to which payment may be made shall be the amount of sugar commercially recoverable from the sugar beets grown on a farm and marketed (or processed by the producer) for sugar or liquid sugar not in excess of the proportionate share established for the farm.

Section 302(b) provides that in determining the proportionate share for a farm, the Secretary may take into consideration the past production on the farm of sugar beets marketed (or processed) within the proportionate share for the extraction of sugar or liquid sugar and the ability to produce such sugar beets, and that the Secretary shall, insofar as practicable, protect the interests of new producers and small producers, and the interests of producers who are cash tenants, share tenants, or sharecroppers, and of the producers in any local producing area whose past production has been adversely, seriously and generally affected by drought, storm, flood, freeze, disease or insects, or other similar abnormal and uncontrollable conditions.

General. Pursuant to the foregoing provisions of the act, proportionate shares for sugar beet farms are established for each crop for use in determining the amounts of sugar for payment on individual farms. Restrictive proportionate shares are required in an area for any crop when the indicated production will be greater than the quantity needed to enable the area to meet the quota (and provide a normal carryover inventory) as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. For a restricted crop, the marketing of sugar beets within the restrictive proportionate shares established constitutes one of the conditions of payment.

Acreage limitations were in effect in the Domestic Beet Sugar Producing Area for each of the crops of 1955 through 1960. During this period, the national acreage limitations ranged from 850,000 acres (for the 1955 and 1956 crops) to 1,000,000 acres (for the 1960 crop). When unfavorable weather conditions and a shortage of irrigation water resulted in a considerable underplanting of the 1960-crop acreage, provision was made for reallocating unused acreages between States to permit the covering in under proportionate shares of overplanted acreages and to permit limited additional plantings so as to more fully utilize the acreage limitation.

During recent years, the quota for the beet area has been augmented by large deficit reallocations from Hawaii and Puerto Rico. Such augmented quotas have made it difficult for processors in the area to fully supply their market during the months of high demand and have, likewise, necessitated a large degree of dependence upon new-crop sugar during the last several months of the year. In each of the last three years, the area has not fully met its quota, despite substantial constructive deliveries of beet sugar.

To permit the production of sufficient 1961-crop beet sugar to meet anticipated quota and carryover requirements, the acreage of that crop was not restricted by the Government. Based upon the most recent information available, about 1,120,000 acres were planted to the crop, an increase of about 16 percent over the 1960-crop level. Yields of sugar per acre have been disappointing and it is now expected that production will be only slightly larger than that from the 1960 crop. Recent estimates of both production and marketing indicate that the effective carryover inventory of sugar (i.e. sugar on hand at the beginning of 1962 plus sugar produced after January 1 from 1961-crop sugar beets) on January 1, 1962, will be less than on January 1 of this year by at least 100,000 tons. Information concerning the yields, of course, became available after the public hearing.

Public hearing. In accordance with established practice and as announced in a press release of August 16, 1961, an informal public hearing was held by the Department in Denver, Colorado, on August 29 for the purpose of obtaining the views and recommendations of sugar beet producers, processors and other interested persons as to whether there would be a need to invoke the provisions of the act in restricting 1962-crop sugar beet acreages. To provide a basis for full discussion at the hearing, the Department sent a letter to sugar beet grower associations and to sugar beet processors on August 18 re-stating the purpose of the hearing and containing suggestions on how a restrictive program might operate should restrictions become necessary. Views were also invited on the desirable level of the effective inventory of beet sugar at the end of 1962 and, if the Department later determined that acreage restrictions would be necessary, the desirable level of the national acreage limitation. The hearing was attended by about 170 persons, many of whom presented testimony. Numerous briefs have been filed with the Department since the hearing.

At the hearing and in subsequent briefs, representatives of grower groups in several States wherein there is a desire to expand acreage, as well as spokesmen for districts in certain States where sugar beets are not now grown, strongly urged that 1962 beet acreage be unrestricted. Many of the latter submitted testimony favoring an increase in the quota for the beet area and expressed hope that their districts would be included in any acreage expansion that

might result. Some of the grower groups recommending unrestricted acreage suggested that growers and processors working together could exercise the needed control by judicious contracting of acreage. Spokesmen for the majority of the established sugar beet growers in the country went on record at the hearing or in briefs submitted subsequent thereto as favoring acreage restrictions. The problems of storing and marketing large quantities of beet sugar and the resultant effects on net returns for sugar and prices for sugar beets were important considerations in the testimony of this group. Dissenting opinions were presented with respect to both viewpoints.

Of the processors testifying at the hearing or submitting briefs, three recommended that 1962-crop acreages be restricted to avoid an oversupply of beet sugar with the resultant detrimental effects on price. Four recommended that the crop be unrestricted. The uncertainty in the world situation, the need for flexibility in contracting for acreage to meet crop rotation problems, and the probability of an increase in the quota for the area, were the main reasons expressed by this latter group. Two processors suggested, in effect, that the decision as to whether or not acreage restrictions are required be made by the Department in light of probable marketing opportunities and other pertinent factors. Two testifying suggested that any necessary controls to avoid excessive supplies be exercised by grower and processor cooperation.

The recommendations with respect to the advisable national acreage limitation, if restrictions were determined necessary by the Department, ranged from 950,000 to not less than the estimated 1961 acreage level of 1,120,000.

Determination. This determination provides that the 1962-crop proportionate share for each farm in the domestic beet sugar producing area shall be the number of acres planted thereon for the production of sugar beets to be marketed (or processed by the producers) for the extraction of sugar or liquid sugar during the 1962-crop season. This determination of proportionate shares for the 1962 crop has been made upon a finding that it is not necessary to restrict farm proportionate shares for such crop to prevent the area from accumulating a quantity of sugar in excess of that needed to enable the Domestic Beet Sugar Area to meet its quota as estimated for the calendar year during which the larger part of such crop normally would be marketed and to provide a normal carryover inventory.

The present Sugar Act expires June 30, 1962. Hence, anticipation of the quantity of beet sugar that will be needed from the 1962 crop to meet requirements in 1963, when most of the sugar from the crop will be marketed, involves assumptions as to future legislation. For the purposes of this determination it is assumed that the act will be extended and that the marketing opportunities for the area in 1962 will not be greatly less than in 1961 and that such opportunities may be somewhat higher in 1963.

It is recognized that the absence of legislation increasing the quota for the beet area in 1962 could, in conjunction with favorable weather conditions, result in a moderate increase in the effective inventory of sugar. However, except in a few areas, such as those wherein the lack of irrigation water and lack of farmer interest in acreage resulted in plantings below factory capacity, sugar beet production from the unrestricted 1961 crop represented nearly the maximum tonnages that existing processing facilities can handle. The processing of these beets has required considerable extension of the slicing period and unfavorable weather conditions could result in some losses of sugar beets in certain localities. If any processor did contract for more 1961-crop sugar beets than reasonable processing seasons dictate, it is presumed that appropriate adjustments will be made for the 1962 crop. Hence, it is not believed that unrestricted acreage in 1962 will result in any appreciable overall increase in sugar beet acreage from the 1961 level.

The absence of a Government acreage control program for the 1961 crop made possible (1) the general upward adjustment of the acreages of many producers whose operations had been too small to be economically feasible on a continuing basis, (2) the movement of acreages from areas wherein disease has made production uneconomical to areas better-suited to production, and (3) some desirable upward adjustments of sugar beet acreages for factories previously operating at levels far below capacity and in some instances below levels which would sustain future operation of the factories. In addition, many farmers who were able to obtain new-producer shares under unrestrictive programs received processor contracts in 1961. Many of these favorable changes would have been difficult under any type of Government restrictive program. No cases have been brought to the attention of the Department which would indicate that, in the absence of restrictions, processors have made downward adjustments in the contracted acreages of growers unless such adjustments were justified by desirable agronomic reasons or sound economics.

The possibilities of increased marketing opportunities for beet sugar, necessitating larger inventories, appear to outweigh the possibility of an excessive build up of inventories.

Accordingly, I hereby find and conclude that the aforesaid determination will effectuate the applicable provisions of the act.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Interprets or applies secs. 301, 302, 61 Stat. 929, 930, as amended; 7 U.S.C. 1131, 1132)

Effective date: Date of publication.

Signed at Washington, D.C., on December 28, 1961.

ORVILLE L. FREEMAN,
Secretary of Agriculture.

[F.R. Doc. 62-64; Filed, Jan. 3, 1962; 8:46 a.m.]

No. 2—3

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 15,342]

PART 545—OPERATIONS

Distribution of Earnings

DECEMBER 29, 1961.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amendment of § 545.1-1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.1-1) as hereinafter set forth, and for the purpose of effecting said amendment, hereby amends said § 545.1-1 as follows, effective immediately:

1. Paragraph (b) of said section is hereby amended to read as follows:

(b) *Quarterly.* A Federal association which has a charter in the form of Charter N or Charter K (rev.) may, after adoption by its board of directors of a resolution so providing and while such resolution remains in effect, distribute earnings on savings accounts as of March 31, June 30, September 30, and December 31 of each year, or as of the last business day of each March, June, September, and December, after providing as of March 31 and September 30 for the payment of expenses, and for the pro rata portion of credits to reserves required by section 10 of Charter N and Charter K (rev.) for the six-month period ending on June 30 and December 31, respectively, next succeeding: *Provided*, That no such Federal association may so distribute earnings prior to June 30, 1963, if the home office of such Federal association is in a State, district, or territory (including Puerto Rico, Guam, and the Virgin Islands) where building and loan or savings and loan associations, homestead associations, cooperative banks, and mutual savings banks are prohibited by the laws of such State, district, or territory from distributing earnings quarterly.

2. The last proviso of paragraph (c) of said section is hereby amended to read as follows: "*Provided further*, That, prior to June 30, 1963, no such Federal association may so distribute earnings on amounts so withdrawn if the home office of such Federal association is in a State, district, or territory (including Puerto Rico, Guam, and the Virgin Islands) where building and loan or savings and loan associations, homestead associations, cooperative banks, and mutual savings banks are prohibited by the laws of such State, district, or territory from distributing earnings on amounts withdrawn between the dates as of which earnings are regularly distributed."

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

Resolved further that, as said amendments only relieve restrictions, the Board hereby finds that notice and pub-

lic procedure thereon are unnecessary under the provisions of § 508.12 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 508.12) or section 4(a) of the Administrative Procedure Act and, as said amendments relieve restrictions, deferment of the effective date thereof is not required under section 4(c) of said Act.

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 62-78; Filed, Jan. 3, 1962; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Animal Feed and Animal-Feed Supplements

HYGROMYCIN B

The Commissioner of Foods and Drugs, having evaluated the data submitted in petitions filed by Elanco Products Company, Division of Eli Lilly and Company, Indianapolis 6, Indiana, and other relevant material, has concluded that the following regulation should issue with respect to permitting the addition of tylosin phosphate as a growth promotant to the food additive hygromycin B in swine feed, and deleting the statement that hygromycin B may not be fed continuously for more than 8 weeks. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.213 of the food additive regulations (21 CFR 121.213; 26 F.R. 1213) is amended and changed to read as follows:

§ 121.213 Hygromycin B.

Hygromycin B may be safely used in medicated feed when incorporated therein in accordance with the following prescribed conditions:

(a) It is used or intended for use, as follows:

(1) In chicken feed as an aid in the control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria columbae*) whereby the finished medicated feed contains 8 grams (8,000,000 units) of hygromycin B activity per ton of feed.

(2) In swine feed as an aid in the control of infestation of large roundworms (*Ascaris suis*), nodular worm (*Oesophagostomum dentatum*), and whipworm (*Trichuris suis*) whereby the finished medicated feed contains 12 grams (12,-

000,000 units) of hygromycin B activity per ton of feed when used alone or in combination with one of the following:

(i) Chlortetracycline in accordance with the conditions prescribed in § 121.208.

(ii) Tylosin in accordance with the conditions prescribed in § 121.217(a)(1).

(b) To assure safe use of the additive, the label and labeling of the additive and that of any intermediate premix prepared therefrom shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive.

(2) A statement of the concentration or strength of the additive contained therein.

(3) The word "medicated" prominently and conspicuously, wherever the term "feed" or "premix" is used, and in juxtaposition therewith.

(4) Adequate mixing directions to provide for a finished feed with the proper concentration of the additive, whether or not intermediate premixes are to be used.

(5) Adequate use directions to provide a finished feed labeled as provided in paragraph (c) of this section.

(c) To assure safe use of the additive, the label and labeling of the finished medicated feed shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive.

(2) A statement of the concentration or strength of the additive contained therein.

(3) The word "medicated" prominently and conspicuously, wherever the term "feed" appears on the label.

(4) An appropriate statement of the conditions for which the feed is to be used.

(5) If the additive is to be used as prescribed in paragraph (a)(2) of this section, the label and labeling shall also include:

(i) A statement that the medicated feed is for swine only.

(ii) A statement that the medicated feed must be withdrawn 48 hours prior to slaughtering for food.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the

order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 27, 1961.

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

[F.R. Doc. 62-54; Filed, Jan. 3, 1962;
8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SLIMICIDES

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Shell Chemical Company, 110 West Fifty-first Street, New York 20, New York, and other relevant material, has concluded that the following amendment should be made with respect to the regulation concerning food additives resulting from the use of slimicides in the manufacture of paper and paperboard for use in food packaging. Under the prescribed conditions of safe usage, substances approved for use in slimicides are not expected to become components of food in any significant amount. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), the food additive regulations (21 CFR 121.2505 (26 F.R. 352, 4740, 8974)), are amended as follows:

Paragraphs (c) and (d) of § 121.2505 are changed to read:

§ 121.2505 Slimicides.

(c) Slime-control substances permitted for use in the preparation of slimicides include substances subject to prior sanction or approval for such use and the following:

List of substances	Limitations
Acrolein.....	-----
N-Alkyl (C ₁₂ -C ₁₈) dimethylbenzyl ammonium chloride.....	-----
bis(1,4-Bromoacetoxy)-2-butene.....	-----
Cupric nitrate.....	-----
3,5-Dimethyl-1,3,5,2H-tetrahydrothiadiazine-2-thione.....	-----
Disodium cyanodithioimidocarbonate.....	-----
2-Mercaptobenzothiazole.....	-----
Potassium N-methyldithiocarbamate.....	-----
Potassium pentachlorophenate.....	-----
Potassium trichlorophenate.....	-----
Silver fluoride.....	Limit of addition to process water not to exceed 0.024 pound, calculated as silver fluoride, per ton of paper produced.
Silver nitrate.....	-----
Sodium dimethyldithiocarbamate.....	-----
Sodium 2-mercaptobenzothiazole.....	-----
Sodium pentachlorophenate.....	-----
Sodium trichlorophenate.....	-----

(d) Adjuvant substances permitted to be used in the preparation of slimicides include substances generally recognized as safe for use in food, substances generally recognized as safe for use in paper and paperboard, substances permitted to be used in paper and paperboard by other regulations in this chapter, and the following:

Acetone.
Ethanalamine.
Ethylenediamine.

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

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 27, 1961.

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

[F.R. Doc. 62-56; Filed, Jan. 3, 1962;
8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ANIMAL GLUE

The Commissioner of Food and Drugs, having evaluated the data submitted in petitions filed by National Association of Glue Manufacturers, 55 West 42d Street, New York 36, New York, and Polyvinyl Acetate Emulsion Industry Technical Committee, c/o Colton Chemical Company, Division of Air Reduction Company, Inc., 6620 Union Avenue, Cleveland 5, Ohio, and other relevant material, has concluded that the following regulation should issue with respect to food additives resulting from the use of animal glue as a component of articles that contact food. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), the food additive regulations (21-CFR Part 121) are amended by adding to Subpart F the following new section:

§ 121.2534 Animal glue.

Animal glue may be safely used as a component of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section.

(a) Animal glue consists of the proteinaceous extractives obtained from hides, bones, and other collagen-rich substances of animal origin (excluding diseased or rotted animals), to which may be added other optional adjuvant substances required in its production or added to impart desired properties.

(b) The quantity of any substance employed in the production of animal glue does not exceed the amount reasonably required to accomplish the intended physical or technical effect nor any limitation further provided.

(c) Any substance employed in the production of animal glue and which is the subject of a regulation in this subpart conforms with any specifications in such regulation; and any substance that is not the subject of a regulation in this subpart conforms with the specifications, if any, prescribed by an order extending the effective date of the statute for such substance as an indirect additive to food.

(d) Optional adjuvant substances employed in the production of animal glue include:

(1) Substances generally recognized as safe in food.

(2) Substances subject to prior sanction or approval for use in animal glue

and used in accordance with such sanction or approval.

(3) Substances identified in this subparagraph and subject to such limitations as are provided:

List of substances	Limitations
Alum (double sulfate of aluminum and ammonium, potassium, or sodium).	-----
4-Chloro-3-methylphenol (p-chloro-metacresol).	For use as preservative only.
3,5-Dimethyl-1,3,5,2H-tetrahydrothiadiazine-2-thione.	Do.
Disodium cyanodithioimidocarbonate.	Do.
Defoaming agents.	As provided in § 121.2519.
Ethanolamine.	-----
Ethylendiamine.	-----
Formaldehyde.	For use as a preservative only.
Potassium N-methylthiocarbamate.	Do.
Potassium pentachlorophenate.	Do.
Rosin and rosin derivatives.	As provided in § 121.2514(b)(3)(v).
Sodium chlorate.	-----
Sodium dodecylbenzenesulfonate.	-----
Sodium 2-mercaptobenzothiazole.	For use as preservative only.
Sodium pentachlorophenate.	Do.
Sodium o-phenylphenate.	Do.
Zinc dimethylthiocarbamate.	Do.
Zinc 2-mercaptobenzothiazole.	Do.

(e) The conditions of use are as follows:

(1) The use of animal glue in any substance or article that is the subject of a regulation in this subpart conforms with any specifications or limitations prescribed by such regulation for the finished form of the substance or article.

(2) It is used as an adhesive or component of an adhesive in accordance with the provisions of § 121.2520 of this subpart.

(3) It is used as a colloidal flocculant added to the pulp suspension prior to the sheet-forming operation in the manufacture of paper and paperboard.

(4) It is used as a protective colloid in resinous and polymeric emulsion coatings.

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

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 27, 1961.

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

[F.R. Doc. 62-55; Filed, Jan. 3, 1962; 8:45 a.m.]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 145—NATIONAL DEFENSE GRADUATE FELLOWSHIP PROGRAM

Programs Approved and Fellowships Awarded After September 22, 1961

In view of the emphasis on most urgent needs reflected in the provision of the Department of Health, Education, and Welfare Appropriation Act, 1962 (Public Law 87-290; 75 Stat. 589, 596), relating to the appropriation for "Defense Educational Activities", Part 145 of Title 45 of the Code of Federal Regulations (25 F.R. 9289, Sept. 29, 1960) issued pursuant to title IV of the National Defense Education Act of 1958, as amended (72 Stat. 1590-1591, 20 U.S.C. 461-465), is hereby amended by adding a new section, § 145.9.

The new § 145.9 reads as follows:

§ 145.9 Fellowships awarded after September 22, 1961.

After September 22, 1961, no graduate programs shall be approved under § 145.3 and no fellowships shall be awarded initially under § 145.6 unless there has been a finding by the Commissioner that the fields of graduate study which would be supported by such approvals or awards are those where there is the most urgent need to train college-level teachers in order to insure trained manpower of sufficient quality and quantity to meet the national defense needs of the United States.

(Sec. 1001, 72 Stat. 1602; 20 U.S.C. 581)

[SEAL] STERLING M. McMURRIN,
U.S. Commissioner of Education.

Approved: December 28, 1961.

ABRAHAM RIBICOFF,
Secretary of Health, Education,
and Welfare.

[F.R. Doc. 62-69; Filed, Jan. 3, 1962; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Corporations Improperly Accumulating Surplus, Personal Holding Companies, and Foreign Personal Holding Companies; Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form in the appendix 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] MORTIMER M. CAPLIN,
Commissioner.

The Income Tax Regulations (26 CFR Part 1) are hereby amended to reflect the changes made in section 304 of the Small Business Investment Act of 1958 (15 U.S.C. 684) by section 6 of the Small Business Investment Act Amendments of 1960 (74 Stat. 196), and the changes made to the Internal Revenue Code of 1954 by the Act of April 22, 1960 (Public Law 86-435, 74 Stat. 77).

PARAGRAPH 1. Paragraph (d) of § 1.533-1 is amended to read as follows:
§ 1.533-1 Evidence of purpose to avoid income tax.

(d) *Small business investment companies.* A corporation which is licensed to operate as a small business investment company under the Small Business Investment Act of 1958 (15 U.S.C. ch. 14B) and the regulations thereunder (13 CFR Part 107) will generally be considered to be a "mere holding or investment company" within the meaning of section

533(b). However, the presumption of the existence of the purpose to avoid income tax with respect to shareholders which results from the fact that such a company is a "mere holding or investment company" will be considered overcome so long as such company—

(1) Complies with all the provisions of the Small Business Investment Act of 1958 and the regulations thereunder; and
(2) Actively engages in the business of providing a source of equity capital for incorporated small business concerns, in such manner and under such terms as the company may fix in accordance with regulations promulgated by the Small Business Administration.

On the other hand, if such a company violates or fails to comply with any of the provisions of the Small Business Investment Act of 1958 or the regulations thereunder, or ceases to be actively engaged in the business of providing a source of equity capital for incorporated small business concerns in the manner provided in subparagraph (2) of this paragraph, it will not be considered to have overcome the presumption by reason of any rules provided in this paragraph.

§ 1.542-3 [Amendment]

PAR. 2. Section 1.542-3 is amended by deleting paragraph (d).

PAR. 3. Section 1.543 is amended by revising paragraph (1) of section 543(a), by adding a new sentence at the end of paragraph (6) of section 543(a), by adding a new paragraph (9) to section 543(a), and by adding a historical note at the end of the section. These amended provisions and historical note read as follows:

§ 1.543 Statutory provisions; definition of personal holding company income.

SEC. 543. *Personal holding company income*—(a) *General rule.* For purposes of this subtitle, the term "personal holding company income" means the portion of the gross income which consists of:

(1) *Dividends, etc.* Dividends, interest, royalties (other than mineral, oil, or gas royalties or copyright royalties), and annuities. This paragraph shall not apply to interest constituting rent as defined in paragraph (7) or to interest on amounts set aside in a reserve fund under section 511 or 607 of the Merchant Marine Act, 1936.

(6) *Use of corporation property by shareholder.* Amounts received as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation in any case where, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property; whether such right is obtained directly from the corporation or by means of a sublease or other arrangement. This paragraph shall apply only to a corporation which has personal holding company income for the taxable year, computed without regard to this paragraph and paragraph (7), in excess of 10 percent of its gross income. For purposes

of the preceding sentence, copyright royalties constitute personal holding company income.

(9) *Copyright royalties.* Copyright royalties, unless—

(A) Such royalties (exclusive of royalties received for the use of, or right to use, copyrights or interests in copyrights on works created in whole, or in part, by any shareholder) constitute 50 percent or more of the gross income,

(B) The personal holding company income for the taxable year not taking into account—

(1) Copyright royalties, other than royalties received for the use of, or right to use, copyrights or interests in copyrights in works created in whole, or in part, by any shareholder owning more than 10 percent of the total outstanding capital stock of the corporation, and

(ii) Dividends from any corporation in which the taxpayer owns at least 50 percent of all classes of stock entitled to vote and at least 50 percent of the total value of all classes of stock and which corporation meets the requirements of this subparagraph and subparagraphs (A) and (C)

is 10 percent or less of the gross income, and

(C) The deductions allowable under section 162 (other than deductions for compensation for personal services rendered by the shareholders and other than deductions for royalties to shareholders) constitute 50 percent or more of the gross income.

For purposes of this subsection, the term "copyright royalties" means compensation, however designated, for the use of, or the right to use, copyrights in works protected by copyright issued under title 17 of the United States Code (other than by reason of section 2 or 6 thereof), and to which copyright protection is also extended by the laws of any country other than the United States of America by virtue of any international treaty, convention or agreement, or interests in any such copyrighted works, and includes payments from any person for performing rights in any such copyrighted work. For purposes of this paragraph the term "shareholder" shall include any person who owns stock within the meaning of section 544. This paragraph shall not apply to compensation which is rent within the meaning of paragraph (7), determined without regard to the requirement that rents constitute 50 percent or more of the gross income.

[Sec. 543 as amended by the Act of Apr. 22, 1960 (Public Law 86-435, 74 Stat. 77)]

PAR. 4. Paragraph (b) of § 1.543-1 is amended by revising subparagraph (3), by revising subdivision (i) (b) of subparagraph (8), by revising subparagraph (9), and by adding a new subparagraph (12). These amended provisions read as follows:

§ 1.543-1 Personal holding company income.

(b) *Definitions.* * * *
(3) *Royalties (other than mineral, oil, or gas royalties or certain copyright royalties).* The term "royalties" (other than mineral, oil, or gas royalties or certain copyright royalties) includes amounts received for the privilege of using patents, copyrights, secret proc-

esses and formulas, good will, trade marks, trade brands, franchises, and other like property. It does not, however, include rents. For rules relating to rents see section 543(a)(7) and subparagraph (10) of this paragraph. For rules relating to mineral, oil, or gas royalties, see section 543(a)(8) and subparagraph (11) of this paragraph. For rules relating to certain copyright royalties for taxable years beginning after December 31, 1959, see section 543(a)(9) and subparagraph (12) of this paragraph.

* * * * *

(8) *Personal service contracts.* (i)

(b) At any time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For this purpose, the amount of stock outstanding and its value shall be determined in accordance with the rules set forth in the last two sentences of paragraph (b) and in paragraph (c) of § 1.542-3. It should be noted that the stock ownership requirement of section 543(a)(5) and this subparagraph relates to the stock ownership at any time during the taxable year. For rules relating to the determination of stock ownership, see section 544 and §§ 1.544-1 through 1.544-7.

* * * * *

(9) *Compensation for use of property.*

Under section 543(a)(6) amounts received, as compensation for the use of, or right to use, property of the corporation shall be included as personal holding company income if, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property. Thus, if a shareholder who meets the stock ownership requirement of section 543(a)(6) and this subparagraph uses, or has the right to use, a yacht, residence, or other property owned by the corporation, the compensation to the corporation for such use, or right to use, the property constitutes personal holding company income. This is true even though the shareholder may acquire the use of, or the right to use, the property by means of a sublease or under any other arrangement involving parties other than the corporation and the shareholder. However, if the personal holding company income of the corporation (after excluding any such income described in section 543(a)(6) and this subparagraph, relating to compensation for use of property, and after excluding any such income described in section 543(a)(7) and subparagraph (10) of this paragraph, relating to rents) is not more than 10 percent of its gross income, compensation for the use of property shall not constitute personal holding company income. For purposes of the preceding sentence, in determining whether personal holding company income is more than 10 percent of gross income, copyright royalties constitute personal holding company income, re-

gardless of whether such copyright royalties are excluded from personal holding company income under section 543(a)(9) and subparagraph (12)(ii) of this paragraph. For purposes of applying section 543(a)(6) and this subparagraph, the amount of stock outstanding and its value shall be determined in accordance with the rules set forth in the last two sentences of paragraph (b) and in paragraph (c) of § 1.542-3. It should be noted that the stock ownership requirement of section 543(a)(6) and this subparagraph relates to the stock outstanding at any time during the entire taxable year. For rules relating to the determination of stock ownership, see section 544 and §§ 1.544-1 through 1.544-7.

* * * * *

(12) *Copyright royalties—(i) In general.* The income from copyright royalties constitutes, generally, personal holding company income. However, for taxable years beginning after December 31, 1959, those copyright royalties which come within the definition of "copyright royalties" in section 543(a)(9) and subdivision (iv) of this subparagraph shall be excluded from personal holding company income only if the conditions set forth in subdivision (ii) of this subparagraph are satisfied.

(ii) *Exclusion from personal holding company income.* For taxable years beginning after December 31, 1959, copyright royalties (as defined in section 543(a)(9) and subdivision (iv) of this subparagraph) shall be excluded from personal holding company income only if the conditions set forth in (a), (b), and (c) of this subdivision are met.

(a) Such copyright royalties for the taxable year must constitute 50 percent or more of the corporation's gross income. For this purpose, copyright royalties shall be computed by excluding royalties received for the use of, or the right to use, copyrights or interests in copyrights in works created, in whole or in part, by any person who, at any time during the corporation's taxable year, is a shareholder.

(b) Personal holding company income for the taxable year must be 10 percent or less of the corporation's gross income. For this purpose, personal holding company income shall be computed by excluding (1) copyright royalties (except that there shall be included royalties received for the use of, or the right to use, copyrights or interests in copyrights in works created, in whole or in part, by any shareholder owning, at any time during the corporation's taxable year, more than 10 percent in value of the outstanding stock of the corporation), and (2) dividends from any corporation in which the taxpayer owns, on the date the taxpayer becomes entitled to the dividends, at least 50 percent of all classes of stock entitled to vote and at least 50 percent of the total value of all classes of stock, provided the corporation which pays the dividends meets the requirements of subparagraphs (A), (B), and (C) of section 543(a)(9).

(c) The aggregate amount of the deductions allowable under section 162

must constitute 50 percent or more of the corporation's gross income for the taxable year. For this purpose, the deductions allowable under section 162 shall be computed by excluding deductions for compensation for personal services rendered by, and deductions for copyright and other royalties to, shareholders of the corporation.

(iii) *Determination of stock value and stock ownership.* For purposes of section 543(a)(9) and this subparagraph, the following rules shall apply:

(a) The amount and value of the outstanding stock of a corporation shall be determined in accordance with the rules set forth in the last two sentences of paragraph (b) and in paragraph (c) of § 1.542-3.

(b) The ownership of stock shall be determined in accordance with the rules set forth in section 544 and §§ 1.544-1 through 1.544-7.

(c) Any person who is considered to own stock within the meaning of section 544 and §§ 1.544-1 through 1.544-7 shall be a shareholder.

(iv) *Copyright royalties defined.* For purposes of section 543(a)(9) and this subparagraph, the term "copyright royalties" means compensation, however designated, for the use of, or the right to use, copyrights in works protected by copyright issued under Title 17 of the United States Code (other than by reason of section 2 or 6 thereof), and to which copyright protection is also extended by the laws of any foreign country as a result of any international treaty, convention, or agreement to which the United States is a signatory. Thus, "copyright royalties" includes not only royalties from sources within the United States under protection of United States laws relating to statutory copyrights but also royalties from sources within a foreign country with respect to United States statutory copyrights protected in such foreign country by any international treaty, convention, or agreement to which the United States is a signatory. The term "copyright royalties" includes compensation for the use of, or right to use, an interest in any such copyrighted works as well as payments from any person for performing rights in any such copyrighted works.

(v) *Compensation which is rent.* Section 543(a)(9) and subdivisions (i) through (iv) of this subparagraph shall not apply to compensation which is "rent" within the meaning of the second sentence of section 543(a)(7).

PAR. 5. Section 1.544 is amended by revising so much of section 544(a) as precedes paragraph (1), by revising paragraph (4)(B) of section 544(a), by revising section 544(b), and by adding a historical note at the end of the section. These amended provisions and historical note read as follows:

§ 1.544 *Statutory provisions; rules for determining stock ownership.*

SEC. 544. *Rules for determining stock ownership—(a) Constructive ownership.* For purposes of determining whether a corporation is a personal holding company, insofar as such determination is based on stock ownership under section 542(a)(2), section

543(a)(5), section 543(a)(6), or section 543(a)(9)—

(4) *Application of family-partnership and option rules.* Paragraphs (2), and (3) shall be applied—

(A) For purposes of the stock ownership requirement provided in section 542(a)(2), if, but only if, the effect is to make the corporation a personal holding company;

(B) For purposes of section 543(a)(5) (relating to personal service contracts), of section 543(a)(6) (relating to use of property by shareholders), or of section 543(a)(9) (relating to copyright royalties), if, but only if, the effect is to make the amounts therein referred to includible under such paragraph as personal holding company income.

(b) *Convertible securities.* Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock—

(1) For purposes of the stock ownership requirement provided in section 542(a)(2), but only if the effect of the inclusion of all such securities is to make the corporation a personal holding company;

(2) For purposes of section 543(a)(5) (relating to personal service contracts), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such paragraph as personal holding company income;

(3) For purposes of section 543(a)(6) (relating to the use of property by shareholders), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such paragraph as personal holding company income; and

(4) For purposes of section 543(a)(9) (relating to copyright royalties), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such paragraph as personal holding company income.

The requirement in paragraphs (1), (2), (3), and (4) that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.

[Sec. 544 as amended by the Act of Apr. 22, 1960 (Public Law 86-435, 74 Stat. 77)]

PAR. 6. Section 1.544-1 is amended by making clerical revisions to subparagraphs (1) and (2) of paragraph (a), by adding a new subparagraph (4) to paragraph (a), and by revising the last sentence of paragraph (b). As so amended, paragraphs (a) and (b) of § 1.544-1 read as follows:

§ 1.544-1 Constructive ownership.

(a) Rules relating to the constructive ownership of stock are provided by section 544 for the purpose of determining whether the stock ownership requirements of the following sections are satisfied:

(1) Section 542(a)(2), relating to ownership of stock by five or fewer individuals.

(2) Section 543(a)(5), relating to personal holding company income derived from personal service contracts.

(3) Section 543(a)(6), relating to personal holding company income de-

rived from property used by shareholders.

(4) Section 543(a)(9), relating to personal holding company income derived from copyright royalties.

(b) Section 544 provides four general rules with respect to constructive ownership. These rules are:

(1) Constructive ownership by reason of indirect ownership. See section 544(a)(1) and § 1.544-2.

(2) Constructive ownership by reason of family and partnership ownership. See section 544(a)(2), (4), (5), and (6), and §§ 1.544-3, 1.544-6, and 1.544-7.

(3) Constructive ownership by reason of ownership of options. See section 544(a)(3), (4), (5), and (6), and §§ 1.544-4, 1.544-6, and 1.544-7.

(4) Constructive ownership by reason of ownership of convertible securities. See section 544(b) and § 1.544-5.

Each of the rules referred to in subparagraphs (2), (3), and (4) of this paragraph is applicable only if it has the effect of satisfying the stock ownership requirement of the section to which applicable; that is, when applied to section 542(a)(2), its effect is to make the corporation a personal holding company, or when applied to section 543(a)(5), section 543(a)(6), or section 543(a)(9), its effect is to make the amounts described in such provisions includible as personal holding company income.

PAR. 7. Section 1.553 is amended by striking out "all royalties, whether or not mineral, oil, or gas royalties" in section 553 and inserting in lieu thereof "all royalties, whether or not mineral, oil, or gas royalties or copyright royalties", and by adding a historical note at the end of the section. As so amended, § 1.553 and the historical note read as follows:

§ 1.553 Statutory provisions; foreign personal holding company income.

SEC. 553. *Foreign personal holding company income.* For purposes of this subtitle, the term "foreign personal holding company income" means the portion of the gross income, determined for purposes of section 552, which consists of personal holding company income, as defined in section 543, except that all interests, whether or not treated as rent, and all royalties, whether or not mineral, oil, or gas royalties or copyright royalties, shall constitute "foreign personal holding company income".

[Sec. 553 as amended by the Act of Apr. 22, 1960 (Public Law 86-435, 74 Stat. 77)]

PAR. 8. Paragraph (b)(1) of § 1.553-1 is amended to read as follows:

§ 1.553-1 Foreign personal holding company income.

Foreign personal holding company income shall consist of the items defined under section 543 and §§ 1.543-1 and 1.543-2, relating to personal holding company income, with the following exceptions:

(b)(1) The entire amount received as "royalties", whether or not mineral, oil, or gas royalties, or copyright royalties, shall be considered to be foreign personal holding company income. Thus, subparagraphs (A) and (B) of section

543(a)(8) and paragraph (b)(11)(i)(a) and (b) of § 1.543-1 (relating to mineral, oil, or gas royalties), and subparagraphs (A), (B), and (C) of section 543(a)(9) and paragraph (b)(12)(ii) of § 1.543-1 (relating to copyright royalties), are inapplicable for the purpose of determining foreign personal holding company income.

[F.R. Doc. 62-70; Filed, Jan. 3, 1962; 8:47 a.m.]

[26 CFR Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Income Attributable to Several Taxable Years; Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form in the appendix 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 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] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

The Income Tax Regulations (26 CFR Part 1) are hereby amended to reflect the changes in law made by sections 1, 2, and 3 of the Act of August 26, 1957 (Public Law 85-165, 71 Stat. 413, 414), relating to breach of contract damages, and by section 58 of the Technical Amendments Act of 1958 (72 Stat. 1646), relating to damages for injuries under the antitrust laws. Except as otherwise provided, the regulations, as so amended, are applicable to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

PARAGRAPH 1. Section 1.1306 is renumbered to be § 1.1307 and as so renumbered is amended to read as follows:

§ 1.1307 Statutory provisions; rules applicable to part I (section 1301 and following), subchapter Q, chapter 1 of the Code.

SEC. 1307. *Rules applicable to this part—*
(a) *Fractional parts of a month.* For purposes of this part, a fractional part of a

month shall be disregarded unless it amounts to more than half a month, in which case it should be considered as a month.

(b) *Tax on self-employment income.* This part shall be applied without regard to, and shall not affect, the tax imposed by chapter 2 relating to self-employment income.

(c) *Computation of tax attributable to income allocated to prior period.* For the purpose of computing the tax attributable to the amount of an item of gross income allocable under this part to a particular taxable year, such amount shall be considered income only of the person who would be required to include the item of gross income in a separate return filed for the taxable year in which such item was received or accrued.

(d) *Effective date of certain subsections.* Subsection (c) of section 1301 and subsection (c) of this section shall apply only to amounts received or accrued after March 1, 1954. Notwithstanding any other provision of this title, section 107 of the Internal Revenue Code of 1939 shall apply to amounts received or accrued as a partner on or before March 1, 1954, under this section and to the computation of tax on amounts received or accrued on or before March 1, 1954.

[Section 1307 as renumbered by sec. 1, Act of Aug. 11, 1955 (Public Law 366, 84th Cong., 69 Stat 688); sec. 1, Act of Aug. 26, 1957 (Public Law 85-165, 71 Stat. 413); sec. 58, Technical Amendments Act 1958 (72 Stat. 1646)]

PAR. 2. Section 1.1306-1 is renumbered to be § 1.1307-1 and as so renumbered is amended to read as follows:

§ 1.1307-1 Rules applicable to part I (section 1301 and following), subchapter Q, chapter I of the Code.

(a) *Fractional parts of a month.* For purposes of sections 1301, 1302, 1303, 1304, 1305, and 1306, and the regulations thereunder, a fractional part of a month shall be disregarded unless it amounts to more than one half of a month, in which case it shall be considered as a month.

(b) *Tax on self-employment income.* The provisions of sections 1301, 1302, 1303, 1304, 1305, and 1306, and the regulations thereunder, shall be applied without regard to, and shall not affect, the tax imposed by chapter 2 of the Internal Revenue Code of 1954 and section 480 of the Internal Revenue Code of 1939, relating to the tax on self-employment income.

(c) *Computation of tax attributable to income allocated to prior period.* In the case of either a husband or wife receiving income to which the provisions of section 1301, 1302, 1303, 1304, 1305, or 1306 apply, the tax attributable to the portion of the income allocated to a prior period shall be computed by considering such income as includible by the spouse who would have been required to include it in a separate return for the taxable year in which such income was received or accrued, assuming a separate return had been filed for such year. For example, A, an attorney on a calendar year basis, resides in a State in which the common law with respect to the ownership of property is applicable. In 1955, A receives compensation upon the completion of an employment which began in 1945. All the requirements for the application of section 1301(a) are satisfied. A and his

wife file a joint income tax return for the taxable year 1955. They filed separate returns for the years 1945, 1946, and 1947 and joint returns in 1948 and subsequent years. The entire portion of such compensation allocable to the years for which separate returns were filed shall be includible in A's return and no part thereof shall be includible in the separate return filed by A's wife for such years.

(d) *Effective date.* Section 1307(c) and paragraph (c) of this section shall apply only to amounts received or accrued after March 1, 1954. Pursuant to section 7851(a)(1)(C), the regulations prescribed in paragraph (c) of this section shall also apply to taxable years beginning before January 1, 1954, and ending after December 31, 1953, and to taxable years beginning after December 31, 1953, and ending before August 17, 1954, although such years are generally subject to the Internal Revenue Code of 1939. Notwithstanding any other provision of the Internal Revenue Code of 1954, section 107 of the Internal Revenue Code of 1939 shall apply to amounts received or accrued on or before March 1, 1954, and to the computation of tax on amounts received or accrued on or before March 1, 1954.

PAR. 3. Sections 1.1305-1, 1.1305-2, 1.1306, and 1.1306-1, as set forth below, are inserted immediately after § 1.1305.

§ 1.1305-1 Breach of contract damages.

(a) *Qualifications for limitation on tax.* If an amount of \$3,000 or more representing damages is received or accrued by a taxpayer during a taxable year as a result of a single award in a civil action for breach of contract, or breach of a fiduciary duty or relationship, then the tax attributable to the inclusion in gross income for the taxable year of that part of such amount which would have been received or accrued by the taxpayer in a prior taxable year or years but for the breach of contract, or breach of a fiduciary duty or relationship, shall not be greater than the aggregate of the increases in taxes which would have resulted had such part been included in gross income for such prior taxable year or years.

(b) *Definition of damages for breach of contract or for breach of a fiduciary duty or relationship.* (1) For purposes of section 1305 and this section, the term "damages" used with respect to an award in a civil action for breach of contract, or breach of a fiduciary duty or relationship, means an amount awarded pursuant to a judgment or decree by a court as a result of such civil action. The term "damages" is limited to that portion of the award which represents damages to compensate the taxpayer for loss of income which he would have received or accrued but for the breach of contract, or breach of a fiduciary duty or relationship. The term does not include that portion of the award which represents damages awarded by the court over and above the amount found adequate to compensate for the breach, nor does it include attorney's fees, interest, or costs.

(2) An amount awarded pursuant to a consent decree or judgment may be considered damages for breach of contract, or breach of a fiduciary duty or relationship, for the purposes of section 1305 and this section.

(3) An amount received or accrued pursuant to a settlement of the action, after a decree or judgment awarding damages to the taxpayer has been entered, may be considered as damages for breach of contract, or breach of a fiduciary duty or relationship, even though such amount is not made a part of a consent decree. In such a case the taxpayer must show which portion of the amount received or accrued represents damages.

(4) An amount received or accrued pursuant to a settlement of the action where no judgment or decree, or consent judgment or decree, is entered will not constitute damages for breach of contract, or breach of a fiduciary duty or relationship.

(c) *Allocation of damages.* (1) If possible a portion or all of the damages shall be allocated to a prior taxable year or years during which the taxpayer would have received or accrued such income but for the breach of contract, or breach of a fiduciary duty or relationship. Such allocation is to be determined upon the facts of each case, for example, by reference to the decree or judgment awarding damages, information contained in court records, pleadings, or other pertinent matter.

(2) If any portion of the damages is not allocable to a particular taxable year or years, or to periods within any taxable year or years, in accordance with the rule prescribed in subparagraph (1) of this paragraph, then such portion shall be allocated equally to each of the calendar months (including those of the current taxable year and subsequent taxable years) which fall within the period during which the taxpayer would have received or accrued such income but for the breach and to which no portions previously have been allocated.

(3) The amount of damages, if any, which is allocated under this paragraph to taxable years subsequent to the taxable year of receipt or accrual shall be treated as income for such taxable year of receipt or accrual. The methods enumerated in this paragraph are not mutually exclusive; thus, it is possible that allocations with respect to an award may be made under more than one method. If more than one method is applicable they shall be used only in the order of their enumeration.

(d) *Computation of tax.* (1) The following computations shall be made in order to determine whether the limitation on tax prescribed in section 1305 and paragraph (a) of this section applies to damages received or accrued in the taxable year:

(i) Compute the tax for the current taxable year by including in the gross income of such year the entire amount of damages received or accrued in such year. In computing such tax the taxpayer shall be allowed all credits and deductions for depletion, depreciation, and other items to which he would have

been entitled if the entire amount of such damages were attributable to such year.

(ii) Compute the tax for the current taxable year without the inclusion prescribed in subdivision (i) of this subparagraph.

(iii) (a) Compute the tax attributable to the portion of the damages allocated to each of the taxable years (including the year in which the award is received or accrued) in accordance with paragraph (c) of this section. For this purpose taxable income (or net income) and the tax shall be computed with the allowance of all credits and deductions for depletion, depreciation, and other items to which the taxpayer would have been entitled had such damages been received or accrued by the taxpayer in the year during which he would have received or accrued the damages except for the breach of contract, or for the breach of fiduciary duty or relationship.

(b) The amount of tax attributable to the portion of damages allocated to each of such taxable years is the difference between the tax for each year computed with the inclusion in gross income of the portion of such damages so allocated to each year and the tax for each year computed without such inclusion.

(iv) The tax for the current taxable year shall be the lesser of (a) the tax for the current taxable year as computed under subdivision (i) of this subparagraph, or (b) the tax for such year as computed under subdivision (ii) of this subparagraph, plus the aggregate of the taxes attributable to the allocated damages as computed under subdivision (iii) of this subparagraph.

The credits, deductions, or other items referred to in subdivisions (i) and (iii) of this subparagraph shall include only deductions for expenditures actually made by the taxpayer and credits or deductions arising from actual use of capital or receipt of income. Thus, if the award represents gross income which the taxpayer should have received but did not, less costs and expenses which the taxpayer would have paid but did not, no deduction shall be allowed for such costs and expenses. Furthermore, credits, deductions, or other items, attributable to property, shall be allowed only with respect to that part of the award which represents the taxpayer's share of income from the actual operation of the property. Accordingly, if the property is subject to depreciation on the units-of-production method and the taxpayer receives an award based upon certain units of production which the paying party should have produced but did not, the taxpayer shall not be entitled to a depreciation deduction with respect to such units which were not produced. However, where an award is received by the taxpayer representing the gross income from mineral property less expenses that would have been imposed upon the taxpayer but for the breach, the deduction for percentage depletion will be computed with reference to both the reconstructed gross income and taxable income from the property.

(2) If damages of the type specified in paragraph (a) of this section are re-

ceived or accrued by a partnership which initially instituted the civil action then, for purposes of subparagraph (1) of this paragraph, the partnership shall take such amount into account in computing taxable income (or net income) but the limitation on the tax under section 1305 shall apply to the individual partners. Thus, in recomputing his income tax, each partner shall take into account separately his distributive share of the partnership items enumerated in section 702(a) as recomputed by the partnership under subparagraph (1) of this paragraph. Section 1305 and this section shall not apply to a partner unless his total distributive share of the amount of damages is \$3,000 or more. It is not necessary for the partner to have been a member of the partnership for the prior taxable years to which the amount of damages is allocable in order to have the limitation on tax provided by section 1305 apply.

(3) For effect of allocation of income on items based on amount of income and with respect to a net operating loss or a capital loss carryover, see paragraph (d) (2) of § 1.1301-2.

(4) See paragraph (d) (4) of § 1.1301-2 for the computations which are necessary when an amount of breach of contract damages is allocated to a period to which there has also been allocated other income entitled to the benefits of the provisions of part I (section 1301 and following), subchapter Q, chapter 1 of the Code.

(e) *Treatment of intangible drilling and development costs.* If the breach of contract damages have been awarded as a result of a suit involving the taxpayer's claim to ownership in a developing oil or gas well and section 1305 applies with respect to such damages, he shall not be entitled to deduct as expenses intangible drilling and development costs incurred in the prior taxable year or years unless he makes or has made the election to deduct such costs as expenses in the manner prescribed by § 1.612-4.

(f) *Limitation on amount of award.* Section 1305 and this section are not applicable unless the amount representing damages is \$3,000 or more and such amount is received or accrued in a taxable year as a result of a single award for breach of contract, or breach of a fiduciary duty or relationship.

(g) *Applicability of another section under part I, subchapter Q, chapter 1 of the Code.* In any case where the amounts involved in a particular breach of contract, or breach of a fiduciary duty or relationship, are also covered by the particular terms of another section in part I, subchapter Q, chapter 1 of the Code, the rules for such other section shall apply, since those sections are directed to more specific situations than the provisions of section 1305. Thus, if a taxpayer receives an amount representing damages awarded in a civil action for breach of contract, or breach of fiduciary duty or relationship, and such award also constitutes the payment of an amount which qualifies for treatment prescribed in section 1302 and the regulations thereunder, such amount shall be subject to the provisions of

section 1302 and § 1.1302-1, and section 1305 shall not apply.

(h) *Effective date of this section.* The provisions of section 1305 and this section apply with respect to taxable years ending after December 31, 1954, but only as to amounts received or accrued after such date as the result of awards made after such date.

§ 1.1305-2 Illustrations.

The provisions of section 1305 and § 1.1305-1 may be illustrated by the following examples:

Example (1). On December 31, 1957, a consent judgment is entered in favor of A, an accrual method taxpayer, for \$500,000 damages to compensate him for the failure of the XYZ Company to pay royalties due him under the terms of a contract involving the operation by the XYZ Company of an oil lease. The court determined that the breach of contract covered the period from July 1, 1953, through December 31, 1957. The award of \$500,000 includes \$40,000 representing legal fees and court costs, and \$460,000 representing compensation for loss of oil royalties for the period during which the contract was breached. Of the \$460,000, the court determined that \$110,000 was attributable to 1956 and \$130,000 to January through October 1957. Information in the court records disclosed that \$60,000 was attributable to 1955. A makes his income tax return on a calendar year basis. For purposes of determining the limitation on tax under section 1305, A must first compute the tax for 1957 under paragraph (d) (1) (i) of § 1.1305-1 by including the entire amount of damages (\$460,000) in gross income for such year and then compute the tax for 1957 without including the \$460,000 in gross income in accordance with paragraph (d) (1) (ii) of such section. A must then compute the tax for the current year and all prior years to which the amount of the award is allocable pursuant to paragraph (d) (1) (iii) of § 1.1305-1. In making such computation, A must allocate \$110,000 to 1956, \$130,000 to the first ten months of 1957, and \$60,000 to 1955 in accordance with paragraph (c) (1) of § 1.1305-1. The remaining \$160,000 of the \$460,000 would be prorated over the unallocated twenty months, two in 1957, twelve in 1954, and six in 1953 or \$8,000 per month in accordance with paragraph (c) (2) of § 1.1305-1. Thus, the proper allocations would be \$146,000 to 1957, \$110,000 to 1956, \$60,000 to 1955, \$96,000 to 1954, and \$48,000 to 1953. In addition, A is entitled to a deduction for percentage depletion with respect to the amounts allocated to the current taxable year and to prior taxable years. For such purpose, A must reconstruct his gross income and taxable income from the property for 1957 and for the years 1953, 1954, 1955, and 1956. A is also entitled to all credits, deductions, or other items to which he would have been entitled had the royalties been received and included in the gross income in those years. Thus, if, for 1953, prior to the allocation of a part of the award to such year, A had no gains from the sale or exchange of capital assets and no taxable income and he had a capital loss carryover of \$1,500 to such year, A may deduct \$1,000 as a capital loss in computing the tax for 1953 as provided in paragraph (d) (1) (iii) of § 1.1305-1. See sections 1211(b) and 1212 and the regulations thereunder.

Example (2). B, a cash method taxpayer, is the author of a play presented in New York City, Chicago, and San Francisco. The play ran from April 6, 1957, through December 27, 1959. In September 1959, B sues the producer, M, for breach of contract respecting the agreement entered into between M and B. M contends that under the terms of the contract B was entitled to a

payment of \$25,000 on the production of the play and royalties thereafter limited to its earnings in New York City. B insists that he is also entitled to royalties on the earnings of the two companies established by M to present the play in Chicago and San Francisco. On December 29, 1959, the court awards B the sum of \$38,000 representing compensation for the loss of royalty income over the period during which the play was presented in Chicago and San Francisco, including legal fees and other costs. This award is paid to B in 1960. In its decree, the court designates royalty payments to B for such period (April 6, 1957, to December 27, 1959) of \$1,000 per month or a total of \$33,000 for the full period. Although B is entitled to the benefits of section 1305, he must first ascertain whether section 1302 applies, since the other sections under part I (section 1301 and following), subchapter Q, chapter 1 of the Code, have prior applicability. However, B determines that section 1302 is not applicable for the reason that he worked only 18 months on the play. For the purpose of section 1305(a) and paragraph (a) of § 1.1305-1, B may allocate the \$33,000 at the rate of \$1,000 per month over the 33 months extending from April 1957 through December 1959. Upon receipt of the award and pursuant to agreement with his literary agent, B pays the agent \$2,500 as agent's commission; had B received his royalties when due, he would have paid his agent \$3,300 under his contract with the agent. In computing his taxable income for 1960 and for the years reflected in the period April 1957 through December 1959, B may, under the limitation prescribed in paragraph (d) (1) of § 1.1305-1, deduct only \$2,500 for commissions paid to his agent.

§ 1.1306 Statutory provisions; damages for injuries under the antitrust laws.

SEC. 1306. Damages for injuries under the antitrust laws. If an amount representing damages is received or accrued during a taxable year as a result of an award in, or settlement of, a civil action brought under section 4 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (commonly known as the Clayton Act), for injuries sustained by the taxpayer in his business or property by reason of anything forbidden in the antitrust laws, then the tax attributable to the inclusion of such amount in gross income for the taxable year shall not be greater than the aggregate of the increases in taxes which would have resulted if such amount had been included in gross income in equal installments for each month during the period in which such injuries were sustained by the taxpayer.

[Section 1306 as added by sec. 58(a), Technical Amendments Act 1958 (72 Stat. 1646)]

§ 1.1306-1 Damages for injuries under the antitrust laws.

(a) *Qualifications for limitation on tax.* If an amount representing damages is received or accrued during a taxable year as a result of an award in, or settlement of, a civil action instituted under section 4 of the Act of October 15, 1914 (15 U.S.C. 15), commonly known as the Clayton Act, for injuries sustained by the taxpayer in his business or property by reason of anything forbidden in the antitrust laws, then the tax attributable to the inclusion of such amount in gross income for the taxable year shall not be greater than the aggregate

of the increases in taxes which would have resulted if such amount had been included in gross income in equal installments for each month during the period in which such injuries were sustained by the taxpayer.

(b) *Definition of damages.* (1) For purposes of section 1306 and this section the term "damages" means an amount awarded pursuant to a judgment or decree by a court as the result of a civil action instituted under section 4 of the Act of October 15, 1914, for injuries sustained by the taxpayer in his business or property by reason of anything forbidden in the antitrust laws. The term "damages" includes treble damages awarded under section 4 of the Act but it does not include attorney's fees, interest, or costs.

(2) An amount awarded as damages pursuant to a consent decree or judgment shall be treated as provided in paragraph (a) of this section.

(3) An amount received or accrued as damages pursuant to a settlement of such action (after commencement of such action) shall be treated as provided in paragraph (a) of this section, regardless of whether such amount is received or accrued after a decree or judgment has been entered or whether any decree or judgment is entered.

(4) An amount received or accrued as a result of a settlement where no civil action has been brought under section 4 of the Act will not constitute damages to which section 1306 and this section are applicable.

(c) *Allocation of damages.* The amount representing damages of the type described in section 1306 is to be treated as if it had been received in equal portions in each of the calendar months (including those of the current taxable year) which fall within the period during which the injury in the taxpayer's business or property by reason of anything forbidden in the antitrust laws is determined to have been sustained. The period during which the injury was sustained is the period established in the action, except that, if no such period is established in the action, such period is to be determined upon the basis of the facts of the particular case. The portion of the damages allocable to each taxable year involved in such period of injury is an amount equal to the entire amount of damages, divided by the entire number of calendar months included within such period, and multiplied by the number of such calendar months falling within the particular taxable year.

(d) *Computation of tax.* (1) The computations set forth below in this subparagraph shall be made in order to determine whether the limitation on tax prescribed in section 1306 and paragraph (a) of this section applies to damages for injury sustained under the antitrust laws received or accrued in the taxable year:

(i) Compute the tax for the current taxable year by including in the gross income of such year the entire amount

of damages received or accrued in such year.

(ii) Compute the tax for the current taxable year without the inclusion prescribed in subdivision (i) of this subparagraph.

(iii) Compute the tax attributable to the portion of the damages allocated to each of the taxable years in accordance with paragraph (c) of this section. The amount of tax attributable to the damages in each of such years is the difference between the tax for each year computed with the inclusion in gross income of each year of the portion of such damages so allocated to each year and the tax for such year computed without such inclusion.

(iv) The tax for the current taxable year shall be the lesser of (a) the tax for the current taxable year as computed under subdivision (i) of this subparagraph, or (b) the tax for such year computed under subdivision (ii) of this subparagraph, plus the aggregate of the taxes attributable to the allocated damages as computed under subdivision (iii) of this subparagraph.

(2) For the effect of allocation of income on items based on amount of income and with respect to a net operating loss or capital loss carryover, see paragraph (d) (2) of § 1.1301-2.

(3) See paragraph (d) (4) of § 1.1301-2 for the computations which are necessary when an amount of damages is allocated to a period to which there has also been allocated other income entitled to the benefits of Part I (section 1301 and following), subchapter Q, chapter 1 of the Code.

(e) *Effective date of this section.* The provisions of section 1306 and this section are applicable with respect to taxable years ending after September 2, 1958, but only with respect to amounts of damages received or accrued after such date as a result of awards or settlements made after such date.

(f) *Illustrations.* The provisions of section 1306 may be illustrated by the following example:

Example. A, the proprietor of a drug manufacturing concern, brings suit against the XYZ Pharmaceutical Corporation under section 4 of the Act alleging that, by reason of an unfair contract, his competitor had succeeded in pre-empting the supply of a chemical which was essential to the manufacture of his product. A wins his suit and in the course of the action it is established that A sustained losses resulting from the injury totaling \$330,000 over the period from March 1959 through November 1961. The court in November 1961, accordingly, awards A treble damages of \$990,000, \$25,000 in attorney's fees, and \$5,000 in costs. The XYZ Pharmaceutical Corporation in the same month pays A the amount of \$1,020,000 covering the damages, fees, and costs. For the purpose of determining the limitation on tax under section 1306, A may allocate only the \$990,000 received as damages. A makes his return on a calendar year basis. A must therefore allocate the amount of \$990,000 over the 33 calendar months at the rate of \$30,000 per month as follows: \$300,000 to 1959, \$360,000 to 1960, and \$330,000 to 1961.

[F.R. Doc. 62-71; Filed, Jan. 3, 1962; 8:48 a.m.]

PROPOSED RULE MAKING

**DEPARTMENT OF HEALTH, EDU-
CATION, AND WELFARE**

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES**Notice of Filing of Petition**

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 647) has been filed by E. I. du Pont de Nemours and Company, Inc., Wilmington 98, Delaware, proposing the issuance of a regulation to amend § 121.2514 of the food additive regulations to provide for the safe use of copolymers of ethylene and vinyl acetate in the formulation of resinous and polymeric coatings.

Dated: December 28, 1961.

J. K. KIRK,
*Assistant Commissioner
of Food and Drugs.*

[F.R. Doc. 62-53; Filed, Jan. 3, 1962;
8:45 a.m.]

Notices

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 402]

MARKET AGENCIES AT UNION STOCK YARDS, CHICAGO, ILL.

Notice of Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on December 21, 1961, continuing in effect to and including February 28, 1962, an order issued on December 16, 1959 (18 A.D. 1396), authorizing the respondents, Market Agencies at Union Stock Yards, Chicago, Illinois, to assess the current temporary schedule of rates and charges.

On December 11, 1961, a petition was filed on behalf of the respondents requesting authority to modify the current temporary schedule of rates and charges in several respects. The proposed modifications would:

- (1) Define the term "Commission";
- (2) Increase by 10 cents per head the charges for selling cattle;
- (3) Increase by \$3.50 the maximum charge for selling a consignment of cattle weighing 24,400 pounds or less, and increase by one and one-half cents the charge for selling each 100 pounds or fraction thereof in excess of the first 24,400 pounds of a consignment;
- (4) Increase by 10 cents per head the charges for selling calves;
- (5) Increase by \$3.00 the maximum charge for selling each 100 calves or less of a consignment;
- (6) Increase by 10 cents per head the charges for selling bulls;
- (7) Increase by 10 cents per head the charges for selling tagged cattle;
- (8) Increase by 5 cents per head the charges for selling hogs;
- (9) Increase by \$3.50 the maximum charge for selling a consignment of hogs weighing 18,000 pounds or less, and increase by one cent the charge for selling each 100 pounds or fraction thereof in excess of 18,000 pounds of a consignment;
- (10) Increase by 5 cents per head the charges for selling boars;
- (11) Increase by 5 cents per head the charges for selling sheep or goats;
- (12) Establish a distinction between 40-foot and 50-foot double deck cars for purposes of determining the applicable maximum charge for buying a consignment of hogs moving out by rail, and increase by \$10.00 such charge with respect to each 50-foot double deck car;
- (13) Increase the per head charge for reselling for their account livestock purchased at the Chicago Union Stock Yards by registered dealers or registered market agencies, and without having been removed from said market, as follows:
 - (1) 10 cents on bulls, 700 pounds or over,

(2) 5 cents on other cattle, (3) 5 cents on calves, (4) 7 cents on boars, (5) 3 cents on other hogs, and (6) 4 cents on sheep or goats;

(14) With respect to livestock entered and/or exhibited in the International Livestock Exposition or in the Chicago Feeder Cattle Show, (1) restate existing service charges and auctioneers' fees relating to carlot and trucklot entries to make it clear that such charges are minimum charges based upon stated maximums of the number of head constituting a carlot or trucklot, viz, 15 fat cattle, 20 feeder cattle or calves, 25 sheep, or 10 hogs; (2) provide that for any entry constituting a lot which exceeds the stated maximum of a carlot or trucklot (a) the service charges are on a per head basis, viz, \$1.66 for fat cattle, 50 cents for stocker and feeder cattle and calves, 20 cents for sheep, and 50 cents for hogs, and (b) the auctioneers' charges are on a per head basis, viz, 33 cents for fat cattle, 25 cents for stocker feeder cattle and calves, 8 cents for sheep, and 20 cents for hogs; and (3) establish separate service charges applicable to livestock sold for registered dealers at the same rates which apply to resales of livestock for the account of such dealers;

(15) Increase by 10 cents per head (1) the charges for purchasing feeder cattle or calves at auction by direct bid, and (2) the charges for having feeder cattle or calves which have been purchased by direct bid by a buyer weighed to or through a market agency for the buyer.

(16) Increase by \$3.50 the maximum charge for the first 24,400 pounds of feeder cattle purchased for a buyer at auction by direct bid, and increase by one and one-half cents the charge for each 100 pounds or fraction thereof of such cattle in excess of 24,400 pounds;

(17) Increase by \$3.00 the maximum charge for each 100 feeder calves or less purchased for a buyer at auction by direct bid;

(18) Increase by \$2.50 the maximum charge for the first 24,400 pounds of feeder cattle which have been purchased at auction by direct bid by a buyer weighed to or through a market agency for the buyer, and increase by one and one-half cents the charge for each 100 pounds or fraction thereof of such cattle in excess of 24,400 pounds;

(19) Increase by \$2.00 the maximum charge for each 100 feeder calves or less which have been purchased at auction by direct bid by a buyer and weighed to or through a market agency for the buyer;

(20) Increase by 10 cents per head the charge for any stockyard services rendered in connection with feeder cattle or calves acquired by a buyer at auction but which have been neither purchased nor paid for by the market agency;

(21) Increase by \$1.75 the maximum charge for any stockyard services rendered in connection with the first 24,400 pounds of feeder cattle acquired

by a buyer at auction but which have been neither purchased or paid for by the market agency, and increase by three-fourths cent the charge for rendering such services in connection with each 100 pounds or fraction thereof of such cattle in excess of 24,400 pounds;

(22) Increase by \$1.50 the maximum charge for any stockyard services rendered in connection with each 100 feeder calves or less acquired by a buyer at auction but which have been neither purchased nor paid for by the market agency.

The portions of the current temporary schedule modified as indicated above would read as follows:

SECTION A

* * * * *

A-10—Commission—the sum total of selling or buying charges and extra service charges to be described as such in one lump sum under the caption of Commission or Commission Charge on accounts of sales or accounts of purchases.

* * * * *

SECTION B

SELLING CHARGES

	<i>Per head</i>
B-1—Cattle:	
Consignments of one head and one head only.....	\$1.70
Consignments of more than one head:	
First 5 head in each consignment.....	1.50
Next 10 head in each consignment.....	1.45
Each head over 15 head in each consignment.....	1.40
B-2—Cattle, maximum charge:	
In no instance shall the charge for selling a consignment of cattle exceed the aggregate of \$48.00 for the first 24,400 pounds, plus 18 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.	
B-3—Calves:	
Consignments of one head and one head only.....	1.00
Consignments of more than one head:	
First 5 head in each consignment.....	.85
Next 10 head in each consignment.....	.70
Each head over 15 head in each consignment.....	.60
B-4—Calves, maximum charge:	
In no instance shall the charge for selling a consignment of calves exceed \$41.00 for each 100 calves or less, plus extra service charges provided in Section E.	
B-5—Bulls:	
Consignments of:	
One head and one head only weighing over 1,000 pounds....	2.10
One head and one head only weighing 700 to 1,000 pounds....	1.80
Consignments of more than one head:	
Each animal weighing 700 pounds or over.....	1.80
All bulls weighing less than 700 pounds.....	(1)

¹ Apply cattle rate.

SECTION B—Continued

SELLING CHARGES—CONTINUED

B-6—Tagged Cattle:	<i>Per head</i>	
Suspects, Condemned Cattle, T.B. or Bang's Reactor.....		\$2.35
B-7—Hogs:		
Consignments of one head and one head only:		
Each head weighing 250 pounds or over.....		.80
Each head weighing under 250 pounds.....		.65
Consignments of more than one head:		
First 10 head in each consignment.....		.55
Next 15 head in each consignment.....		.50
Each head over 25 head in each consignment.....		.45
B-8—Hogs, maximum charge:		
In no instance shall the charge for selling a consignment of hogs exceed the aggregate of \$38.00 for the first 18,000 pounds plus 18 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.		
B-9—Boars:		
Consignments of one head and one head only.....		1.05
Consignments of more than one head:		
First 10 head in each consignment.....		.90
Each head over 10 head in each consignment.....		.75
B-10—Sheep or goats:		
Consignments of one head and one head only.....		.55
Consignments of more than one head:		
First 10 head in each 250 head.....		.40
The next 50 head in each 250 head.....		.33
The next 60 head in each 250 head.....		.20
The next 130 head in each 250 head.....		.15

SECTION C

OPEN MARKET BUYING CHARGES

C-1—Cattle:	<i>Per head</i>	
Consignments of one head and one head only.....		\$1.60
Consignments of more than one head:		
First 5 head in each consignment.....		1.40
Next 10 head in each consignment.....		1.35
Each head over 15 head in each consignment.....		1.30
C-2—Cattle, maximum charge:		
In no instance shall the charge for buying a consignment of cattle exceed the aggregate of \$44.50 for the first 24,400 pounds, plus 16½ cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.		
C-3—Calves:		
Consignments of one head and one head only.....		.90
Consignments of more than one head:		
First 5 head in each consignment.....		.75
Next 10 head in each consignment.....		.60
Each head over 15 head in each consignment.....		.50
C-4—Calves, maximum charge:		
In no instance shall the charge for buying a consignment of calves exceed \$38.00 for each 100 calves or less, plus extra service charges provided in Section E.		

SECTION C—Continued

OPEN MARKET BUYING CHARGES—CONTINUED

C-5—Bulls:	<i>Per head</i>	
Consignments of:		
One head and one head only weighing over 1,000 pounds.....		\$2.00
One head and one head only weighing 700 to 1,000 pounds.....		1.70
Consignments of more than one head:		
Each animal weighing 700 pounds or over.....		1.70
All bulls weighing less than 700 pounds.....	(1)	
C-6—Tagged cattle:		
Suspects, Condemned Cattle, T.B. or Bang's Reactor.....		2.25
C-7—Hogs:		
Consignments of one head and one head only:		
Each head weighing 250 pounds or over.....		.65
Each head weighing under 250 pounds.....		.50
Consignments of more than one head:		
First 10 head in each consignment.....		.42
Next 15 head in each consignment.....		.37
Each head over 25 head in each consignment.....		.32
C-8—Boars:		
Consignments of one head and one head only.....		1.00
Consignments of more than one head:		
First 10 head in each consignment.....		.75
Each head over 10 head in each consignment.....		.60
C-9—Hogs, by rail, maximum charge:		
In no instance shall the charge for buying a consignment of hogs moving out by rail exceed \$27.50 for each single deck car, \$38.50 for each 40 foot double deck car and \$48.50 for each 50 foot double deck car, plus extra service charges provided in Section E.		
C-10—Hogs, by other than rail, maximum charge:		
In no instance shall the charge for buying a consignment of hogs moving out other than by rail exceed the aggregate of \$27.50 for the first 18,000 pounds, plus 13½ cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.		
C-11—Sheep or goats:		
Consignments of one head and one head only.....		.50
Consignments of more than one head:		
First 10 head in each 250 head.....		.35
The next 50 head in each 250 head.....		.28
The next 60 head in each 250 head.....		.15
The next 130 head in each 250 head.....		.10

SECTION D

OPEN MARKET BUYING SERVICE CHARGES

SECTION F

RESALES

On live stock purchased on this market by registered traders, or registered market agencies, and without having been removed from this market, resold for account of such

¹ Apply cattle rate.

purchaser, the commission shall be \$0.90 per head on cattle (other than bulls 700 pounds or over), \$1.10 per head on bulls, 700 pounds or over, \$0.40 per head on calves, \$0.30 per head on hogs (other than boars), \$0.60 per head on boars, and \$0.15 per head on sheep or goats, plus extra service charges provided in section E.

SECTION G

INTERNATIONAL LIVE STOCK EXPOSITION

CHICAGO FEEDER CATTLE SHOW AND FEEDER CATTLE AND CALF AUCTION SALES

In addition to the regular charges, the following service charges shall be made on all live stock entered and/or exhibited in the International Live Stock Exposition or in the Chicago Feeder Cattle Show, except on live stock sold for registered traders on the Chicago market:

For each carlot and trucklot, entered and/or exhibited of:

	<i>Per head Minimum</i>	
Fat Cattle.....	\$1.66	\$25.00
Stocker and Feeder Cattle and Calves....	.50	10.00
Hogs.....	.50	5.00
Sheep.....	.20	5.00

In addition there will be collected and paid to auctioneers for auctioning live stock in either of said shows or in the feeder cattle sales the following:

Carlot and Trucklot Entries:

	<i>Per head Minimum</i>	
Fat Cattle.....	\$0.33	\$5.00
Feeder Cattle and Calves.....	.25	5.00
Hogs.....	.20	2.00
Sheep.....	.08	2.00

Individual entries:

Each Individual Open Class Steer.....	\$1.50
Each Junior Feeding Contest Steer.....	1.00
Each Individual Hog.....	.50
Each Individual Sheep.....	.50

On feeder cattle and calves sold in the feeder cattle and calf auctions for registered traders on the Chicago market the charges in Section F shall apply, plus charges for auctioneering live stock provided in Section G.

(A carlot or trucklot entry is a lot of live-stock sold as a group.)

SECTION I

FEEDER CATTLE AND CALF AUCTION BUYING AND SERVICE CHARGES

No feeder livestock offered for sale at auction will be purchased or paid for by a market agency for a buyer, nor any other stockyard service rendered, unless arrangements satisfactory to the market agency to assure payment therefor have been made by the buyer.

When a market agency purchases feeder livestock at auction by direct bid for a buyer, the charge per consignment shall be:

<i>Item No.</i>	<i>Per head</i>
I-1—Cattle (average weight over 400 lbs.).....	\$1.45
Plus extra service charges provided in Section E. Maximum—\$48.00 for the first 24,400 lbs., plus 18 cents for each additional 100 lbs. or fraction thereof, plus extra service charges provided in Section E.	
I-2—Calves (average weight 400 lbs. or under).....	.75
Plus extra service charges provided in Section E. Maximum—\$41.00 for each 100 calves or less, plus extra service charges provided in Section E.	

SECTION I—Continued

FEEDER CATTLE AND CALF AUCTION BUYING AND SELLING CHARGES—continued

When feeder livestock purchased at auction by direct bid by a buyer is weighed to or through a market agency for the buyer, the charge per consignment shall be:

Item No.	Per head
I-3—Cattle (average weight over 400 lbs.)	\$1.15
Plus extra service charges provided in Section E. Maximum—\$36.00 for the first 24,400 lbs., plus 14 cents for each additional 100 lbs., or fraction thereof, plus extra service charges provided in Section E.	
I-4—Calves (average weight 400 lbs. or under)	.60
Plus extra service charges provided in Section E. Maximum—\$30.50 for each 100 calves or less, plus extra service charges provided in Section E.	

When feeder livestock offered for sale at auction is neither purchased nor paid for by a market agency, the charge per consignment for any other stockyard service or services rendered by such market agency in connection with feeder livestock acquired by the buyer at auction shall be:

	Per head
I-5—Cattle (average weight over 400 lbs.)	\$0.80
Plus ½ extra service charges provided in Section E. Maximum—\$24.00 for the first 24,400 lbs., plus 9 cents for each additional 100 lbs. or fraction thereof, plus ½ extra service charges provided in Section E.	
I-6—Calves (average weight 400 lbs. or under)	.45
Plus ½ extra service charges provided in Section E. Maximum—\$20.50 for each 100 calves or less, plus ½ extra service charges provided in Section E.	

When feeder livestock offered for sale at auction is neither purchased nor paid for by a market agency, nor any other stockyard service or services rendered by such market agency in connection with feeder livestock acquired by a buyer at auction, there shall be no charge.

The modifications, if authorized, will produce additional revenue for the respondents and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., within 15 days after the publication of this notice.

Done at Washington, D.C., this 28th day of December 1961.

CLARENCE H. GIRARD,
Director, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 62-63; Filed, Jan. 3, 1962; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-132]

AMERICAN PRESIDENT LINES, LTD.

Modification of Description Covering Subsidized Atlantic/Straits Service; Notice of Prehearing Conference

Pursuant to Rule 6(d) of rules of practice and procedure (46 CFR § 201.94) a prehearing conference in the above-entitled proceeding will be held before the undersigned in Room 4458, General Accounting Office Building, 5th and G Streets NW., Washington, D.C., commencing at 10:00 a.m., e.s.t., Tuesday, January 16, 1962.

Requests for evidence should be served upon all interested persons of record and the undersigned by the close of business Friday, January 12, 1962.

Until such time as the initial or recommended decision is issued herein all documents relating to this proceeding should be addressed to the undersigned for filing in Room 3095 of the General Accounting Office Building, Washington 25, D.C.

Dated: January 2, 1962.

PAUL N. PFEIFFER,
Chief Hearing Examiner.

[F.R. Doc. 62-141; Filed, Jan. 3, 1962; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-154]

MARTIN-MARIETTA CORP.

Notice of Issuance of Facility License

Please take notice that the Atomic Energy Commission has issued License No. CX-18 authorizing Martin-Marietta Corporation to possess and operate, at power levels up to ten watts (thermal), its liquid fluidized bed reactor critical experiments facility on its site near Middle River, Maryland. The license is substantially as published in the FEDERAL REGISTER on September 28, 1960, 25 F.R. 9255, except that (1) the name of the applicant has been changed to Martin-Marietta Corporation from The Martin Company, (2) a condition has been added regarding the procedures which are to be followed with respect to operations with the reactor shut down which might involve a change in core reactivity, (3) a condition has been added requiring the submission of a report no later than 60 days after the initial criticality of the reactor which describes measured values of certain operating conditions or characteristics and evaluates any significant variation of a measured value from the corresponding predicted value, and (4) a condition has been added requiring a

prompt report of any significant variation from a predicted value of the operating conditions or characteristics of the facility which might affect nuclear safety.

In view of the changes in the license from that which was published on September 27, 1960, 25 F.R. 9255, the Commission will, in accordance with its rules of practice (10 CFR Part 2), direct the holding of a formal hearing on the matter of the issuance of License No. CX-18 upon receipt of a request therefor from the licensee or a petition to intervene within 30 days after the issuance of the license. Petitions for leave to intervene and requests for a formal hearing shall be filed by mailing a copy to the Office of the Secretary, Atomic Energy Commission, Washington 25, D.C., or by delivery of a copy in person to the Office of the Secretary, Germantown, Maryland, or the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

For further details see the application submitted by The Martin Company (now Martin-Marietta Corporation) and amendments thereto filed under Docket No. 50-154 available for public inspection at the Commission's Public Document Room.

Dated at Germantown, Md., this 28th day of December 1961.

For the Atomic Energy Commission.

M. B. BILES,
Chief, Test and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 62-43; Filed, Jan. 3, 1962; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 13224, 13171; Order No. E-17888]

ARTHUR J. BROWN ET AL.

Order Granting Tentative Approval

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of December 1961.

In the matter of the application of Arthur J. Brown, ABC Freight Forwarding Corporation, et al., Docket 13224, for approval of certain control and interlocking relationships pursuant to sections 408 and 409 of the Federal Aviation Act of 1958, as amended; in the matter of the application of Isadore Richman, ABC Air Freight Co., Inc., et al., Docket 13171, for approval of certain interlocking relationships pursuant to section 409 of the Federal Aviation Act of 1958, as amended.

On September 21, 1961, the Board approved, after hearing, pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act), the holding by Arthur J. Brown directly or indirectly

of the controlling interest in ABC Freight Forwarding Corporation (ABC Freight), ABC Air Freight Co., Inc. (ABC Air), Paramount Freight Handling, Inc., ABCO Consolidators, Inc., ABC International, Inc. (ABC International), Blue Ribbon Express, Inc., Blue Seal Consolidators, Inc., Midland Forwarding Corp., Midland Terminal Corp., Vendors Consolidating Co., Association Consolidators, Inc., Freight Consolidators, Inc., Association Freight Agents, Inc. and Scat Cartage Company. In addition, the Board approved, pursuant to section 409 of the Act, interlocking relationships between the above companies arising from Arthur J. Brown's controlling interest in all of them and from his positions as president and director of several of them, and also permitted him to hold generally other positions within the same system of affiliated companies.¹

ABC Air presently is authorized to operate as a domestic and international air freight forwarder, while ABC International is a foreign surface freight forwarder under the authority of the Federal Maritime Board, and is also an approved cargo agent for certain airline members of the International Air Transport Association. The other affiliates are engaged in such activities as surface freight forwarding, shippers agent, package consolidation, and local pick up and delivery service.

Subsequent to the issuance of Order E-17480, applicants decided to separate the domestic and international air freight forwarding activities which ABC Air is currently authorized to perform and, accordingly, ABC International filed an application seeking an international air freight forwarder authorization.² Concurrently, on November 29, 1961, Arthur J. Brown and the companies named above filed an application under sections 408 and 409 of the Act for approval of the relationships which would result from the grant of the requested international air freight forwarder authorization to ABC International. Applicants state, in effect, that ABC International will be able to conduct international air freight forwarding operations with greater efficiency and at lower cost than would be the case if ABC Air were to undertake actively such operations.

By separate application filed November 8, 1961, Isadore Richman and the companies named above, except Scat Cartage Co., request approval under section 409 of the Act for interlocking relationships which will result from Mr. Richman serving as director and/or officer of ABC Air and such of the affiliated companies to which he may be hereafter elected or appointed. The application states that Mr. Richman was elected a director of ABC Air on or about Octo-

¹ Order E-17480 (Docket 10240) adopted the initial decision of Examiner Richard A. Walsh.

² Applicants propose that the authorization of ABC Air as an international air freight forwarder be terminated upon the grant of such an authorization to ABC International. For the purposes of this proceeding ABC International is considered to be an air carrier.

ber 1, 1961, but presently holds no position as officer or director of any of the other companies, although it is contemplated that he will so serve with some or all of the companies.

No objections to the applications have been filed.

The Board, upon consideration of the applications, concludes that relationships within the purview of section 408(a) of the Act are created by the control of ABC Freight and affiliated companies by Arthur J. Brown as described supra. However, the Board further concludes tentatively that such relationships do not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly, and do not tend to restrain competition. Furthermore, the Board notes that no person disclosing a substantial interest in the matter is currently requesting a hearing. In view of the recently concluded formal proceeding in Docket 10240, the present application does not appear to present any new issues of substance. Since such approval, there has been no change in the activities of the various affiliated companies except as described herein. Similar arrangements have previously been approved by the Board.³ It would therefore appear that approval of the control relationships would not be inconsistent with the public interest.

The Board further finds that interlocking relationships within the scope of section 409(a) of the Act will exist between ABC Freight and its affiliated companies enumerated herein from the holding by Messrs. Brown and Richman of the positions described herein. For the reasons expressed above, the Board finds that the parties have made a due showing in the form and manner prescribed that the interlocking relationships will not adversely affect the public interest and should be approved.

In view of the foregoing, the Board intends to approve the control relationships involved herein without a hearing, pursuant to the provisions of section 408(b). In accordance therewith, this order constituting notice of such intention will be published in the FEDERAL REGISTER and interested persons will be afforded an opportunity to comment on the Board's tentative decision.⁴

Therefore, it is ordered:

1. That this order be published in the FEDERAL REGISTER;
2. That the Attorney General be furnished a copy of this order within one day of its publication; and
3. That interested persons are afforded a period of fifteen days within which to file comments or request a

³ The common control of Barnett Aircargo, Inc., a domestic air freight forwarder, and Barnett International Airfreight Corp., an international air freight forwarder, was approved by Order E-11296, May 3, 1957 (Docket 8394). A similar arrangement involving Allied Air Freight, Inc., and Allied Airfreight International Corporation was approved by Order E-13456, January 30, 1959.

⁴ Further action on the interlocking relationships under section 409 will be deferred pending final resolution of the control relationships which are subject to section 408.

hearing with respect to the Board's proposed action herein.⁵

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 62-76; Filed, Jan. 3, 1962;
8:48 a.m.]

[Docket No. 12425]

ZANTOP AIR TRANSPORT, INC., AND COASTAL AIR LINES

Notice of Oral Argument

In the matter of the joint application of Zantop Air Transport, Inc. and Coastal Air Lines for acquisition of ownership and control and transfer of Coastal Air Lines' temporary certificate of public convenience and necessity for supplemental air service.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be heard on January 17, 1962, at 10 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., December 29, 1961.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 62-77; Filed, Jan. 3, 1962;
8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-9510 etc.]

CITIES SERVICE PRODUCTION CO. ET AL.

Order Approving Recess of Hearing for More Than Thirty Days

DECEMBER 27, 1961.

On December 4, 1961, at the conclusion of the presentation of Respondents' rebuttal case in the above-entitled proceedings, staff counsel requested a recess until March 6, 1962, for cross-examination of Respondents' rebuttal case. There was no opposition to this request and it was granted by the presiding examiner subject to Commission approval. On December 6, 1961, the presiding examiner certified the record to the Commission for its consideration of the request.

In support of the request, staff counsel states that additional time is necessary for preparation for cross-examination of Respondents' rebuttal case, which consists of " * * * approximately eight witnesses and about 20 exhibits. * * *".

The Commission finds: Good cause exists for granting staff's request to recess the subject hearing until March 6, 1962.

The Commission orders: The hearing in these proceedings is hereby recessed

⁵ Such comments shall in all respects conform to the requirements of the Board's rules of practice for the filing of documents.

until March 6, 1962, at which time staff shall proceed with its cross-examination of Respondents' rebuttal case. Thereafter, the presiding examiner shall grant such recesses and specify such procedures as may be authorized by the Commission's rules of practice and procedure.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-44; Filed, Jan. 3, 1962; 8:45 a.m.]

[Docket No. G-4769 etc.]

EL PASO NATURAL GAS CO.

Order Approving Presiding Examiner's Continuance of Hearing for More Than 30 Days

DECEMBER 27, 1961.

El Paso Natural Gas Company Docket Nos. G-4769, G-12948, G-17929, RP60-3.

The Presiding Examiner's certification of a continuance of the hearing herein for more than 30 days was submitted November 28, 1961 pursuant to § 1.13(e) of the Commission's rules of practice and procedure.

Docket No. G-4769 is being heard pursuant to the decision of the Circuit Court of Appeals in *El Paso Natural Gas Company v. Federal Power Commission*, 281 F2d 567 and is for the limited purpose of receiving "such evidence as may be necessary to enable it (Commission) to fix a just and reasonable rate to per-

mit a fair return on the wellmouth investment and provide the incentive necessary to attract capital to the exploration and development activities of the company." In each of the other proceedings, suspension orders have been issued and the hearing is upon all issues relevant to a section 4 rate case.

All of El Paso's direct case has been submitted (including rate of return and cost of service) and cross-examination thereon has been completed. In addition, all of the evidence (direct and cross) of all participants, including the staff, on the rate-of-return issue has been adduced. The next step is the presentation of the direct evidence of the staff on all issues other than rate of return. The staff has requested until January 5, 1962, for the preparation and service of such evidence. Interveners, not presently informed as to the specific position of the staff with respect to a number of the issues, request the period between January 5 and January 22, 1962, for the preparation and service of any direct evidence they may wish to offer. All parties agree that February 12, 1962, would afford sufficient opportunity for the preparation of cross-examination of all direct testimony which will have been served as above set out. Upon the showing made the Presiding Examiner on November 27, 1961, recessed the hearing to reconvene at 2:00 o'clock p.m. on February 12, 1962.

The Commission finds: Good cause has been shown herein for the approval of the continuance of the hearing for more than 30 days.

The Commission orders: Continuance of the hearing until February 12, 1962, in Washington, D.C., at 2:00 p.m., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., as fixed by the Presiding Examiner is approved.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-45; Filed, Jan. 3, 1962; 8:45 a.m.]

[Docket No. RI62-270—RI62-276]

MRS. LOUISE H. HERRINGTON ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates¹

DECEMBER 27, 1961.

Mrs. Louise H. Herrington, Docket No. RI62-270; Cities Service Petroleum Co., Docket No. RI62-271; E. W. Marks, Sr., et al., Docket No. RI62-272; Anadarko Production Company, Docket No. RI62-273; The British-American Oil Producing Company (Operator), et al., Docket No. RI62-274; N. H. Wheless, et al., Docket No. RI62-275; The Atlantic Refining Company, Docket No. RI62-276.

The above-named respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Dates suspended until	Cents per Mcf		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI62-270	Mrs. Louise H. Herrington, P.O. Box 1011, Jennings, La.	2	4	American Louisiana Pipe Line Company (South Elton Field, Jefferson Davis Parish, La.)	\$207	12-4-61	1-1-62	6-4-62	\$ 19.75	22.25	-----
RI62-271	Cities Service Petroleum Co., Cities Service Building, Bartlesville, Okla.	111	7	Phillips Petroleum Co., (West Panhandle Field, Moore County, Tex.) (R.R. District No. 10).	61	12-8-61	1-1-62	6-8-62	\$ 11.1292	11.2168	RI61-510
RI62-271	do.	113	8	do.	11	12-8-61	1-1-62	6-8-62	\$ 11.1292	11.2168	RI61-510
RI62-271	do.	114	7	Phillips Petroleum Co. (West Panhandle Field, Gray County, Tex.) (R.R. No. 10).	3	12-8-61	1-1-62	6-8-62	\$ 11.6292	11.7168	-----
RI62-271	do.	115	8	Phillips Petroleum Co. (West Panhandle Field, Moore County, Tex.) (R.R. District No. 10).	46	12-8-61	1-1-62	6-8-62	\$ 11.1292	11.2168	RI61-510
RI62-271	do.	116	7	do.	4	12-8-61	1-1-62	6-8-62	\$ 11.1292	11.2168	RI61-510
RI62-271	do.	117	9	do.	36	12-8-61	1-1-62	6-8-62	\$ 11.1292	11.2168	RI61-510
RI62-271	do.	118	7	do.	16	12-8-61	1-1-62	6-8-62	\$ 11.1292	11.2168	RI61-510
RI62-271	do.	119	7	do.	32	12-8-61	1-1-62	6-8-62	\$ 11.1292	11.2168	RI61-510
RI62-272	E. W. Marks, Sr., et al., c/o Harvey H. Hutchins, Suite 2-A, Fontainebleau Motor Hotel, 4000 Tulane Avenue, New Orleans, La.	1	3	United Gas Pipe Line Co. (Pistol Ridge Field, Pearl River County, Miss.).	13,680	12-1-61	1-1-62	6-1-62	\$ 21.0	24.0	-----
RI62-273	Anadarko Production Co., P.O. Box 351, Liberal, Kans.	2	2	do.	4,800	12-1-61	1-1-62	6-1-62	\$ 20.0	24.0	-----
RI62-274	The British-American Oil Producing Co. (Operator), et al., P.O. Box 749, Dallas 21, Tex.	5	2	do.	1,142	12-4-61	1-1-62	6-4-62	\$ 15.0	16.0	-----
RI62-274	do.	31	2	Texas Gas Transmission Corp. (Ramos Field, St. Mary and Assumption Parishes, Southern Louisiana).	5,975	12-5-61	1-1-62	6-5-62	\$ 20.75	21.75	-----
RI62-275	N. H. Wheless, et al., P.O. Box 1746, Shreveport, La.	1	7	Kansas-Colorado Utilities, Inc. (Hugoton Field, Stevens County, Kans.).	4,042	12-4-61	1-1-62	6-4-62	\$ 11.0	12.0	-----
RI62-276	The Atlantic Refining Co., P.O. Box 2819, Dallas 21, Tex.	257	2	Texas Gas Transmission Corp. (Jeanerette Field, St. Mary Parish, Southern Louisiana).	8,400	12-4-61	1-1-62	6-4-62	\$ 20.75	21.75	-----

¹ The stated effective date is that requested by respondent.

² The stated effective date is the first day after expiration of the required statutory notice.

³ The pressure base is 15.025 psia.

⁴ The pressure base is 14.65 psia.

¹ This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

The proposed increased rates exceed the applicable area price levels.

The increased rates and charges so proposed 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 hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

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. I), public hearings shall be held upon dates to be fixed by notice from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37) on or before February 5, 1962.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-46; Filed, Jan. 3, 1962;
8:45 a.m.]

[Docket No. CP62-108]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application and Date of Hearing

DECEMBER 27, 1961.

Take notice that on October 30, 1961, as supplemented on November 2, 1961, and November 27, 1961, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 296, Houston 1, Texas, filed in Docket No. CP62-108 an application

pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of two 4-inch taps located on Applicant's 12-inch Woodbury Line and 20-inch Marcus Hook Loop, respectively, at milepost 12.49 on each line, in Gloucester County, New Jersey, all as more fully set forth in the application, as supplemented, which is on file with the Commission and open to public inspection.

The application, as supplemented, states that the proposed taps would be used as additional delivery points to provide gas service to South Jersey Gas Company (South Jersey), an existing customer, for resale to Shell Chemical Company (Shell Chemical). South Jersey desires to render service to Shell Chemical, a new industrial customer, on a firm basis, which service South Jersey would be unable to render from its existing facilities.

Applicant states that South Jersey proposes to construct and own all facilities between the proposed taps and the Shell Chemical plant, including a meter station to be operated by Applicant. The meter station would be located adjacent to Applicant's lines at the subject taps. Section 5(a) of the General Terms and Conditions of Applicant's FPC Gas Tariff, Original Volume No. 1, provides that Applicant must construct and install measuring facilities at its own expense in a case such as that which is the subject of the application herein. Applicant requests that the forementioned provision of its FPC Gas Tariff be waived in the subject application inasmuch as the subject facilities are for the sole benefit of South Jersey.

The proposed volumes of natural gas which would be sold and delivered through the subject facilities would come out of South Jersey's presently authorized allocations sold to it under Applicant's rate schedules on file with the Commission.

Applicant estimates the cost of the proposed facilities to be \$3,500, which would be financed from general funds.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 31, 1962, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application, as supplemented: *Provided, however*, That the Commission

may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 19, 1962. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-48; Filed, Jan. 3, 1962;
8:45 a.m.]

[Docket Nos. RI 62-261—RI 62-268]

PAN AMERICAN PETROLEUM CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates and Allowing Proposed In- creased Rates ¹ To Become Effective Subject to Refund

DECEMBER 27, 1961.

Pan American Petroleum Corporation, Docket No. RI62-261; The Altex Corporation, Docket No. RI62-262; Sohio Petroleum Company, Docket Nos. RI62-263, 269; The Tarpon Oil Corporation, Docket No. RI62-264; J. C. Trahan Drilling Contractor, Inc. (Operator), et al., Docket No. RI62-265; Berkshire Oil Company, Docket No. RI62-266; Northern Pump Company (Operator), et al., Docket No. RI62-267; John B. Hawley, Jr., Docket No. RI62-268.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. Sales made in Docket Nos. RI62-261, RI62-262, RI62-267, and RI62-268 are made at a pressure base of 14.65 psia, and all other sales are made at a pressure base of 15.025 psia. The Altex Corporation has submitted a proposed rate increase reflecting reimbursement of the Texas dedicated reserve tax applicable to gas sold to Tennessee Gas Transmission Company, which will be suspended for one day consistent with our action taken in similar matters. The proposed changes are designated as follows:

¹This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Dates suspended until—	Cents per Mcf		Rate in effect subject to refund in docket Nos.	
									Rate in effect	Proposed increased rate		
RI62-261	Pan American Petroleum Corp., P.O. Box 591, Tulsa 2, Okla.	10	17	United Gas Pipe Line Co. (Blanca Field, Bee County, Tex.) (R.R. District No. 2).	\$146,144	12- 1-61	1- 1-62	6- 1-62	7.596	15.9	-----	
RI62-262	The Altex Corp., P.O. Box 6798, San Antonio 9, Tex.	1	3	Tennessee Gas Transmission Co. (East Alice Field, Jim Wells County, Tex.) (R.R. District No. 4).	1,588	12- 1-61	1- 1-62	2 1- 2-62	15.0952	15.1645	-----	
RI62-263	Sohio Petroleum Co., 970 First National Office Building, Oklahoma City 2, Okla.	35	9	Texas Eastern Transmission Corp. (Greenwood-Waskom Field, Caddo Parish, North Louisiana).	66	12- 1-61	1- 1-62	6- 1-62	16.211	16.4161	RI61-365	
RI62-264	The Tarpon Oil Corp., 1305 Tulane Avenue, New Orleans, La.	1	1	United Gas Pipe Line Co. (Ansley Field, Hancock County, Miss.).	7,950	12- 4-61	1- 4-62	5- 4-62	18.5	20.5	-----	
RI62-265	J. C. Trahan Drilling Contractor, Inc. (Operator), et al.	13	4	The Tarpon Oil Corp. (Ansley Field, Hancock County, Miss.).	7,950	12- 4-61	1- 4-62	6- 4-62	17.0	19.0	-----	
RI62-266	Berkshire Oil Co., 840 Melie Esperson Building, Houston, Tex.	3	3	Texas Gas Transmission Corp. (East Lake Palourde Field, Assumption Parish, South Louisiana).	1,320	11-30-61	1- 1-62	6- 1-62	21.75	23.75	-----	
RI62-267	Northern Pump Co. (Operator), et al.	1	3	Northern Natural Gas Co. (Hugoton Field, Seward County, Kans.).	774	11-30-61	1- 1-62	6- 1-62	11.0	12.0	-----	
			2	3	Northern Natural Gas Co. (Hugoton Field, Finney County, Kans.).	478	11-30-61	1- 1-62	6- 1-62	11.0	12.0	-----
			14	4	Northern Natural Gas Co. (Hugoton Field, Stevens County, Kans.).	3,103	11-30-61	1- 1-62	6- 1-62	11.0	12.0	-----
RI62-268	John B. Hawley, Jr., c/o Northern Pump Co., Columbia Heights P. O., Minneapolis 21, Minn.	2	9	Northern Natural Gas Co. (Hugoton Field, Haskell County, Kans.).	10	11-30-61	1- 1-62	6- 1-62	11.0	12.0	-----	
RI62-269	Sohio Petroleum Co., 970 First National Office Building, Oklahoma City 2, Okla.	21	5	Texas Gas Transmission Corp. (Lewisburg Field, Acadia Parish, South Louisiana).	5,308	11-27-61	12-28-61	5-28-62	18.75	23.25	G-11884	
RI62-269	do	14	5	do	7,679	11-27-61	12-28-61	5-28-62	18.75	23.25	G-11884	
RI62-269	do	16	7	do	10,835	11-27-61	12-28-61	5-28-62	18.75	23.25	G-11884	
RI62-269	do	24	5	do	8,130	11-27-61	12-28-61	5-28-62	18.75	23.25	G-11884	

¹ Redetermined increase by letter agreement.

² Suspended for one day from Jan. 1, 1962, the date of expiration of the 30-day statutory notice.

³ Periodic increase by contract.

⁴ Includes 0.5 cent per Mcf for amortization of facilities deducted by buyer.

⁵ Increase under favored-nation contract provision.

The proposed rates in each of the above-described filings exceeds the applicable area price levels.

The increased rates and charges so proposed 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 hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

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. I), public hearings shall be held upon the dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

(B) Pending hearings and decisions thereon, the above-designated supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act: *Provided, however, That Supplement No. 3 to The Altex Corporation*

FPC Gas Rate Schedule No. 1, shall become effective on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order The Altex Corporation shall execute and file under Docket No. RI62-262 with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless The Altex Corporation is advised to the contrary within 15 days after the filing of such agreement and undertaking, its agreement and undertaking shall be deemed to have been accepted.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before February 15, 1962.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-47; Filed, Jan. 3, 1962; 8:45 a.m.]

FEDERAL AVIATION AGENCY

[OE Docket No. 61-WE-25]

PROPOSED TELEVISION ANTENNA STRUCTURE

Hearing

The American Broadcasting Company, Television Station KGO-TV, has petitioned the Administrator for a hearing with respect to the determination by the Agency Obstruction Evaluation Branch that the antenna structure proposed by it at Mt. Sutro, San Francisco, California, would be a hazard to air navigation. The Administrator has determined that the petition has an adequate foundation and has granted the hearing on the construction proposal in order to determine the effect of such construction on the safety of aircraft and the efficient utilization of the navigable airspace.

Notice is hereby given that a prehearing conference will be held beginning at 10:00 a.m., January 15, 1962, in the 7th Floor Conference Room of the Federal Aviation Agency's Building C, 1711 New York Avenue NW., Washington, D.C.

The following are designated as parties to the hearing:

- Air Line Pilots Association.
- Aircraft Owners and Pilots Association.
- Air Transport Association.
- American Broadcasting Company—KGO-TV.
- California Aeronautics Commission.
- California Association of Airport Executives, Inc.
- Chronicle Publishing Company—KRON-TV.

Crocker Estate Company.
 Department of the Air Force.
 Department of the Army.
 Department of the Navy.
 Federal Communications Commission.
 National Association of State Aviation Officials.
 National Aviation Trades Association.
 National Pilots Association.
 Oakland International Airport.
 San Francisco International Airport.

Designation as a party does not require participation in the hearing. Any person not designated who believes his activities would be substantially affected by the proposed construction may request the Presiding Officer for designation as a party to the hearing.

Issued: December 27, 1961.

CHARLES W. CARMODY,
 Presiding Officer.

[F.R. Doc. 62-57; Filed, Jan. 3, 1962;
 8:46 a.m.]

[OE Docket No. 61-WE-26]

PROPOSED TELEVISION ANTENNA STRUCTURE

Hearing

The Chronicle Publishing Company, Television Station KRON-TV, has petitioned the Administrator for a hearing with respect to the determination by the Agency Obstruction Evaluation Branch that the antenna structure proposed by it at Mt. Bruno, San Francisco, California, would be a hazard to air navigation. The Administrator has determined that the petition has an adequate foundation and has granted the hearing on the construction proposal in order to determine the effect of such construction on the safety of aircraft and the efficient utilization of the navigable airspace.

Notice is hereby given that a prehearing conference will be held beginning at 10:00 a.m., January 15, 1962, in the 7th Floor Conference Room of the Federal Aviation Agency's Building C, 1711 New York Avenue NW., Washington, D.C.

The following are designated as parties to the hearing:

Air Line Pilots Association.
 Aircraft Owners and Pilots Association.
 Air Transport Association.
 American Broadcasting Company—KGO-TV.
 California Aeronautics Commission.
 California Association of Airport Executives, Inc.
 Chronicle Publishing Company—KRON-TV.
 Crocker Estate Company.
 Department of the Air Force.
 Department of the Army.
 Department of the Navy.
 Federal Communications Commission.
 National Association of State Aviation Officials.
 National Aviation Trades Association.
 National Pilots Association.
 Oakland International Airport.
 San Francisco International Airport.

Designation as a party does not require participation in the hearing. Any person not designated who believes his activities would be substantially affected

by the proposed construction may request the Presiding Officer for designation as a party to the hearing.

Issued: December 27, 1961.

CHARLES W. CARMODY,
 Presiding Officer.

[F.R. Doc. 62-58; Filed, Jan. 3, 1962;
 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 8]

APPLICATIONS FOR "GRANDFATHER" ALASKA CERTIFICATE OR PERMIT AND HAWAII FREIGHT FORWARDER PERMIT

DECEMBER 28, 1961.

Under sections 206(a) (4), 206(a) (5), 209(a) (4), 209(a) (5), 309(a), 309(f), 410(a) (2), and 410(a) (3) of the Interstate Commerce Act, as amended July 12, 1960.

Section 1.243 of the Commission's special rules of practice have been amended to cover "grandfather" applications filed under the July 12, 1960, amendments.

Protests to the granting of an application must be filed with the Commission within 75 days of this publication in the FEDERAL REGISTER. A copy of the protest must be served on applicant's representative or on applicant if no practitioner represents him. The special rules provide further that failure to file a timely protest will be construed as a waiver of opposition and participation in the proceeding.

FREIGHT FORWARDER HAWAII "GRANDFATHER" RIGHTS

No. FF 266 (RESTRICTIVE AMENDMENT), filed December 27, 1960, published FEDERAL REGISTER issue of March 8, 1961, amended December 4, 1961, republished as amended, this issue. Applicant: MILTON J. DALY, doing business as HAWAIIAN EXPRESS & DILLON DRAYAGE CO., 646 First Street, San Francisco, Calif. Applicant's representative: Aaron H. Glickman, Monadnock Building, 681 Market Street, San Francisco, Calif. Authority sought to continue to operate as a *freight forwarder*, under the applicable "grandfather" provisions of the Interstate Commerce Act, to continue service in arranging for the transportation of: *General commodities*, (1) between points within 50 miles of San Francisco, Calif., on the one hand, and, on the other, points in Hawaii.

NOTE: As originally filed applicant sought authority between all points in the United States and points in Hawaii.

By the Commission.

[SEAL]

HAROLD D. MCCOY,
 Secretary.

[F.R. Doc. 62-66; Filed, Jan. 3, 1962;
 8:47 a.m.]

[Notice 413]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 28, 1961.

The following publications are governed by the Interstate Commerce Commission's general rules of practice including special rules (49 CFR 1.241) governing notice of filing of applications by motor carriers of property or passengers or brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings and pre-hearing conferences will be called at 9:30 o'clock a.m., United States standard time, (or 9:30 o'clock a.m., local daylight saving time, if that time is observed), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 203), filed December 26, 1961. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Nevada corporation, 1417 Clay Street, Oakland, Calif. Applicant's representative: Earl J. Brooks, 299 Adeline Street, Oakland 4, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from points in Idaho, Oregon, Utah and Washington to points in California, Indiana, Michigan, Minnesota, Ohio, Wyoming, and points in Wisconsin north of Wisconsin Highway 29; and (2) *Potato products, not frozen*, from points in Idaho, Oregon, Utah and Washington to points in California, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wyoming, and Wisconsin.

NOTE: Applicant states that any duplication of authority with that which it presently holds "shall not be construed as conferring more than a single operating right." Also applicant states that it controls Pacific and Atlantic Shippers, Inc., a freight forwarder operating under Permit No. FF-52 and related subs.

HEARING: February 5, 1962, at the Public Utilities Commission, State House, Boise, Idaho, before Examiner Donald R. Sutherland.

No. MC 130 (Sub-No. 1), filed August 21, 1961. Applicant: DALLAS L. CORBET, Robinson, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, in bulk, and in packages, moving in combination with bulk shipments, from St. Joseph, Mo., to points in Atchison, Anderson, Brown, Chase, Coffey, Doniphan, Douglas, Franklin, Geary, Jackson, Jefferson, Johnson, Leavenworth, Linn, Lyon, Marshall, Miami, Nemaha, Pottawatomie, Riley, Shawnee, and Wabaunsee Counties, Kans., and to points in Cass, Johnson, Nemaha, Otoe, Pawnee, and Richardson Counties, Nebr., and *damaged shipments* of the above-specified commodity, on return.

HEARING: February 14, 1962, at the Hotel Pick-Kansan, Topeka, Kans., before Joint Board No. 140.

No. MC 1124 (Sub No. 174), filed April 10, 1961. Applicant: HERRIN TRANSPORTATION COMPANY, a corporation, 2301 McKinney Avenue, Houston, Tex. Applicant's attorney: Leroy Hallman, First National Bank Building, Dallas 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities, including Classes A and B explosives* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Memphis, Tenn., and Jacksonville, Fla., as follows: from Memphis, Tenn., over U.S. Highway 78 to Birmingham, Ala., thence over U.S. Highway 280 to Richland, Ga., thence over Georgia Highway 55 to Dawson, Ga., thence over U.S. Highway 82 to Waycross, Ga., thence over U.S. Highway 23 to Jacksonville, Fla., and return over the same route, serving the intermediate points in Georgia and Florida located on Georgia Highway 55 and U.S. Highways 82 and 23; serving all points within 15 miles of Dawson, Albany, Tifton, and Waycross, Ga.; and serving the intermediate points of Tupelo, Miss., and Columbus, Ga., as points of joinder only. (2) Between Memphis, Tenn., and Pensacola, Fla., as follows: from Memphis, Tenn., over U.S. Highway 78 to Tupelo, Miss., thence over U.S. Highway 45 to Columbus, Miss., thence over Mississippi Highway 69 to Mississippi-Alabama State Line, thence over Alabama Highway 14 to Eutaw, Ala.; thence over U.S. Highway 43 to Grove Hill, Ala.; thence over U.S. Highway 84 to its intersection with Alabama Highway 21; thence over Alabama Highway 21 to Alabama-Florida State Line; thence over Florida Highway 97 to Pensacola, Fla.; and return over the same routes, serving the intermediate points of Tupelo, Miss., Purdue Hill, and Frisco City, Ala., as points of joinder only; serving Pensacola, Fla., as an intermediate point on applicant's presently authorized route between New Orleans, La., and Jacksonville, Fla., and serving all intermediate points in Florida located on Florida Highway 97, and U.S. Highway 29 between Pensacola, Fla., and junction of U.S. Highway 29 and Florida Highway 97; serving all points within 15 miles of Pensacola, Fla. (3) Between Columbus, Ga., and Savannah, Ga., as follows: from Columbus, Ga., over U.S. Highway 80 to Savannah, Ga., and return over the same route, serving all points within 15 miles of Savannah, Ga., and the intermediate point of Macon, Ga., and all points within 15 miles thereof, and serving Columbus, Ga., as a joinder only. (4) Between Savannah, Ga., and Marianna, Fla., as follows: from Savannah, Ga., over U.S. Highway 17 to its intersection with U.S. Highway 82, near Midway, Ga.; thence over U.S. Highway 82 to Waycross, Ga., thence over U.S. Highway 84 to Donalsonville, Ga., thence over Georgia Highway 91 to Georgia-Florida State Line, thence over Florida Highway 2 to its intersection with Florida Highway 165; thence over

Florida Highway 165 to its intersection with Florida Highway 71; thence over Florida Highway 71 to Marianna, Fla., and return over the same routes, serving all intermediate points and all points within 15 miles of Valdosta, Ga., the off-route points of Attapulugus and Clyattville, Ga., and serving the intersection of U.S. Highway 17 and U.S. Highway 82 as point of joinder. (5) Between Macon, Ga., and Donalsonville, Ga., as follows: from Macon, Ga., over U.S. Highway 41 to Cordele, Ga., thence over Georgia Highway 257 to Albany, Ga., thence over Georgia Highway 91 to Donalsonville, Ga., and return over the same route, serving all intermediate points and the off-route point of Warner Robins, Ga. (6) Between Thomasville, Ga., and Tallahassee, Fla., as follows: from Thomasville, Ga., over U.S. Highway 319 to Tallahassee, Fla., and return over the same route, serving all intermediate points. (7) Between the intersection of U.S. Highway 17 and U.S. Highway 82 near Midway, Ga., and Jacksonville, Fla., as follows: from the intersection of U.S. Highway 17 and U.S. Highway 82 near Midway, Ga., over U.S. Highway 17 to Jacksonville, Fla., and return over the same route, serving all intermediate points; the off-route point of St. Marys, Ga., and serving the intersection of U.S. Highway 17 and U.S. Highway 82 near Midway, Ga., as a point of joinder. (8) Between Brunswick, Ga., and Waycross, Ga., as follows: from Brunswick, Ga., to Waycross, Ga., over U.S. Highway 84, and return over the same route, serving no intermediate points. (9) Between Tifton, Ga., and Lake City, Fla., as follows: from Tifton, Ga., to Lake City, Fla., over U.S. Highway 41, and return over the same route, serving all intermediate points. (10) Between Albany, Ga., and Quitman, Ga., as follows: from Albany, Ga., to Moultrie, Ga., over Georgia Highway 133; thence from Moultrie, Ga., to Quitman, Ga., over Georgia Highway 33, and return over the same routes, serving all intermediate points. (11) Between Albany, Ga., and Thomasville, Ga., as follows: from Albany, Ga., over U.S. Highway 19 to Thomasville, Ga., and return over the same route, serving all intermediate points. (12) Between Tifton, Ga., and Thomasville, Ga., as follows: from Tifton, Ga., to Thomasville, Ga., over U.S. Highway 319, and return over the same route, serving all intermediate points. (13) Between Tifton, Ga., and Cordele, Ga., as follows: from Tifton, Ga., to Cordele, Ga., over U.S. Highway 41, and return over the same route, serving all intermediate points. (14) Between Purdue Hill, Ala., and Frisco City, Ala., as follows: from Purdue Hill, Ala., to Frisco City, Ala., over Alabama Highway 23, and return over the same route, serving the termini as points of joinder only. (15) Between Monroe, La., and Columbus, Ga., as follows: from Monroe, La., over U.S. Highway 80 to Columbus, Ga., and return over the same route, serving Columbus, Ga., as a point of joinder only. (16) Between Monroe, La., and Pensacola, Fla., as follows: from Monroe, La., over U.S. Highway 80 to Jackson, Miss.; thence over U.S. Highway 49 to Hattiesburg, Miss.,

thence over U.S. Highway 98 to Mobile, Ala., thence over U.S. Highway 90 to Pensacola, Fla., and return over the same route, serving no intermediate points. (17) Service is proposed at Pensacola, Fla., as an intermediate point on applicant's presently authorized route between Jacksonville, Fla., and New Orleans, La.

HEARING: February 12-23, 1962, at the De Soto Hotel, Savannah, Ga., before Examiner Jerry F. Laughlin.

February 26-March 2, 1962, at the Albany Hotel, Albany, Ga., before Examiner Jerry F. Laughlin.

This assignment is for the sole purpose of applicant's initial presentation and the time and place or places for hearing the remainder of applicant's case in chief, will be at the discretion of the presiding examiner to be fixed at the conclusion of the Albany hearing indicated above.

No. MC 6616 (Sub-No. 9), filed November 8, 1961. Applicant: TOEDBE-BUSCH TRANSFER, INC., 926 Cass Avenue, St. Louis 6, Mo. Applicant's attorney: B. W. La Tourette, Jr., Suite 1230, Boatmen's Bank Building, St. Louis 2, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving Pilot Grove, Mo., as an off-route point in connection with applicant's authorized regular-route operations between East St. Louis, Ill., and Kansas City, Kans.

HEARING: February 5, 1962, at the Post Office Building, Jefferson City, Mo., before Joint Board No. 179.

No. MC 22195 (Sub-No. 86), filed December 18, 1961. Applicant: DAN S. DUGAN, doing business as DUGAN OIL & TRANSPORT CO., P.O. Box 946, 41st Street and Grange Avenue, Sioux Falls, S. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer compounds, fertilizer ingredients, fertilizer, and fertilizer ammoniating solutions*, in bulk, in tank vehicles, from Mason City, Iowa and points within ten (10) miles thereof, to points in North Dakota, South Dakota, Minnesota, and Nebraska, and *rejected shipments* of the above-specified commodities, on return.

HEARING: January 23, 1962, in Room 393, Federal Building, and U.S. Court House, 110 South 4th Street, Minneapolis, Minn., before Examiner James Anton.

No. MC 22195 (Sub-No. 87), filed December 18, 1961. Applicant: DAN S. DUGAN, doing business as DUGAN OIL & TRANSPORT CO., P.O. Box 946, 41st Street and Grange Avenue, Sioux Falls, S. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer compounds, fertilizer ingredients and fertilizer*, in bulk, in tank vehicles, from Sanborn, Iowa, and points within ten (10) miles thereof, to points in North Dakota, South Dakota, Minnesota, and Nebraska and *rejected shipments* of the above-specified commodities, on return.

HEARING: January 22, 1962, in Room 393, Federal Building, and U.S. Court House, 110 South 4th Street, Minneapolis, Minn., before Examiner James Anton.

No. MC 50002 (Sub-No. 35), filed December 7, 1961. Applicant: T. CLARENCE BRIDGE AND HENRY W. BRIDGE, doing business as BRIDGE BROTHERS, North Santa Fe Trail, P.O. Box 588, Lamar, Colo. Applicant's attorney: C. Zimmerman, 503 Schweiter Building, Wichita 2, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gases*, in bulk, in tank vehicles, from points in Kansas to points in Nebraska on and west of Nebraska Highway 14, and *rejected shipments*, on return.

HEARING: February 16, 1962, at the Hotel Pick-Kansan, Topeka, Kans., before Joint Board No. 19.

No. MC 52054 (Sub-No. 19), filed December 1, 1961. Applicant: S & C TRANSPORT COMPANY, INC., 65 State Street, South Hutchinson, Kans. Applicant's attorney: James F. Miller, 500 Board of Trade, 10th and Wyandotte, Kansas City 5, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in sacks, from Hutchinson, Kans., to Alva, Chickasha, Duncan, Lawton, Oklahoma City, Muskogee, Durant, Edmond, and Clinton, Okla., and *empty containers or other such incidental facilities* (not specified) used in transporting the commodity specified above, on return.

HEARING: February 12, 1962, at the Hotel Pick-Kansan, Topeka, Kans., before Joint Board No. 39.

No. MC 55885 (Sub No. 7) (AMENDMENT), filed May 24, 1961, published issue of December 6, 1961, and republished as amended this issue. Applicant: HOMER H. JACKSON, doing business as JACKSON TRUCKING COMPANY, Box 145, Otsego, Mich. Applicant's attorney: L. F. Richardson, Michigan National Tower, Lansing 8, Mich. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, and *rejected and returned shipments*, between Allegan, Mich., and points in California, Colorado, Florida, Maryland, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, and Texas.

NOTE: The purpose of this republication is to reflect the proposed operation as a between movement in lieu of a from and to movement.

HEARING: Hearing remains as assigned: January 16, 1962, at the Federal Building, Lansing, Michigan, before Examiner James Anton.

No. MC 60014 (Sub-No. 8), filed December 18, 1961. Applicant: AERO TRUCKING, INC., Box 278, R.D. 1, Oakdale, Pa. Applicant's attorney: Noel F. George, 44 East Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Conduit and pipe*, and *attachments, parts and fittings therefor*, from Ravenna, Ohio, and points within a radius of four (4) miles thereof (including Rootstown Township, Portage

County, Ohio), to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, West Virginia, Wisconsin, and the District of Columbia; (b) *containers, racks, dividers, skids, pallets*, and *other shipping and protection devices* used in connection with outbound transportation of conduit and pipe, and attachments, parts and fittings therefor, from points in the destination states mentioned in (a) above, to Ravenna, Ohio, and points within four (4) miles thereof; and (c) *returned, damaged or rejected shipments of conduit and pipe*, and *attachments, parts and fittings therefor* from points in the destination states mentioned in (a) above to Ravenna, Ohio, and points within four (4) miles thereof.

HEARING: January 31, 1962, at the New Post Office Building, Columbus, Ohio, before Examiner Warren C. White.

No. MC 61734 (Sub-No. 8), filed November 8, 1961. Applicant: CARLSON TRUCK LINE, INC., Box 91, Clay Center, Kans. Applicant's attorney: John E. Jandera, 641 Harrison Street, Topeka, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bags and in bulk, and *returned and rejected shipments*, between Lawrence, Kans., and points within ten (10) miles thereof and points in Nebraska.

NOTE: Applicant states the proposed operation is restricted to provide no service in either tank or hopper type vehicles.

HEARING: February 14, 1962, at the Hotel Pick-Kansan, Topeka, Kans., before Joint Board No. 19.

No. MC 88685 (Sub-No. 16), filed October 30, 1961. Applicant: L. E. WHITLOCK TRUCK SERVICE, INC., 629 Broadway, Stafford, Kans. Applicant's attorney: Hollis B. Logan, 512 New England Building, Topeka, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and fertilizer*, in bags and in bulk, between points in Kansas, on the one hand, and, on the other, points in Missouri and Nebraska.

HEARING: February 13, 1962, at the Hotel Pick-Kansan, Topeka, Kans., before Joint Board No. 140.

No. MC 106456 (Sub-No. 36), filed December 21, 1961. Applicant: SUPER SERVICE MOTOR FREIGHT COMPANY, INC., Box 180, Nashville, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, and those requiring special equipment) serving Oakbrook, Ill., as an off-route point in connection with applicant's regular-route operations to and from Chicago, Ill.

HEARING: January 19, 1962, at the Midland Hotel, Chicago, Ill., before Joint Board No. 149, or, if the Joint Board waives its right to participate, before Examiner James Anton.

No. MC 107403 (Sub-No. 372), filed December 18, 1961. Applicant: E. BROOKE MATLACK, INC., 33d and

Arch Streets, Philadelphia 4, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, commodities of unusual value and Classes A and B explosives) having prior or subsequent movement by barge, between East Liverpool, Ohio, on the one hand, and on the other, points in Ohio, points in Brooke, Doddridge, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Pleasants, Preston, Taylor, Ritchie, Tyler, Wetzel, and Wood Counties, W. Va., and points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Clarion, Crawford, Erie, Fayette, Greene, Indiana, Lawrence, Mercer, Venango, Washington, and Westmoreland Counties, Pa.

NOTE: Applicant states that it is authorized to control Reader Brothers, Inc., under MC-F-6886, and Clarke Bulk Transfer, under MC-F-7909. Note also that applicant holds contract carrier authority under MC-117637, so dual operations may be involved.

HEARING: January 16, 1962, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 59.

No. MC 107515 (Sub-No. 377), filed December 13, 1961. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW, Atlanta 10, Ga. Applicant's attorney: Paul M. Daniell, 214 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Oleomargarine, shortening, lard and tallow*, in straight and mixed shipments, and (2) *salad oils, salad dressings and table sauces*, in mixed shipments with commodities named in (1) above; From Jacksonsville, Ill., to points in Virginia, North Carolina, South Carolina, Georgia, Alabama, Florida, and Tennessee (except Memphis).

HEARING: February 2, 1962, at the Georgia Public Service Commission, 244 Washington Street SW., Atlanta, Ga., before Examiner Alton R. Smith.

No. MC 112020 (Sub-No. 147), filed December 26, 1961. Applicant: COMMERCIAL OIL TRANSPORT, INC., 1030 Stayton Street, Fort Worth, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Juices and juice concentrates*, in bulk, from points in Texas to points in the United States including the District of Columbia but excluding Alaska and Hawaii.

HEARING: January 24, 1962, at 1 o'clock p.m. at the Granado Hotel, San Antonio, Tex., before Examiner Dallas B. Russell.

No. MC 115460 (Sub-No. 4), filed November 21, 1961. Applicant: RALPH NOE, 726 West First Street, Maryville, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed rock*, from the site of a rock quarry located approximately four (4) miles north of Ravenwood, Mo., to points in Taylor County, Iowa.

HEARING: February 6, 1962, at the Post Office Building, Jefferson City, Mo., before Joint Board No. 137.

No. MC 116004 (Sub-No. 5), filed July 31, 1961. Applicant: TEXAS OKLAHOMA EXPRESS, INC., 1017 South

Akard Street, Dallas, Tex. Applicant's attorney: Reagan Sayers, Century Life Building, Fort Worth 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Liberal and Wichita, Kans.; from Liberal over U.S. Highway 54 to Wichita, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations.

HEARING: February 16, 1962, at the Hotel Pick-Kansan, Topeka, Kans., before Joint Board No. 105.

No. MC 118168 (Sub-No. 4) (AMENDMENT), filed November 20, 1961, published issue of December 20, 1961, amended December 22, 1961, and republished as amended this issue. Applicant: MARQUIS REFRIGERATED LINES, INC., Findley and Beltline Road, Irving, Tex. Applicant's attorney: M. Ward Bailey, 807 Continental Life Building, Fort Worth 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potato products not frozen and frozen foods*, from points in Oregon, Idaho, and Utah to points in New Mexico, Texas, Louisiana, Arkansas, and Oklahoma, and *exempt commodities*, on return.

NOTE: The purpose of this republication is to change the commodity description.

HEARING: Remains as assigned February 5, 1962, at the Public Utilities Commission, State House, Boise, Idaho, before Examiner Donald R. Sutherland.

No. MC 123393 (Sub-No. 10), filed November 13, 1961. Applicant: BILYEU REFRIGERATED TRANSPORT CORPORATION, 1914 East Blaine, Springfield, Mo. Applicant's attorney: Herman W. Huber, 101 East High Street, Jefferson City, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Green, unfinished cheese*, from points in Iowa to Neosho, Joplin, Springfield, and Carthage, Mo., and the Commercial Zones, of each city, as defined by the Commission.

NOTE: Applicant states it "is under common control with Bill Bilyeu doing business as Bilyeu Transport an exempt hauler of milk in tank trucks."

HEARING: February 7, 1962, at the Post Office Building, Jefferson City, Mo., before Joint Board No. 55.

No. MC 123458, filed February 23, 1961. Applicant: J. P. COLLIVER, 110 North Delaware, Salina, Kans. Applicant's attorney: Rudolph Barta, 111½ North Santa Fe, P.O. Box 359, Salina, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt*, from Kanopolis, Kans., to Springfield and Webb City, Mo., and (2) *gravel*, from points in Southeastern Mo., to Kanopolis, Kans., on return.

NOTE: It is expected that the territory proposed to be served in Item (2) vaguely referred to as "Southeastern Mo." will be clearly defined at the hearing.

HEARING: February 15, 1962, at the Hotel Pick-Kansan, Topeka, Kans., before Joint Board No. 36.

No. MC 123781 (Sub-No. 1), filed November 13, 1961. Applicant: JAMES D. TURNER, Route 1, Stark City, Mo. Applicant's attorney: George Henry, 115 West Spring Street, Neosho, Mo. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed, grain and poultry feeder equipment*, from Monett and Neosho, Mo., to points in Ottawa and Delaware Counties, Okla., and points in Benton and Carroll Counties, Ark., and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified, on return.

NOTE: Applicant states the proposed operation will be to poultry farms located in said counties in Oklahoma and Arkansas; said poultry farmers will be customers of Norris Grain Company or poultry producers for Norris Grain Company.

HEARING: February 6, 1962, at the Post Office Building, Jefferson City, Mo., before Joint Board No. 288.

No. MC 124015, filed October 23, 1961. Applicant: EDWIN D. JONES, doing business as JONES SUPPLY CO., 805 Hiawatha Avenue, Hiawatha, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed* sacked and in bulk, from St. Joseph, Mo., to points in Atchison, Brown, Chase, Doniphan, Douglas, Jackson, Jefferson, Johnson, Leavenworth, Lyons, Morris, Shawnee, and Woodson Counties, Kans.; and (2) *Fertilizers*, between Tulsa, Okla., and points in Brown County, Kans.

NOTE: (1) Applicant indicates it will transport exempt commodities on return trips. (2) Application for contract authority is pending in MC 123373. Applicant states it does not seek dual operations but desires conversion to common carrier authority, and is willing to have its contract carrier authority cancelled if and when conversion is granted.

HEARING: February 12, 1962, at the Hotel Pick-Kansan, Topeka, Kans., before Joint Board No. 180.

No. MC 124112, filed December 18, 1961. Applicant: ALLEN K. BROWN, doing business as A. K. VAN SERVICE, 3974 Beallwood Avenue, Columbus, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Alabama and Georgia.

HEARING: February 1, 1962, at the Georgia Public Service Commission, 244 Washington Street SW., Atlanta, Ga., before Joint Board No. 157, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

MOTOR CARRIERS OF PASSENGER

No. MC 29623 (Sub-No. 25), filed November 27, 1961. Applicant: SOUTHEASTERN STAGES, INC., 457 Piedmont Avenue NE., Atlanta 3, Ga. Applicant's attorney: Allen Post, 1220 First Na-

tional Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers, baggage, mail, package express, and newspapers*, in the same vehicle with passengers, between Atlanta, Ga., and Junction Georgia Highway 12 (U.S. Highway 278) and U.S. Interstate Highway 20 southeast of Lithonia, Ga.; from Atlanta over U.S. Interstate Highway 20 to Junction Georgia Highway 12 (U.S. Highway 278) and U.S. Interstate Highway 20, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's authorized regular-route operations between Atlanta, Ga., and Savannah, Ga.

HEARING: February 1, 1962, at the Georgia Public Service Commission, 244 Washington Street SW., Atlanta, Ga., before Joint Board No. 101 or, if the Joint Board waives its right to participate before Examiner Alton R. Smith.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 57435 (Sub-No. 7), filed December 15, 1961. Applicant: LOUISIANA, ARKANSAS & TEXAS TRANSPORTATION COMPANY, a corporation, 4601 Blanchard Road, Shreveport, La. Applicant's attorney: William E. Davis, 114 West 11th Street, Kansas City 5, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities (without exceptions)*; serving Alpine City, La. (including the plant site of Manning, Maxwell & Moore), located adjacent to U.S. Highway 71 approximately one-half mile north of intersection of U.S. Highways 71 and 167 and approximately 12 miles north of Alexandria, La., as an intermediate point in connection with applicant's presently authorized regular route operations in MC 57435 (Sub-No. 2).

NOTE: Applicant states it is a wholly owned subsidiary of Louisiana & Arkansas Railway Company.

No. MC 66562 (Sub-No. 1866), filed December 15, 1961. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorney: William H. Marx, 219 East 42d Street, New York 17, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, moving in express service, between Bangor, and Van Buren, Maine, (1) from Bangor, over U.S. Highway 2 to junction U.S. Highway 2 and Alternate U.S. Highway 2, thence over Alternate U.S. Highway 2 to Houlton, Maine, thence over U.S. Highway 1 to Van Buren, and return over the same route, (2) Also from junction U.S. Highway 2 and Maine Highway 157 to Millinocket, Maine, and return over the same route, and (3) serving the intermediate and off-route points of Houlton, Mars Hill, Caribou, and Millinocket, Maine, in connection with the service proposed above. **RESTRICTION:** The service to be per-

formed will be limited to that which is auxiliary to or supplemental of express service, and the shipments transported by applicant will be limited to those moving on a through bill of lading or express receipt, covering, in addition to the motor carrier movements by applicant, an immediately prior or an immediately subsequent movement by rail or air.

No. MC 66562 (Sub-No. 1867), filed December 20, 1961. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorney: William H. Marx, 219 East 42d Street, New York 17, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, moving in express service, between Baltimore, Md., and Washington, D.C., from Baltimore, over city streets to U.S. Highway 1, south on U.S. 1 to junction Maryland Highway 166, west on Maryland Highway 166 to St. Denis, Md., and return over the same route to U.S. Highway 1, continue south on U.S. Highway 1, to junction Maryland Highway 175, east on Maryland Highway 175, to Jessup, Md., return over the same route to U.S. Highway 1, continue south on U.S. Highway 1 to junction Alternate U.S. Highway 1, continue on Alternate U.S. Highway 1 to Washington, D.C. and return over the same route serving the intermediate and off-route points of St. Denis, Jessup, Laurel, Beltsville, and Berwyn, Md. RESTRICTION: The service to be performed will be limited to that which is auxiliary to or supplemental of express service, and the shipments transported by applicant will be limited to those moving on a through bill of lading or express receipt, covering, in addition to the motor carrier movements by applicant, an immediately prior or an immediately subsequent movement by rail or air.

No. MC 73937 (Sub-No. 13), filed December 11, 1961. Applicant: HOGAN STORAGE & TRANSFER COMPANY, a corporation, 721 East Fourth Avenue, P.O. Box 613, Williamson, W. Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Williamson, W. Va., on the one hand, and, on the other, points in Bell, Harlan, Leslie, Letcher, Magoffin, and Perry Counties, Ky., and points in Wise County, Va.

No. MC 102616 (Sub-No. 702), filed December 14, 1961. Applicant: COASTAL TANK LINES, INC., 501 Grantley Road, York, Pa. Applicant's attorney: Harold G. Hernly, 1624 Eye Street NW, Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aviation gasoline*, in bulk, in tank vehicles, from Neville Island, Pa., to Beckley, W. Va.

No. MC 107403 (Sub-No. 371), filed December 14, 1961. Applicant: E. BROOKE MATLACK, INC., 33d and

Arch Streets, Philadelphia 4, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica gel catalyst*, in bulk, in covered semi-trailer equipment; from Cincinnati, Ohio, to points in Oklahoma.

NOTE: Applicant also holds contract authority in Permit MC 117637.

No. MC 109028 (Sub-No. 5) (CLARIFICATION) filed November 8, 1961, published in FEDERAL REGISTER issue of November 22, 1961, clarified December 21, 1961, and republished, as clarified, this issue. Applicant: HILLSIDE TRANSIT CO., 3150 North 117th Street, Milwaukee 22, Wis. Applicant's attorney: W. E. Hustleby, 1681 Highland Parkway, St. Paul 16, Minn. Notice of the filing of the subject application was originally published in the FEDERAL REGISTER issue of November 22, 1961. In response to requests for clarification applicant states: "Additional territorial authority to be bounded by a line beginning at Stillwater, Minn., thence in a northeasterly direction along Wisconsin Highway 35 to the Twin Ports of Duluth, Minn., and Superior, Wis., including such points, thence in an easterly direction along U.S. Highway 2 to Ashland, Wis., for joinder with the presently authorized area in the Permit of October 24, 1960, under Docket MC 109028, the western boundary of the existing authority being designated as * * * territory bounded by a line beginning at Dubuque, Iowa, and extending in a northwesterly direction along the west bank of the Mississippi River through Winona, Minn., to the confluence of the Mississippi and St. Croix Rivers, thence along the west bank of the St. Croix River to Stillwater, Minn., thence in a northeasterly direction across the river and through Hayward, Wis., to Ashland, Wis., thence in a northeasterly direction along the shore of Lake Superior to Calumet, Mich. * * *, i.e. between points and places within the combined existing and enlarged territory, including the points named, and between points and places in such combined territory on the one hand, and, on the other, Gary, Ind., Princeton, Ill., Davenport, Iowa, and Minneapolis and St. Paul, Minn., the entire authority to be subject to the existing restriction as limited to service to be performed under special and individual contracts or agreements with persons (as defined in section 203(a) of the Act) who operate retail stores, the business of which is the sale of food, for the transportation of the commodities indicated and in the manner specified."

No. MC 113908 (Sub-No. 89), filed December 18, 1961. Applicant: ERICKSON TRANSPORT CORPORATION, 706 West Tampa, Springfield, Mo. Applicant's attorney: Turner White, 808 Woodruff Building, Springfield, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brandy and wine*, in bulk, in tank vehicles, from Lake Alfred, Fla., to points in New Jersey and Minnesota.

No. MC 123190 (Sub-No. 44), filed December 18, 1961. Applicant: STILL-

PASS TRANSIT COMPANY, INC., 4967 Spring Grove Avenue, Cincinnati 32, Ohio. Applicant's attorney: Richard H. Brandon, Hartman Building, Columbus 15, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica gel catalyst*, from Cincinnati, Ohio, to points in Oklahoma.

No. MC 124106, filed December 20, 1961. Applicant: MIDWEST MAIL SERVICE, INC., 6779 Franklin Street, Omaha, Nebr. Applicant's attorney: C. J. Burrill, 904 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Original office records, commercial papers, written instruments or printed reports and copies or reproductions thereof, in any form including, but not limited to, exposed and processed film, microfilm, magnetic encoded documents, magnetic tapes, punch cards, and other data processing materials, containers, storage or housing units used in connection therewith, and any equipment used for the reproduction decoding or reading of such records*, between the site of the Underground Vault and Storage Company located at or near Hutchinson, Kans., and points in Nebraska.

NOTE: Applicant states, the proposed service will be for shippers under bilateral contracts related to the specific or individual requirements of insurance companies, public utilities, banks, banking or other financial institutions, building and loan or savings associations and other businesses or industries engaged in or contemplating Disaster Control programs involving the remote storage or vital records.

MOTOR CARRIERS OF PASSENGERS

No. MC 1501 (Sub-No. 254), filed December 18, 1961. Applicant: THE GREYHOUND CORPORATION, 140 South Dearborn Street, Chicago 3, Ill. Applicant's attorney: Robert J. Bernard (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express, newspapers and mail*, in the same vehicle with passengers, (1) between junction U.S. Highways 60-460 and Kentucky Highway 841 near Middletown, Ky., and junction U.S. Highways 60-460-127 near Frankfort, Ky., and return over the same route serving all intermediate points, (2) between junction Interstate Highway 64 and Kentucky Highway 55 and junction Kentucky Highway 55 and U.S. Highways 60-460-near Shelbyville, Ky., and return over the same route serving all intermediate points, and (3) between junction U.S. Highway 60-460 and Kentucky Highway 53 and junction Kentucky Highway 53 and Interstate Highway 64, and return over the same route serving all intermediate points.

NOTE: Common control may be involved.

No. MC 1501 (Sub-No. 257), filed December 18, 1961. Applicant: THE GREYHOUND CORPORATION, 140 South Dearborn Street, Chicago 3, Ill. Applicant's attorney: Robert J. Bernard (same as applicant). Authority sought

to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express, newspapers and mail*, in the same vehicle with passengers, between Nashville and Sparta, Tenn., from Nashville, over U.S. Highway 70-N to its junction with Tennessee Highway 26 at Lebanon, thence over Tennessee Highway 26 to Sparta, and return over the same routes serving no intermediate points, for operating convenience only.

NOTE: Common control may be involved.

APPLICATION FOR BROKERAGE LICENSE

MOTOR CARRIERS OF PASSENGERS

No. MC 12786, filed December 19, 1961. Applicant: PACIFIC PALISADES EDUCATIONAL TOURS (TEENTOURS), 875 Via de la Paz, Pacific Palisades, Calif. Applicant's attorney: Richard Jay Collins, 875 Via de la Paz, Pacific Palisades, Calif. For a license (BMC 5) to engage in operations as a *broker* at Pacific Palisades, Calif., in arranging for the transportation in interstate or foreign commerce by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers (groups of persons attending school and others seeking educational experiences, plus counselors, guides and chaperones), in round-trip and one-way operations consisting of chartered and conducted educational and sightseeing tours originating at points in Los Angeles County, Calif., and extending to points in the United States, excluding Hawaii and Alaska.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under section 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-7978 (SOUTHERN TANK LINES, INC.—PURCHASE—LaGRETALOWMAN REELY), published in the October 18, 1961, issue of the FEDERAL REGISTER on page 9801. Amendment filed December 26, 1961, to include in addition to the authority sought to be transferred: Broker's License No. MC-12336 as issued by the Interstate Commerce Commission, authorizing and licensing the holder to engage in operations as a *broker*, in the transportation service by motor vehicle, of household goods, as defined by the Commission, between points in Montana, on the one hand, and, on the other points in the United States except Alaska and Hawaii; authorized to engage in this specified operation at Missoula, Mont.

No. MC-F-8030. Authority sought for merger into E. BROOKE MATLACK, INC., Wilford Building, 33d and Arch Streets, Philadelphia 4, Pa., of the operating rights and property of READER BROTHERS, INC., Wilford Building, 33d and Arch Streets, Philadelphia 4, Pa., and for acquisition by DUVERNEY MATLACK, EDWIN L. MATLACK, E. BROOKE MATLACK, JR., and ROB-

ERT W. MATLACK, all of Philadelphia, Pa., of control of such rights and property through the transaction. Applicants' attorney: Robert H. Shertz, Morgan, Lewis & Bockius, 2107 Fidelity-Philadelphia Trust Building, Philadelphia 9, Pa. Operating rights sought to be merged: *Chemicals and solvents*, in bulk, in tank vehicles, as a *common carrier* over irregular routes, between Philadelphia and Linfield, Pa., on the one hand, and, on the other, Baltimore and Elkton, Md., Claymont, Del., Gibsboro, Carney's Point, and Deepwater, N.J., and points in that part of New Jersey on and north of New Jersey Highway 33, and between Bristol, Pa., on the one hand, and, on the other, points in that part of New Jersey on and north of New Jersey Highway 33; *liquids*, except milk, petroleum, petroleum products, coal tar, and coal tar products, in bulk, in tank vehicles, between Philadelphia, Pa., and points within 25 miles thereof, on the one hand, and, on the other, points in Pennsylvania, New York, New Jersey, Delaware, and Maryland within 100 miles of Philadelphia; *liquid chemicals*, in bulk, in tank vehicles, from Philadelphia, Pa., to points in Alabama, Georgia, Mississippi, South Carolina, Virginia, West Virginia, and Tennessee. E. BROOKE MATLACK, INC., is authorized to operate as a *common carrier* in Maryland, Delaware, Pennsylvania, Virginia, New Jersey, New York, Ohio, West Virginia, North Carolina, South Carolina, Georgia, Indiana, Alabama, Missouri, Tennessee, Minnesota, Michigan, Illinois, Wisconsin, Kentucky, Kansas, New Hampshire, Rhode Island, Connecticut, Massachusetts, Vermont, Florida, Iowa, Mississippi, Louisiana, Maine, and the District of Columbia, and as a *contract carrier* in Ohio, New York, New Jersey, Connecticut, Massachusetts, New Hampshire, Rhode Island, Pennsylvania and Vermont. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-8031. Authority sought for merger into JONES MOTOR CO., INC., Bridge Street and Schuylkill Road, Spring City, Pa., of the operating rights and property of McCORMICK TRANSPORTATION COMPANY, Ninth and Church Streets, Wilmington, Del., and for acquisition by WM. S. JONES, R.D. 2, Phoenixville, Pa., R. C. JONES, JR., 1304 Monroe Street, Wyomissing, Pa., H. ELLIS JONES, 440 Highland Road, Pottstown, Pa., ALVIN JONES, 3053 Tremont Street, Allentown, Pa., H. A. HERSHEY, 751 Spruce Street, Royersford, Pa., and MARK R. HERR, R.D. 2, Collegeville, Pa., of control of such rights and property through the transaction. Applicants' attorneys and representative respectively: Rice, Carpenter & Carraway, 618 Perpetual Building, Washington 4, D.C., and H. A. Hershey, Vice President, Jones Motor Co., Inc., Spring City, Pa. Operating rights sought to be merged: *General commodities*, excepting among others, household goods and commodities in bulk, as a *common carrier* over regular routes, between Wilmington, Del., and New York, N.Y., serving certain intermediate and off-route points; *general commodities*, excepting among others, household goods and

commodities in bulk, over irregular routes, between points in New Castle County, Del., on the one hand, and, on the other, certain points in Maryland and certain points in Pennsylvania; *paper*, from Providence, Md., to Newark, N.J., and points in the NEW YORK, N.Y., COMMERCIAL ZONE, as defined by the Commission; *commodities* requiring specialized handling or rigging because of size or weight, between points in New Castle County, Del., on the one hand, and, on the other, points in Maryland, certain points in Pennsylvania and those in that part of New Jersey south of New Jersey Highway 33. JONES MOTOR CO., INC., is authorized to operate as a *common carrier* in New Jersey, New York, Maryland, Pennsylvania, Ohio, Michigan, Indiana, Illinois, West Virginia, Massachusetts, Rhode Island, Connecticut, Delaware, and the District of Columbia. Application has not been filed for temporary authority under Section 210a(b).

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 62-67; Filed, Jan. 3, 1962;
8:47 a.m.]

[Notice 414]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 28, 1961.

The following publications are governed by the Interstate Commerce Commission's general rules of practice including special rules (49 CFR 1.241) governing notice of filing of applications by motor carriers of property or passengers or brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings and pre-hearing conferences will be called at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time, if that time is observed), unless otherwise specified.

MOTOR CARRIERS OF PROPERTY

No. MC 200 (Sub-No. 203), RISS & COMPANY, INC., ET AL. The above-named is the lead proceeding involving a number of applications seeking authority to transport commodities in so-called sealdtanks, sealdbins, sealdrums, and nest-a-bin containers. All of the proceedings were the subject of a pre-hearing conference held November 29, 1960, and notice of the filing of all of the applications was given by publication in the FEDERAL REGISTER, with the exception of three applications involving the transportation above-noted. Those applications are as set forth hereinbelow. An Order of the Commission, dated December 18, 1961, entered in the lead proceeding, MC 200 (Sub-No. 203), provides for the handling of these three above docketed applications under modified procedure, as well as the other applications referred to in that Order, and further provides that protests with respect to these three applications may be filed and served upon applicant, or its counsel, not

later than 30 days from the date of this publication of the issues in those applications in the FEDERAL REGISTER.

No. MC 7746 (Sub No. 114), filed June 12, 1961. Applicant: UNITED TRUCK LINES, INC., East 915 Springfield Avenue, Spokane 2, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Liquid and dry commodities*, in collapsible tanks, drums or bins, or the equivalent thereof, including but not limited to, tanks, drums, or bins known as Sealdtanks, Sealbins, or Nelsabins, between points and over the routes as specified in applicant's Certificate in Docket No. MC 7746 and Subs thereunder, in the States of Idaho, Montana, Oregon, and Washington.

No. MC 71096 (Sub No. 36), filed December 23, 1960. Applicant: NORWALK TRUCK LINES, INC., 180 Milan Avenue, Norwalk, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Liquid and dry commodities*, in containers (including but not limited to sealed tanks, sealed bins, sealed drums, and nest-O-bins, whether furnished by shipper or owner or leased by carrier), from, to, and between, all points and territories, and over the routes which applicant is authorized to serve in the states of Indiana, Illinois, Michigan, Ohio, New York, Pennsylvania, West Virginia, and Wisconsin.

No. MC 105458 (Sub No. 4), filed November 25, 1960. Applicant: CHARLES W. DILLIE, doing business as C. W. DILLIE, P.O. Box 4, Washington, Pa. Applicant's attorney: John A. Vuono, 1515 Park Building, Pittsburgh 22, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and dry commodities* in containers, including but not limited to, "Sealdtank", "Sealdbin", "Sealddrum", and "Nest-a-Bin" containers, in or upon ordinary vehicles, over the routes and in the territories, including all termini and all intermediate and/or off-route points which applicant is presently authorized to serve in the States of Ohio, Pennsylvania, and West Virginia.

NOTE: Applicant states it seeks to serve no new territory, it believes it is presently authorized to transport commodities moving in containers of any kind or description.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 62-68; Filed, Jan. 3, 1962;
8:47 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM RATES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on

employment of learners (29 CFR Part 522), and Administrative Order No. 524 (24 F.R. 9274) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

The Andala Co., Andalusia, Ala.; effective 12-1-61 to 11-30-62 (men's work shirts and pants).

Berwick Shirt Co., 10th and Pine Streets, Berwick, Pa.; effective 11-24-61 to 11-23-62 (men's sport shirts).

Blue Bell, Inc., 450 East Barnes Street, Bushnell, Ill.; effective 12-9-61 to 12-8-62 (men's cotton twill matched pants).

Burnley Shirt Corp., 502 22d Avenue, Meridian, Miss.; effective 11-22-61 to 11-21-62 (men's dress and sport shirts).

Byrds Manufacturing Co., Byrdstown, Tenn.; effective 11-29-61 to 11-28-62 (ladies' sport shirts and men's and boys' sport shirts).

Carolina Sleepwear Corp., Weldon, N.C.; effective 11-21-61 to 11-20-62 (ladies' woven nightwear).

Carteret Industries, Inc., Newport, N.C.; effective 11-22-61 to 11-21-62 (men's sport shirts).

Cowden Manufacturing Co., 112 Hamilton Avenue, Lancaster, Ky.; effective 11-28-61 to 11-27-62 (overalls and jackets).

Diaper Jeans, Inc., 315 West Chestnut Street, Denison, Tex.; effective 11-27-61 to 11-26-62 (infants' and children's outerwear).

Gattman Sportswear, Inc., Gattman, Miss.; effective 11-27-61 to 11-26-62 (men's dress slacks).

Hollywood Vassarette, West Railroad Avenue, Princeton, Ill.; effective 11-22-61 to 11-21-62 (women's girdles).

Manhattan Shirt Co., Tripp Street, Marietta, Ga.; effective 11-27-61 to 11-26-62 (men's dress shirts).

Mycro Manufacturing Co., Inc., Montgomery, Pa.; effective 12-1-61 to 11-30-62 (ladies' housecoats, dusters and robes).

Phillips Van-Heusen Corp., Brinkley, Ark.; effective 12-2-61 to 12-1-62 (dress shirts).

Rosemont Dress Co., 860 Moss Street, Reading, Pa.; effective 11-22-61 to 11-21-62 (women's dresses).

State Manufacturing Co., Inc., New Philadelphia, Pa.; effective 11-24-61 to 11-23-62; 10 percent of the total number of factory production workers engaged in the production of woolen suburban coats (men's wool suburban and cotton sport coats).

States Nitewear Manufacturing Co., Inc., Healy and Bates Streets, New Bedford, Mass.; effective 12-1-61 to 11-30-62 (ladies' nightgowns and pajamas).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Allee-Berry, Inc., Columbus, Kans.; effective 12-8-61 to 12-7-62; 10 learners (work pants and boys' and youths' semi-dress pants).

Briell-Rogers Division of Angelica Uniform Co., Cotter, Ark.; effective 11-21-61 to 11-20-62; 3 learners (men's and women's cotton washable service apparel).

Blue Bell, Inc., Warsaw, Ind.; effective 12-9-61 to 12-8-62; 10 learners (men's and boys' dungarees).

Carrol Ann, Inc., Municipal Building, Hastings, Pa.; effective 11-21-61 to 11-20-62; 10 learners (women's dresses).

Laura Fashions, Inc., 737 Main Street, Avoca, Pa.; effective 11-24-61 to 11-23-62; 10 learners (women's dresses).

Lorch Manufacturing Co., West Tex.; effective 12-1-61 to 11-30-62; 10 learners. Learners may not be employed at special minimum wage rates in the production of separate skirts (women's dresses).

The Strouse-Baer Co., 110 South Paca Street, Baltimore 1, Md.; effective 11-22-61 to 11-21-62; 10 learners (boys' clothing-shirts, slacks, etc.).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Carolina Sleepwear Corp., Weldon, N.C.; effective 11-21-61 to 5-20-62; 30 learners (ladies' woven nightwear).

Carteret Industries, Inc., Newport, N.C.; effective 11-22-61 to 5-21-62; 10 learners (men's sport shirts).

Gould-Hayes, Inc., Bethune, S.C.; effective 11-22-61 to 5-21-62; 20 learners (infants' wear—crawlers, dresses).

Hicks-Ponder Co., Yuma, Ariz.; effective 11-21-61 to 5-20-62; 20 learners (men's utility pants and casual slacks).

Maine Dress Co., Cornish, Maine; effective 11-20-61 to 5-19-62; 10 learners (women's dresses).

Monroe Manufacturing Co., Gamaliel, Ky.; effective 11-22-61 to 5-21-62; 60 learners (men's cotton pants).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.43, as amended).

Burlington Industries, Inc., Scottsboro Hosiery Co., Scottsboro, Ala.; effective 11-22-61 to 5-21-62; 25 learners for plant expansion purposes (seamless).

Francis-Louise Full Fashion Mills, Inc., West Connelly Street, Valdese, N.C.; effective 11-28-61 to 11-27-62; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned, seamless).

Nebel Knitting Co., 101 West Worthington Avenue, Charlotte 3, N.C.; effective 11-22-61 to 11-21-62; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Ragan Knitting Co., Inc., 7 Cox Avenue, Thomasville, N.C.; effective 11-22-61 to 11-21-62; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Wigwam Mills, Inc., Sheboygan, Wis.; effective 12-5-61 to 12-4-62; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless slipperettes).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.30 to 522.35, as amended).

The B.V.D. Co., Inc., 901 North Downing Street, Piqua, Ohio; effective 11-22-61 to 11-21-62; 5 percent of the total number of factory production workers for normal labor turnover purposes (tee shirts, brevs).

Cluett, Peabody and Co., Inc., Eveleth, Minn.; effective 11-28-61 to 1-27-62; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's underwear).

Superior Mills, Division of B.V.D. Co., Inc., Carrboro, N.C.; effective 11-30-61 to 5-29-62; 10 learners for plant expansion purposes (underwear).

Superior Mills, Division of the B.V.D. Co., Inc., Carrboro, N.C.; effective 11-22-61 to 11-21-62; 5 percent of the total number of factory production workers for normal labor turnover purposes (underwear).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

Barbee's of Hawaii, 1473 South King Street, Honolulu 14, Hawaii; effective 11-27-61 to 5-26-62; 2 learners for normal labor turnover purposes in the occupations of sewing machine operator and hand sewer for the learning periods of 320 hours each at the rates of at least \$1.00 an hour for the first 160 hours and not less than \$1.05 an hour for the remaining 160 hours (ladies' garments and beach accessories).

Mauston Manufacturing Co., 424 La Crosse Street, Mauston, Wis.; effective 11-22-61 to 5-21-62; 70 learners for plant expansion purposes in the occupation of sewing machine operators for a learning period of 320 hours at the rate of at least \$1.00 an hour (mattress cover, shelter half tent, insect bars, etc.).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Brunswick Royal, Inc., GM, Ponce, P.R.; effective 11-13-61 to 5-12-62; 68 learners for plant expansion purposes in the occupations of: (1) stitching machine operator and hand lacer, for a learning period of 320 hours each, at the rates of 51 cents an hour for the first 160 hours and 59 cents an hour for the remaining 160 hours; (2) leather stamper, leather regrader, layer-off, turner, final glove layer-off, eyeletter, and final inspection for a learning period of 160 hours each at the rate of 51 cents an hour (baseball gloves and mitts).

Caribe Precision Balls, Inc., Roosevelt, P.R.; effective 11-15-61 to 11-14-62; 5 learners for normal labor turnover purposes in the occupations of grinders and inspectresses, each for a learning period of 480 hours at the rates of 87 cents an hour for the first 240 hours and \$1.01 an hour for the remaining 240 hours (miniature precision balls).

Caribe Precision Balls, Inc., Roosevelt, P.R.; effective 11-15-61 to 5-14-62; 5 learners for plant expansion purposes in the occupations of grinders and inspectresses for a learning period of 480 hours each, at the rates of 87 cents an hour for the first 240 hours and \$1.01 an hour for the remaining 240 hours (miniature precision balls).

Esquire Manufacturing Corp., Humacao, P.R.; effective 11-6-61 to 5-5-62; 13 learners for normal labor turnover purposes in the occupations of (1) sewing machine operators and final pressers for a learning period of 480 hours each, at the rates of 65 cents an hour for the first 240 hours and 76 cents an hour for the remaining 240 hours; and

(2) final inspection of fully assembled garments for a learning period of 160 hours at the rate of 65 cents an hour (men's and boys' pajamas).

Esquire Manufacturing Corp., Humacao, P.R.; effective 11-6-61 to 5-5-62; 62 learners for plant expansion purposes in the occupations of: (1) sewing machine operators and final pressers for a learning period of 480 hours each, at the rate of 65 cents an hour for the first 240 hours and 76 cents an hour for the remaining 240 hours; (2) final inspection of fully assembled garments for a learning period of 160 hours at the rate of 65 cents an hour (men's and boys' pajamas).

Finrico, Inc., Cayey, P.R.; effective 11-16-61 to 11-15-62; 10 learners for normal labor turnover purposes in the occupations of machine stitching and pressing for a learning period of 320 hours each, at the rate of 78 cents an hour for the first 160 hours and 92 cents an hour for the remaining 160 hours (sweaters).

Jurala Diamond Setting Co., 242 Franklin D. Roosevelt Avenue, Hato Rey, P.R.; effective 11-3-61 to 5-2-62; 10 learners for plant expansion purposes in the occupation of mounting of diamonds for a learning period of 320 hours at the rate of 87 cents an hour for the first 160 hours and \$1.01 an hour for the remaining 160 hours. (jewelry).

Sigo Corp., Barriada Luberas, Yauco, P.R.; effective 11-16-61 to 5-15-62; 10 learners for plant expansion purposes in the occupations of: (1) knitting machine operators for a learning period of 480 hours at the rate of 78 cents an hour for the first 240 hours and 91 cents an hour for the remaining 240 hours; (2) loopers for a learning period of 360 hours at the rate of 78 cents an hour for the first 180 hours and 91 cents an hour for the remaining 180 hours; and (3) seamers and topers for a learning period of 160 hours each, at the rate of 78 cents an hour (sweaters and shirts).

Tobacco Products Manufacturing Corp., of P.R., Caguas, P.R.; effective 10-23-61 to 10-22-62; 19 learners for normal labor turnover purposes in the occupation of sorters for a learning period of 240 hours at the rate of 63 cents an hour (processing of shade wrapper tobacco).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at sub-minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 28th day of December 1961.

ROBERT G. GRONEWALD,
*Authorized Representative
of the Administrator.*

[F.R. Doc. 62-49; Filed, Jan. 3, 1962;
8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30-VIII-12
(Rev. 2; Amdt. 2)]

BRANCH MANAGER, FARGO, NORTH DAKOTA

Delegation Relating to Financial Assistance, Procurement and Technical Assistance, Investment Program, and Administration

Delegation of Authority No. 30-VIII-12 (Revision 2), as amended (25 F.R. 6908 and 10301) is hereby amended by:

1. Adding subsection I. E. as follows:

E. *Investment program.* 1. To counsel and advise (but not to process) in the preparation of applications for the establishment of section 502 loans.

2. To do and to perform all and every act and thing requisite, necessary and proper to be done for the purpose of effecting the servicing and administration of section 502 loans, except those classified as problem loans or loans in liquidation.

2. Adding subsection I. F. as follows:

F. *Eligibility.* 1. To make original determinations and determinations upon reconsideration thereof as to which concerns are small businesses within the meaning of the Small Business Size Standards Regulation, as amended, except you are not authorized to make determinations in those cases which involve questions of dominance, questions relating to cooperatives and questions involving franchise, license or other contractual agreements, unless otherwise authorized.

2. To determine the eligibility of applicants for assistance under any program of the Agency in accordance with Small Business Administration standards and policies.

3. Deleting Section II in its entirety and substituting the following in lieu thereof:

II. The specific authorities delegated in subsection I. A., I. B., I. C., and I. F. may not be redelegated.

Effective date: December 1, 1961.

ROBERT C. ALM,
*Regional Director,
Minneapolis Regional Office.*

[F.R. Doc. 62-51; Filed, Jan. 3, 1962;
8:45 a.m.]

[Delegation of Authority No. 30-VIII-15
(Amdt. 1)]

BRANCH MANAGER, SIOUX FALLS, SOUTH DAKOTA

Delegation Relating to Financial Assistance, Procurement and Technical Assistance, Investment Program, and Administration

Delegation of Authority No. 30-VIII-15 (25 F.R. 10302) is hereby amended by:

1. Adding subsection I. A. 8 as follows:

8. To disburse approved loans.

2. Adding subsection I. E. as follows:

E. *Investment program.* 1. To counsel and advise (but not to process) in the preparation of applications for the establishment of section 502 loans.

2. To do and to perform all and every act and thing requisite, necessary and proper to be done for the purpose of effecting the servicing and administration of section 502 loans, except those classified as problem loans or loans in liquidation.

3. Adding subsection I. F. as follows:

F. *Eligibility.* 1. To make original determinations and determinations upon reconsideration thereof as to which concerns are small businesses within the meaning of the Small Business Size Standards Regulation, as amended, except you are not authorized to make determinations in those cases which involve questions of dominance, questions relating to cooperatives and questions involving franchise, license or other contractual agreements, unless otherwise authorized.

2. To determine the eligibility of applicants for assistance under any program of the Agency in accordance with Small Business Administration standards and policies.

4. Deleting Section II in its entirety and substituting the following in lieu thereof:

II. The specific authorities delegated in subsections I. A. 1 through 7, I. B., I. C., and I. F. may not be redelegated.

Effective date: December 1, 1961.

ROBERT C. ALM,
Regional Director,
Minneapolis Regional Office.

[F.R. Doc. 62-52; Filed, Jan. 3, 1962;
8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-1615]

TEXAS AND PACIFIC RAILWAY CO.

Notice of Application To Strike From Listing and Registration and of Opportunity for Hearing

DECEMBER 28, 1961.

In the matter of the Texas and Pacific Railway Company, Common Stock File No. 1-1615.

New York Stock Exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-1(b) promulgated thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and

registration include the following: The stock is no longer suitable for listing on the Exchange by reason of its limited distribution. Shares exclusive of concentrated holdings are only 79,427.

Upon receipt of a request, on or before January 12, 1962, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official files of the Commission pertaining to the matter.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 62-50; Filed, Jan. 3, 1962;
8:45 a.m.]

CUMULATIVE CODIFICATION GUIDE—JANUARY

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during January.

3 CFR	Page	7 CFR—Continued	Page	21 CFR—Continued	Page
PROCLAMATIONS		914	8	PROPOSED RULES:	
3443	31	944	8	121	14, 54
EXECUTIVE ORDERS:		PROPOSED RULES:		26 CFR	
May 28, 1868 (revoked in part by PLO 2574)	9	911	11	1	33
10025	32	9 CFR		PROPOSED RULES:	
10982	3	PROPOSED RULES:		1	48, 50
10983	32	89	10	43 CFR	
5 CFR		12 CFR		PROPOSED RULES:	
6	38	545	45	161	10
25	5	14 CFR		PUBLIC LAND ORDERS:	
6 CFR		608	6	2571	9
446	6	PROPOSED RULES:		2572	9
519	6	608	17	2573	9
7 CFR		610	14	2574	9
52	38	16 CFR		45 CFR	
722	6	13	8	145	47
728	41	21 CFR		47 CFR	
850	43	121	45-47	PROPOSED RULES:	
906	7			7	17
				8	17
				14	17