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Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3447

EMBARGO ON ALL TRADE WITH CUBA

By the President of the United States of America
A Proclamation

WHEREAS the Eighth Meeting of Consultation of Ministers of Foreign Affairs, Serving as Organ of Consultation in Application of the Inter-American Treaty of Reciprocal Assistance, in its Final Act resolved that the present Government of Cuba is incompatible with the principles and objectives of the Inter-American system; and, in light of the subversive offensive of Sino-Soviet Communism with which the Government of Cuba is publicly aligned, urged the member states to take those steps that they may consider appropriate for their individual and collective self-defense;

WHEREAS the Congress of the United States, in section 620(a) of the Foreign Assistance Act of 1961 (75 Stat. 445), as amended, has authorized the President to establish and maintain an embargo upon all trade between the United States and Cuba; and

WHEREAS the United States, in accordance with its international obligations, is prepared to take all necessary actions to promote national and hemispheric security by isolating the present Government of Cuba and thereby reducing the threat posed by its alignment with the communist powers:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, acting under the authority of section 620(a) of the Foreign Assistance Act of 1961 (75 Stat. 445), as amended, do

1. Hereby proclaim an embargo upon trade between the United States and Cuba in accordance with paragraphs 2 and 3 of this proclamation.

2. Hereby prohibit, effective 12:01 A.M., Eastern Standard Time, February 7, 1962, the importation into the United States of all goods of Cuban origin and all goods imported from or through Cuba; and I hereby authorize and direct the Secretary of the Treasury to carry out such prohibition, to make such exceptions thereto, by license or otherwise, as he determines to be consistent with the effective operation of the embargo hereby proclaimed, and to promulgate such rules and regulations as may be necessary to perform such functions.

3. AND FURTHER, I do hereby direct the Secretary of Commerce, under the provisions of the Export Control Act of 1949, as amended (50 U.S.C. App. 2021–2032), to continue to carry out the prohibition of all exports from the United States to Cuba, and I hereby authorize him, under that Act, to continue, make, modify or revoke exceptions from such prohibition.

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 third day of February, in the year of our Lord nineteen hundred and sixty-two, and of [SEAL] 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. 62-1309; Filed, Feb. 6, 1962; 9:55 a.m.]

Proclamation 3448

IMPORTS OF SHMURAH WHEAT FLOUR FOR RELIGIOUS PURPOSES

By the President of the United States of America
A Proclamation

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), the President issued Proclamation No. 2489 of May 28, 1941, which was amended by Proclamation No. 2550 of April 13, 1942, and further amended by Proclamation No. 2584 of April 29, 1943, limiting the quantities of wheat and wheat flour which may be entered or withdrawn from warehouse for consumption; and

WHEREAS certain persons require Shmurah wheat flour in the observance of the Passover holiday, which begins April 19, 1962; and

WHEREAS Shmurah wheat flour is wheat flour that has been thoroughly safeguarded for ritual purposes under rabbinical supervision and which is imported into the United States for use solely for religious and ritual purposes in the making of matzos for Passover; and

WHEREAS the limitations imposed upon the importation of wheat and wheat flour by Proclamation No. 2489, as amended, were never intended to apply to Shmurah wheat flour; and

WHEREAS the estimated quantity of Shmurah wheat flour which would be imported into the United States during any one year would be so insignificant that it could not possibly render or tend to render ineffective, nor materially interfere with, the price-support program undertaken by the Department of Agriculture with respect to wheat; and

WHEREAS it is deemed advisable to clarify the scope of Proclamation No. 2489, as amended, in this respect in order to simplify the administration of the proclamation:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, acting under and by virtue of the authority vested in me by section 22 of the Agricultural Adjustment Act, as amended, do hereby proclaim that the provisions of Proclamation No. 2489, as amended, shall not be deemed to apply to Shmurah wheat flour produced in Israel and entered or withdrawn from warehouse for consumption on and after February 1, 1962: *Provided*, That the written approval of the Secretary of Agriculture or his designated representative is presented at the time of entry or withdrawal from warehouse for consumption. For the purposes of this proclamation "Shmurah wheat flour" means wheat flour which has been thoroughly safeguarded for ritual purposes under rabbinical supervision, as certified to the Secretary of Agriculture by an authorized representative of the government of Israel or its designee, and which is imported into the United States for use solely for religious and ritual purposes in the making of matzos for Passover.

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 fifth day of February in the year of our Lord nineteen hundred and sixty-two, and of [SEAL] 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. 62-1310; Filed, Feb. 6, 1962; 9:55 a.m.]

Rules and Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER D—REGULATIONS UNDER THE POULTRY PRODUCTS INSPECTION ACT

PART 81—INSPECTION OF POULTRY AND POULTRY PRODUCTS

Miscellaneous Amendments

Pursuant to the authority conferred by the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624), the regulations governing the inspection of poultry and poultry products (7 CFR Part 81, as amended) are hereby further amended as follows:

§ 81.95 [Amendment]

1. Section 81.95 is amended by adding thereto a new paragraph (d) to read:

(d) (1) The use of chemical additives in or on raw poultry products, other than salt (NaCl) which is added to chilling media in concentrations not in excess of 70 pounds to 10,000 gallons of water as an aid in chilling, shall be permitted only when they are approved by the Administrator, and each unit (whole carcass, disjointed portion, or consumer package thereof) of the poultry product so treated shall be labeled to declare the additive used and the purpose of its use. Notwithstanding the foregoing, the Administrator may authorize the shipment of raw poultry products so labeled only on the shipping container from an official establishment (i) to another official establishment for further processing, packaging and labeling of each unit in accordance with this paragraph and other applicable regulations in this Part, (ii) for sale to institutional users such as hotels and restaurants.

(2) The use of chemical additives, other than basic food stuffs and seasonings, in cooked poultry products shall be permitted only when they are approved by the Administrator. The Administrator may require in addition to listing in the statement of ingredients, a declaration of the additive used and the purpose of its use.

(3) Chemical additives, to be used in the preparation of poultry products, which have not been fully approved by the Administrator prior to the effective date of this amendment, will be approved only if they comply with the following criteria:

(i) The additive shall be safe under the conditions of its intended use.

(ii) The additive shall not promote deception or cause the product to be otherwise adulterated or unwholesome. Scientific data acceptable to the Administrator showing that the additive meets the criteria specified in this paragraph (3) shall be submitted by the person interested in having the additive approved.

§ 81.156 [Amendment]

2. Section 81.156 is amended by adding at the end thereof the following sentence: "However in lieu of such statement the container of imported products shall bear a statement that 'The products contained herein have been approved for importation under P.P.I.A.'"

§ 81.300 [Amendment]

3. In § 81.300 "Alaska" and "Hawaii" are deleted.

§ 81.301 [Amendment]

4. Section 81.301(a) is amended by adding at the end thereof the following: "In determining whether the inspection system of a foreign country is the substantial equivalent of the system maintained by the United States, the Administrator shall review the inspection regulations of the foreign country and make a survey to determine the manner in which the inspection system is administered within the foreign country. The survey of the foreign inspection system may be expedited by payment by the interested Government agency in the foreign country of the travel expenses incurred in making the survey."

§ 81.307 [Amendment]

5. In § 81.307 paragraphs (b) and (c) are deleted.

§ 81.309 [Amendment]

6. In § 81.309(a) the word "and" immediately preceding the figure "(5)" is deleted and the following is added before the period at the end of the paragraph: "; (6) the inspection mark of the country of origin; and (7) the plant number of the establishment at which the product was prepared."

7. Section 81.310 is amended to read:

§ 81.310 Labeling of shipping containers of product for importation.

Shipping containers in which consumer packages of foreign product are shipped to the United States are required to bear in a prominent and legible manner the true name of the product, the name of the country of origin, the plant number of the establishment in which the product was prepared, and the inspection mark of the country of origin. Labeling on shipping containers shall be examined at the time of inspection in the United States and if found to be false or misleading, the product shall be refused.

The amendments in part are intended to prevent the preparation of adulterated or unwholesome products at establishments subject to the Poultry Products Inspection Act and to prevent deception of consumers. For these purposes they establish the procedure and criteria applicable to the approval of chemical additives for use on or in poultry products and specify certain labeling requirements which shall apply to poultry products so treated. Notice of rule-making with respect to this matter was published in the FEDERAL REGISTER and opportunity was afforded interested persons to comment thereon. Due consideration has been given to all comments received and to all other information available to the Agricultural Marketing Service. The amendments are substantially the same as the published proposals in this respect, with the exception that the proposed requirement relating to consumer packaging of poultry products that have been treated with additives has been deleted. However, the provision requiring informative labeling of each unit of product that has been treated is retained. The proposal specifying that an additive must have a beneficial effect on the product as a prerequisite to approval has been deleted as unnecessary. The effect of the additive would obviously have to be considered in determining whether the additive would result in adulteration of the poultry product.

The provisions concerning the approval of foreign poultry inspection systems are intended to clarify existing provisions of the regulations relating to imports and to formalize procedure for payment of survey costs in connection with such approval. The changes in the labeling requirements for products to be imported are needed to identify the products as inspected poultry products. The requirement that the inspection mark of the country of origin be shown on containers is needed to facilitate the movement of imported products in commerce. This is also true of the amendment relating to labeling of shipping containers not bearing marks of inspection.

It does not appear that publication of further notice and other public procedure with respect to the amendments would make additional information available to the Department. It is therefore found under section 4 of the Administrative Procedure Act (5 U.S.C. 1003) that such procedure would be impractical and unnecessary.

The amendments shall become effective 30 days after publication hereof.

Done at Washington, D.C., this 1st day of February 1962.

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

[F.R. Doc. 62-1237; Filed, Feb. 6, 1962; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 6589]

PART 47—DOCUMENTARY STAMP TAXES

On December 24, 1960, notice of proposed rule making with respect to regulations under chapter 34 of the Internal Revenue Code of 1954, as amended, and under those administrative provisions of subtitle F of the Code which have special application to the taxes imposed by such chapter 34 was published in the FEDERAL REGISTER (25 F.R. 13699). The regulations, except where otherwise specifically provided, are applicable in respect of transactions occurring on or after January 1, 1959, and supersede § 148.1–1 of the Regulations on Certain Excise Tax Matters under Excise Tax Technical Changes Act of 1958 (26 CFR 148.1–1). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so proposed are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 47.4301–1 is amended by revising paragraph (b)(1)(ii).

PAR. 2. Section 47.4301–2 is amended by revising paragraph (a)(12).

PAR. 3. Section 47.4302–1 is amended by revising paragraphs (b) and (c).

PAR. 4. Section 47.4311–2 is amended by adding to paragraph (b) a subparagraph (10).

PAR. 5. Section 47.4323–1 is amended by revising paragraph (b).

PAR. 6. Section 47.4341–1 is amended by revising paragraph (a).

PAR. 7. Section 47.4352–1 is amended by revising paragraph (b).

PAR. 8. Section 47.6802–1 is amended by changing the heading of the section, deleting paragraph (b), and redesignating paragraph (c) as (b).

PAR. 9. Section 47.6804–2 is amended.

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

Approved: January 31, 1962.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

The following regulations, relating to documentary stamp taxes, are hereby prescribed under chapter 34 of the Internal Revenue Code of 1954, as amended, and under those administrative provisions of subtitle F of the Code which have special application to the taxes imposed by such chapter 34. The regulations, except where otherwise specifically provided, are applicable in respect of transactions occurring on or after January 1, 1959, and supersede § 148.1–1 of the Regulations on Certain Excise Tax Matters under Excise Tax Technical Changes Act of 1958 (26 CFR 148.1–1).

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AUTHORITY: §§ 47.0-1 to 47.7805-1 issued under sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805.

Subpart A—Introductory Provisions

§ 47.0-1 Introduction.

(a) *In general.* The regulations in this part (Part 47, Subchapter D, Chapter I, Title 26 (1954) Code of Federal Regulations) are designated "Documentary Stamp Tax Regulations". The regulations relate to the taxes imposed by chapter 34 of the Internal Revenue Code of 1954, as amended, and to certain related administrative provisions of subtitle F of such Code. Chapter 34 of the Code imposes a tax on the issuance and on the sale or transfer of shares or certificates of stock or certificates of indebtedness, on conveyances of realty, and on policies issued by foreign insurers. References in these regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, unless otherwise indicated. References to a section or other provision of law are references to a section or other provision of the Internal Revenue Code, as amended, unless otherwise indicated.

(b) *Division of regulations.* The regulations in this part are divided into 10 subparts. Subpart A contains provisions relating to the arrangement and numbering of the sections of the regulations in this part, general definitions and use of terms, scope of regulations, and the extent to which the regulations in this part supersede prior regulations relating to the excise taxes imposed by chapter 34 of the Internal Revenue Code. The other subparts of the regulations in this part and the subject matter to which they relate are as follows:

Subpart B—Tax on issuance of capital stock and similar interests
Subpart C—Tax on issuance of certificates of indebtedness
Subpart D—Tax on sales or transfers of capital stock and similar interests
Subpart E—Tax on sales or transfers of certificates of indebtedness
Subpart F—Provisions common to sales or transfers of capital stock and certificates of indebtedness
Subpart G—Tax on conveyances
Subpart H—Tax on policies issued by foreign insurers
Subpart I—Miscellaneous provisions applicable to documentary stamp taxes
Subpart J—Administrative provisions applicable to documentary stamp taxes

(c) *Arrangement and numbering.* Each section of the regulations in Subpart B through Subpart J is preceded by the section, subsection, or paragraph of the Internal Revenue Code which it interprets. The sections of the regulations can readily be distinguished from the sections of the Code since—

(1) The sections of the regulations are printed in larger type;

(2) The sections of the regulations are preceded by a section symbol and the part number, arabic numeral 47 followed by a decimal point (§ 47.); and

(3) The sections of the Code are preceded by "Sec.".

Each section of the regulations setting forth law or regulation is designated by a number composed of the part number followed by a decimal point (47.) and the number of the corresponding provision of the Internal Revenue Code. In the case of a section setting forth regulations, this designation is followed by a hyphen (-) and a number identifying such section.

§ 47.0-2 General definitions and use of terms.

(a) *In general.* As used in the regulations in this part, unless otherwise expressly indicated—

(1) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(2) The Internal Revenue Code of 1954 means the Act approved August 16, 1954 (68a Stat.), entitled "An Act to revise the internal revenue laws of the United States", as amended.

(3) District director means district director of internal revenue. The term also includes the Director of International Operations in all cases where the authority to perform the functions which may be performed by a district director has been delegated to the Director of International Operations.

(4) The terms "stamp tax" and "stamp taxes" generally mean any one or all of the stamp taxes which constitute the subject of the regulations in this part.

(5) The term "documentary stamps" means all stamps issued for use in payment of stamp taxes imposed by chapter 34 of the Internal Revenue Code, including stamps issued by authorized meter machines. See § 47.6801-1.

(6) The cross references in the regulations in this part to other portions of the regulations, when the word "see" is used, are made only for convenience and shall be given no legal effect.

(b) *Cross references.* For other definitions, see section 4381, § 47.4381-1, and section 7701 (§ 47.7701).

§ 47.0-3 Scope of regulations.

The regulations in this part relate to the documentary stamp taxes referred to in subparts B through H (see paragraph (b) of § 47.0-1) and, except where otherwise specifically provided, have application to transactions occurring on or after January 1, 1959. The provisions of the Internal Revenue Code set forth in the regulations in this part are, unless otherwise indicated, provisions of law in effect on January 1, 1959.

§ 47.0-4 Extent to which the regulations in this part supersede prior regulations.

The regulations in this part, with respect to the subject matter within the scope thereof, supersede the Documentary Stamp Tax Regulations contained in Part 43 of this chapter.

Subpart B—Tax on Issuance of Capital Stock and Similar Interests

§ 47.4301 Statutory provisions; imposition of tax.

SEC. 4301 *Imposition of tax.* There is hereby imposed, on each original issue of shares or certificates of stock issued by a corporation (whether on organization or reorganization), a tax at the rate of 10 cents on each $100 (or major fraction thereof) of the actual value of the certificates (or of the shares where no certificates are issued); except that such rate shall be 4 cents instead of 10 cents in the case of shares or certificates issued by a corporation to which subchapter M of chapter 1 applies for the taxable year during which such share or certificate is issued. The tax imposed by this section shall be computed on the basis of all certificates (or shares) so issued by the corporation on each day.

[Sec. 4301 as amended and in effect Jan. 1, 1959, and as further amended by Act of Apr. 8, 1960 (Pub. Law 86-416, 74 Stat. 36)]

§ 47.4301-1 Imposition of the tax on original issue of stock.

(a) *Scope of tax*—(1) *In general.* Section 4301 imposes a tax on each original issue of shares or certificates of stock issued by a domestic corporation. See section 4381(b) and paragraph (b) of § 47.4381-1 and section 4381(c) and paragraph (c) of § 47.4381-1, respectively, for definitions of the terms "corporation" and "shares or certificates of stock". In the case of subscriptions, stock is deemed to be issued when the subscription is accepted. The tax applies to each original issue of the shares or certificates, whether upon organization, reorganization, or otherwise, regardless of the purpose of the issue, the person to whom issued, or the time of delivery. Thus, the tax applies to shares or certificates issued in a recapitalization where the recapitalization results in the dedication of an amount as capital for the first time (see § 47.4302-1).

(2) *Original issue.* An original issue of stock means any issue of shares or certificates of stock which reflects in whole or in part the addition of an amount to the capital stock account.

(b) *Rate and computation of tax*—(1) *Rate of tax*—(i) *In general.* Except as otherwise provided in subdivision (ii) of this subparagraph, the rate of tax is 10 cents on each $100 (or major fraction thereof) of the actual value of the cer-

tificates (or of the shares where no certificates are issued).

(ii) *Regulated investment companies.* In the case of shares or certificates issued on or after April 9, 1960, by a corporation to which subchapter M of chapter 1 of the Code applies for the taxable year during which such shares or certificates are issued, the rate of tax is 4 cents on each $100 (or major fraction thereof) of the actual value of the certificates (or of the shares where no certificates are issued). The terms "taxable year" and "regulated investment company" as used in this subdivision, have the same meaning as when used in subchapter M of chapter 1 of the Code and the regulations thereunder. The tax is to be computed at the 4-cent rate in respect of shares or certificates issued by a company which qualified as a regulated investment company for the year immediately preceding the taxable year in which the shares or certificates are issued provided the company intends to elect to be taxed as a regulated investment company for Federal income tax purposes during the year that such shares or certificates are issued. In the case of a newly created company which has filed its notification of registration with the Securities and Exchange Commission pursuant to the provisions of the Investment Company Act of 1940, the 4-cent rate will apply if—

(*a*) The company intends to elect to be taxed as a regulated investment company for Federal income tax purposes, and

(*b*) The company qualifies to be taxed as a regulated investment company for the taxable year.

If tax is computed at the 4-cent rate in respect of shares or certificates issued by a company during a taxable year, such shares or certificates shall be subject to tax at the 10-cent rate if the company fails to qualify as a regulated investment company for such taxable year. If the tax is paid at the 10-cent rate, refund of the difference between the 10-cent and the 4-cent rate is allowable within the applicable period of limitation to the person who paid the tax with respect to shares or certificates issued by a company if it is shown that the company qualified as a regulated investment company for the taxable year during which such shares or certificates were issued. For provisions with respect to period of limitation for filing claims for refund, see section 6511 and the regulations thereunder in Part 301 of this chapter (Regulations on Procedure and Administration).

(iii) *Major fraction.* A major fraction of $100 is any amount in excess of $50 and less than $100.

(2) *Computation of tax*—(i) *In general.* A single computation of tax must be made with respect to the certificates (and shares which are not represented by certificates) issued by a corporation on each day. The amount of tax imposed under section 4301 in respect of shares or certificates issued by a corporation on a particular day is computed by ascertaining the actual value of all certificates (and shares which are not represented by certificates) issued on such day and applying to such actual value the applicable rate of tax.

(ii) *Actual value.* (*a*) In general, the actual value of stock is the fair market value of the stock. Fair market value of stock is considered to be the price agreed upon by the parties to the issuance to be paid for the stock unless the price includes property or services or the issuance transaction is not an arm's length transaction or is subject to special conditions which result in a price not reflecting the value of the stock as such value would be determined by reference to the mean selling price of the stock on the open market or to all the facts and circumstances of the case. In the absence of a price agreed upon by the parties or if the price agreed upon includes property or services, results from a transaction not at arm's length, or is affected by special conditions, the fair market value of each share of stock issued on a particular day shall be considered to be the mean between the high and low selling prices of the stock on the open market for such day. Thus, the price to be paid for stock to be issued by reason of the exercise of a stock option in a case where the option price is less than the mean selling price of the stock on the open market may not be used in ascertaining the value of the stock so issued for the reason that the transaction is subject to special conditions which result in the option price not reflecting the mean selling price of the stock. If the fair market value of the stock cannot be determined by reference to the price of the stock agreed upon by the parties or the mean between the high and low selling prices thereof on the open market, the fair market value shall be determined on the basis of all the facts and circumstances of the particular case.

(*b*) In the case of a unit offering by a corporation, as, for example, a share of stock and a certificate of indebtedness, the fair market value of the stock shall be considered to be the mean between the high and low selling prices of the stock on the open market for the day of issuance if such stock is being traded on the open market other than as a part of such a unit offering. Thus, the actual value and the face value of the certificate of indebtedness are to be disregarded for purposes of determining the value of the stock. If the fair market value of the stock cannot be determined by reference to the mean between the high and low selling prices thereof on the open market, the fair market value shall be determined on the basis of all the facts and circumstances of the particular case. The provisions of this subdivision (*b*) shall have application only to shares or certificates of stock, constituting a part of a unit offering, issued on or after the tenth day following the date of publication of the regulations in this part in the FEDERAL REGISTER.

§ 47.4301–2 Illustrations.

(a) *Issues subject to tax.* The following are examples of issues subject to the tax:

(1) Certificates or shares representing beneficial interests in any organization which is a corporation within the meaning of section 4381(b) or section 7701(a)(3).

(2) Stock issued for property, real or personal, or for the purpose of purchasing a business.

(3) Stock issued by joint-stock land banks.

(4) Stock issued as a dividend. (For limitation of tax, see § 47.4302–1.)

(5) Temporary or interim certificates.

(6) The issue of a fractional share, or a certificate for a fractional share, of stock (see, however, paragraph (b)(6) of this section).

(7) Stock issued upon exercise of a warrant or rights entitling the holder to subscribe for unissued stock (see paragraph (a) of § 47.4321–3).

(8) Stock issued in connection with a consolidation by a consolidated corporation in exchange for stock of the consolidating corporations whether issued directly to the consolidating corporations or to the stockholders of the consolidating corporations (see also paragraph (a)(9) of § 47.4321–2 relating to the imposition of the stock transfer tax where the stock is issued directly to the stockholders). For exemption from tax in respect of issuances of stock to make effective a plan of reorganization or adjustment whereby a mere change in identity, form, or place of organization is affected, see paragraph (d) of § 47.4382–1.

(9) Stock issued in connection with a merger by the continuing corporation whether issued directly to the merging corporation or to the stockholders of the merging corporation (see also paragraph (a)(9) of § 47.4321–2) and stock issued to the stockholders of the continuing corporation in a recapitalization under section 4302 which results in the dedication of an amount as capital which amount is so dedicated for the first time. For exemption from tax in respect of issuances of stock to make effective a plan of reorganization or adjustment whereby a mere change in identity, form, or place of organization is effected, see paragraph (d) of § 47.4382–1.

(10) Stock issued outside the United States by a domestic corporation.

(11) A business property investment certificate, wherein it is certified that the holder thereof is the owner of an interest in certain specified property, legal title to which has been previously conveyed to a trustee, and whereby the issuing corporation agrees to manage the property and distribute the proceeds.

(12) Stock issued where the capital stock account, although not increased at the time of such issuance, was previously increased by a dedication of an amount as capital for the first time which was not accompanied by an issuance of shares or certificates of stock and with respect to which there has been no other issuance of shares or certificates of stock. (For limitation of tax, see § 47.4302–1.)

(b) *Issues not subject to tax.* In addition to the various issues specifically exempt under sections 4303 and 4382,

the following are examples of issues not subject to the tax:

(1) The issue of warrants or rights to subscribe for unissued stock (see, however, § 47.4321–3).

(2) The issue of certificates of stock in exchange for outstanding certificates representing the same stock as, for instance, to reflect a change in the name of the issuing corporation or to secure several certificates for one certificate, or vice versa.

(3) The issue of voting-trust certificates.

(4) The issue of definitive certificates of stock in exchange for temporary or interim certificates upon the issuance of which the tax has been paid.

(5) The issue of stock in a recapitalization or reorganization where there is no dedication of additional capital, either by transfer of earned surplus or otherwise (see, however, paragraph (b) of § 47.4302–1).

(6) Stock issued on the surrender of fractional shares or certificates for fractional shares of stock (see, however, paragraph (a)(6) of this section).

(7) The issue in the United States of stock of a foreign corporation.

(8) The issue of stock to effect a mere split in outstanding shares without any increase in the issuing corporation's capital stock account. See, however, paragraph (a)(12) of this section.

(9) The issue of one type of stock for another type of stock and in which the new stock does not reflect the addition of an amount to the capital stock account.

§ 47.4302 Statutory provisions; stock issued in recapitalization.

SEC. 4302 *Recapitalization.* In the case of a recapitalization, the tax imposed by section 4301 shall be that proportion of the tax computed on the certificates (or on the shares where no certificates are issued) issued in the recapitalization that (1) the amount dedicated as capital for the first time by the recapitalization, whether by a transfer of earned surplus or otherwise, bears to (2) the total actual value of such certificates or shares issued in the recapitalization.

[Sec. 4302 as amended and in effect Jan. 1, 1959]

§ 47.4302–1 Limitation on tax in case of recapitalization.

(a) *In general.* Where stock is issued in a recapitalization, the tax payable is that proportion of the total tax imposed by section 4301 computed with respect to all the shares or certificates issued in the recapitalization that the amount dedicated as capital for the first time by the recapitalization, whether by a transfer of earned surplus or otherwise, bears to the total actual value of the shares or certificates so issued.

(b) *Dedication of capital for first time.* A tax is not payable with respect to stock issued in a recapitalization unless the recapitalization results in the dedication of an amount as capital which amount is so dedicated for the first time. Thus, where a corporation transferred an amount from the capital stock account to capital surplus in a prior recapitalization, and such corporation in a subsequent or second recapitalization transfers such amount from capital surplus to the capital stock account under such circumstances that the amount so restored to the capital stock account is clearly identifiable, a tax is not payable with respect to the amount so rededicated as capital. If the amount transferred to the capital stock account from capital surplus cannot be clearly identified as having been previously dedicated to the capital stock account, the portion of the amount so transferred which is attributable to the amount in capital surplus not previously dedicated to capital is considered to be the amount dedicated to capital for the first time, and tax will be imposed with respect thereto. The amount so transferred which is attributable to the amount in capital surplus not previously dedicated to capital is that proportion of the total amount so transferred that the amount in the capital surplus account before such transfer not previously dedicated to capital bears to the total amount in the capital surplus account before such transfer. The tax is also payable with respect to a transfer of capital surplus to the capital stock account by way of a recapitalization where the amount so transferred can be clearly identified as not having been previously dedicated as capital. Any stock dividend constitutes a recapitalization regardless of the amount of such dividend.

(c) *Examples of computation of tax in a recapitalization*—(1) *Statutory method of computing tax.* The computation of tax in a recapitalization in accordance with the formula specified in section 4302 may be illustrated by the following examples:

Example (1). Corporation A has outstanding 10,000 shares of common stock having a stated value of $50 per share and has an earned surplus of $1,500,000. Corporation A declares a stock dividend of one share for each share outstanding and issues shares pursuant thereto. As a part of the transaction, $500,000 is transferred from earned surplus to the capital stock account. The actual value of the 10,000 shares issued in the recapitalization is $2,000,000, and the tax computed on $2,000,000 would be $2,000. $\frac{\$500,000}{\$2,000,000} \times \$2,000$ or $500 is the portion of the tax computed on the shares issued in the recapitalization which is considered under section 4302 to be attributable to the amount dedicated to capital for the first time. The tax imposed on the shares issued in such recapitalization is, therefore, $500.

Example (2). Corporation B has outstanding 1,000 shares of no par common stock with a stated value of $20 per share which is shown in the capital stock account in the amount of $20,000. Corporation B also maintains an account designated "capital surplus" which consists of $100,000, of which $75,000 is attributable to paid-in-surplus and $25,000 is attributable to a reduction in the capital stock account. Corporation B issues to its shareholders for each share outstanding one additional share of no par common stock. As a part of such transaction, the capital stock account is increased to $50,000 by the transfer of $20,000 from capital surplus, and the transfer of $10,000 from earned surplus. The stated value of the no par common stock is increased from $20 per share to $25 per share. Since $75,000 of the amount in the capital surplus account has not been previously dedicated to the capital stock account, $\frac{\$75,000}{\$100,000}$ or ¾ of $20,000 ($15,000) is the portion of the amount transferred to the capital stock account from capital surplus considered to be dedicated to capital for the first time. The $10,000 transferred from earned surplus is clearly identified as having never been previously dedicated to capital. The total amount, therefore, considered to be dedicated to capital for the first time is $25,000. The 1,000 shares of stock issued have an actual value of $130,000, and the tax computed on such amount would be $130. Applying the formula provided in section 4302, $\frac{\$25,000}{\$130,000} \times \$130$ or $25 is the portion of the tax computed on all shares issued in the recapitalization which is attributable to the amount dedicated to capital for the first time. The tax imposed on the shares issued in such recapitalization is, therefore, $25.

(2) *Alternative method of computing tax.* The examples in subparagraph (1) of this paragraph illustrate the method of computing the tax in a recapitalization in accordance with the formula provided in section 4302. The taxpayer may, if he wishes, compute the tax by an alternative method under which actual value of the shares issued in a recapitalization need not be determined. The same tax result will be obtained under this alternative method except for a possible nominal variation due to the application of the major fraction rule of section 4301. Under this alternative method the tax in a recapitalization is computed by multiplying the amount dedicated as capital for the first time by the applicable tax rate. Thus, in example (1) of subparagraph (1) of this paragraph, $500,000 multiplied by .001 ($0.10 on each $100 equals the factor of .001) results in a tax of $500, and in example (2) of the same subparagraph $25,000 multiplied by .001 results in a tax of $25.

(d) *Recapitalization as part of other transaction.* Where a recapitalization is effected in connection with, or as part of, some other transaction, for example, an original or an additional issue of stock, a merger, etc., the limitation of the tax payable to the proportion specified in this section applies only to the stock issued in that part of the transaction which constitutes a recapitalization. Thus, where a corporation makes a change in its capital structure by transferring to the capital stock account a portion of its earned surplus and replacing an issue of stock with another issue of stock and at the same time disposes of part of the new stock by sale to underwriters, the tax limitation is applicable only to that portion of the new stock which is issued in exchange for the old stock retired thereby. In such case, the portion of the new stock sold to the underwriters is taxable in its entirety without any adjustment on account of the recapitalization. Similarly, where a corporation retires its preferred stock by transferring to the capital stock account a portion of its earned surplus and issuing common stock in exchange therefor, and such exchange is made in connection with a merger in which the corporation issues common stock also to the former stockholders of the merged company, the tax limitation is applicable only to the common stock

issued in exchange for the preferred stock, and the shares or certificates of common stock issued to the former stockholders of the merged company are subject to tax without any adjustment on account of the recapitalization.

§ 47.4303 Statutory provisions; exemptions.

SEC. 4303 *Exemptions*—(a) *Common trust funds.* The tax imposed by section 4301 shall not apply to the issue of shares or certificates of a common trust fund, as defined in section 584.

(b) *Pooled investment funds.* The tax imposed by section 4301 shall not apply to the issue of shares or certificates of a fund maintained by a bank exclusively for the collective investment and reinvestment of assets of qualified trusts (within the meaning of section 401, relating to qualified pension, profit-sharing, and stock bonus plans).

(c) *Installment purchases of certain shares or certificates.* The tax imposed by section 4301 shall not apply to shares or certificates issued by a corporation pursuant to an installment purchase agreement which provides that—

(1) The periodic payments by the purchaser will be applied (as received by the corporation) solely to the acquisition of shares or certificates in specified other corporations (and in specified percentages), and

(2) The corporation will transfer to the purchaser, on or before the termination of the agreement, all shares or certificates in other corporations acquired by it for the purchaser.

For the purposes of the preceding sentence, the term "purchaser" includes a successor in interest of the purchaser.

(d) *Other exemptions.* For other exemptions, see section 4382.

[Sec. 4303 as amended and in effect Jan. 1, 1959]

§ 47.4303–1 Exemptions.

(a) *Common trust funds.* For regulations under section 584, see Part 1 of this chapter (Income Tax Regulations).

(b) *Pooled investment funds.* Section 4303(b) exempts from the tax imposed by section 4301 the issue of shares or certificates of stock of a fund maintained by a bank exclusively for the collective investment and reinvestment of assets of trusts which are qualified trusts within the meaning of section 401, relating to qualified pension, profit-sharing, and stock bonus plans. The exemption applies to such issue of shares or certificates regardless of the capacity in which the bank holds those assets of the qualifying trusts which have been pooled for the purpose of collective investment or reinvestment. For regulations under section 401, see Part 1 of this chapter (Income Tax Regulations).

(c) *Installment purchases of certain shares or certificates.* Section 4303(c) exempts from the tax imposed by section 4301, under certain circumstances, shares or certificates of stock issued by a corporation pursuant to an installment purchase agreement. The exemption has application only if the installment purchase agreement provides that:

(1) The periodic payments required to be made by the purchaser under the installment purchase agreement will be applied, as received by the corporation, solely to the acquisition of shares or certificates of stock in other corporations which are designated in the agreement and that the periodic payments will be so applied in accordance with the specified percentages set forth in the agreement, and

(2) The corporation, on or before the termination of the installment purchase agreement, will transfer to the purchaser all shares or certificates of stock in the designated corporations which were acquired by it for such purchaser pursuant to such agreement.

The exemption will have application only if all of the foregoing conditions are met. The exemption will not apply, for example, if the corporation has an option, under the installment purchase agreement or otherwise, to distribute cash in lieu of the stock purchased for the purchaser. However, the exemption will apply if the purchaser has the option to receive cash in lieu of the stock purchased for him. For purposes of subparagraph (1) of this paragraph, periodic payments will be considered as being applied "solely to the acquisition of shares or certificates of stock in other corporations" notwithstanding that the agreement authorizes the corporation to apply a portion of such payments to cover loading charges or to retain amounts insufficient to purchase a full share of stock. For purposes of section 4303(c) and this paragraph, the term "purchaser" includes a successor in interest of the purchaser.

§ 47.4304 Statutory provisions; affixing of stamps.

SEC. 4304 *Affixing of stamps.* The stamps representing the tax imposed by section 4301 shall be affixed to the stock books or corresponding records of the organization and not to the certificates issued.

[Sec. 4304 as originally enacted and in effect Jan. 1, 1959]

§ 47.4304–1 Affixing of stamps.

(a) *Documentary stamps.* Only documentary stamps shall be used in payment of the tax imposed by section 4301. The requisite stamps shall be affixed to the stock books or corresponding records of the corporation, and not to the certificates issued. See §§ 47.6804–1 and 47.6804–2 for appropriate use, denominations, and cancellation of such stamps.

(b) *Purchase of documentary stamps.* Documentary stamps may be purchased, and requisition forms for the purchase of such stamps may be obtained, from the sources and in the manner provided in § 47.6802–1. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801 (§ 47.6801), 6802 (§ 47.6802), and 6805 (§ 47.6805), and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration), and § 47.6801–1.

§ 47.4305 Statutory provisions; cross references.

SEC. 4305 *Cross references.* For definitions, penalties, and other general and administrative provisions applicable to this part, see sections 4381 and 4384 and subtitle F.

[Sec. 4305 as amended and in effect Jan. 1, 1959]

§ 47.4305–1 Cross references.

(a) For definitions, see section 4381, § 47.4381–1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271–1.

(c) For other general and administrative provisions, see section 4384, § 47.4384–1, Subpart J, and the applicable sections of subtitle F and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart C—Tax on Issuance of Certificates of Indebtedness

§ 47.4311 Statutory provisions; imposition of tax.

SEC. 4311 *Imposition of tax.* There is hereby imposed, on all certificates of indebtedness issued by a corporation, a tax at the rate of 11 cents on each $100 of face value or fraction thereof.

[Sec. 4311 as amended and in effect Jan. 1, 1959]

§ 47.4311–1 Imposition of tax on issuance of certificates of indebtedness.

(a) *Scope of tax.* Section 4311 imposes a tax on the issue within the territorial jurisdiction of the United States by any corporation of certificates of indebtedness as defined in section 4381(a) and paragraph (a) of § 47.4381–1. See section 4381(b) and paragraph (b) of § 47.4381–1 for definition of the term "corporation". Every renewal of a certificate of indebtedness is subject to tax as a new issue (see § 47.4312–1). A certificate of indebtedness is issued within the meaning of the law at the time it is delivered so as to constitute an obligation of the issuer.

(b) *Rate and computation of tax.* The rate of tax is 11 cents on each $100 or fraction thereof of the face value of each certificate of indebtedness; except that, where a certificate conditioned for the repayment or payment of money is given in a penal sum, greater than the debt secured, the tax is based upon the amount secured (see section 4313). A separate computation of tax must be made with respect to each certificate of indebtedness regardless of the number of certificates which may be issued in a single transaction. For example, the tax on the issuance of a certificate having a face value of $1,000 is $1.10. The tax on the issuance of 2 certificates having a face value of $50 each is 22 cents, that is, 11 cents on each certificate, whether the certificates are issued to the same person or to different persons.

(c) *Affixing of stamps.* (1) The requisite documentary stamps shall be affixed either to the certificates of indebtedness or to the indenture or agreement under which they are issued. If the stamps are affixed to the indenture or agreement, the certificate must bear a legend showing that the proper documentary stamps have been affixed to the indenture or agreement and duly cancelled. If the indenture provides for the issue of certificates over a period of years, the requisite stamps may be affixed at the time of each issue. Only documentary stamps shall be used in payment of the tax imposed by section 4311. See §§ 47.6804–1 and 47.6804–2 for the appropriate use, denominations, and cancellation of such stamps.

(2) Documentary stamps may be purchased, and requisitions for the purchase of such stamps may be obtained, from the sources and in the manner provided in § 47.6802–1. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801 (§ 47.6801), 6802 (§ 47.6802), and 6805 (§ 47.6805), and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration), and § 47.6801–1.

§ 47.4311–2 Illustrations.

(a) *Issues subject to tax.* The following are examples of corporate instruments taxable upon issue:

(1) A bond secured by a real estate mortgage.

(2) A bond delivered to a bank or trust company as security for the payment of an obligation.

(3) Bonds executed outside the United States by a foreign corporation and delivered in the United States.

(4) Interim certificates or temporary bonds issued in lieu of definitive bonds. However, no additional tax is due on the issuance of the corresponding permanent or definitive bonds, but each of such permanent or definitive bonds must bear notation of the fact that requisite stamps were duly affixed to the interim certificates or temporary bonds or to the indenture or agreement under which such interim certificates or temporary bonds were issued.

(5) Equipment trust certificates.

(6) Any certificate of indebtedness issued by any receiver, trustee in bankruptcy, assignee, or other person, having custody of property, or charge of the affairs, of any corporation (see section 4381(b)).

(b) *Issues not subject to tax.* In addition to the various issues specifically exempt under sections 4314(a) and 4382, the following are examples of instruments not taxable upon issue:

(1) An instrument issued by an individual or partnership.

(2) An instrument merely representing the assignment of an interest in a bond (see, however, § 47.4331–1 and paragraph (b) of § 47.4351–1).

(3) Bonds issued in exchange for outstanding bonds of different denominations but of the same kind, the same total face amount, and the same maturity date.

(4) Permanent or definitive bonds issued in exchange for interim certificates or temporary bonds representing the same obligation (see, however, paragraph (a)(4) of this section).

(5) A certificate of deposit issued by a bank, whether or not negotiable, and whether payable on demand or at some specified time; and a certificate of deposit issued by an organization operating under the Morris Plan.

(6) Indemnity, fidelity, and surety bonds.

(7) A business property investment certificate, wherein it is certified that the holder thereof is the owner of an interest in certain specified property, legal title to which has been previously conveyed to a trustee, and whereby the issuing corporation agrees to manage the property and distribute the proceeds. However, such instrument is subject to the tax imposed by section 4301 (see paragraph (a)(11) of § 47.4301–2).

(8) A bond issued by a trust company on behalf of the estate of a decedent for which it is acting as executor or administrator, provided the certificate is issued solely on the credit of the estate.

(9) A warrant granting the right to purchase unissued bonds (see § 47.4331–3).

(10) A promissory note of a corporation which does not have the characteristics of a certificate of indebtedness. (For an instrument designated a promissory note which may be subject to tax, see paragraph (a) of § 47.4381–1.)

§ 47.4312 Statutory provisions; renewal of certificates of indebtedness.

SEC. 4312 *Renewals.* Every renewal of any certificate of indebtedness shall be taxed as a new issue.

[Sec. 4312 as redesignated and in effect Jan. 1, 1959]

§ 47.4312–1 Tax on renewal of certificates of indebtedness.

Every renewal of a certificate of indebtedness is subject to the tax imposed by section 4311 as a new issue. Whenever there is such a material change in the obligation as to constitute a new obligation, as, for example, an extension of maturity date or a change in the interest rate of the outstanding certificate of indebtedness, such change constitutes a renewal subject to tax as a new issue. The time when the original certificate was issued is immaterial. Likewise, the time when the certificate is renewed, whether before or after the original date of maturity, is immaterial. A tax liability is not dependent upon use of any particular form of instrument to effect the renewal. The renewal may, for example, be evidenced by a notation on the original certificate, by a collateral agreement, or by an extension agreement.

§ 47.4313 Statutory provisions; bond as security for debt.

SEC. 4313 *Bond as security for debt.* In the case where a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax imposed by section 4311 shall be based upon the amount secured.

[Sec. 4313 as redesignated and in effect Jan. 1, 1959]

§ 47.4313–1 Bond as security for debt.

For the effect of section 4313 on the computation of the tax, see paragraph (b) of §47.4311–1.

§ 47.4314 Statutory provisions; exemption for certain installment obligations.

SEC. 4314 *Exemptions*—(a) *Installment purchase of obligations.* The tax imposed by section 4311 shall not apply to any instrument under the terms of which the obligee is required to make payment therefor in installments and is not permitted to make in any year a payment of more than 20 percent of the cash amount to which entitled upon maturity of the instrument.

(b) *Other exemptions.* For other exemptions, see section 4382.

[Sec. 4314 as redesignated and in effect Jan. 1, 1959]

§ 47.4315 Statutory provisions; cross references.

SEC. 4315 *Cross references.* For definitions, penalties, and other general and administrative provisions applicable to this part, see sections 4381 and 4384 and subtitle F.

[Sec. 4315 as redesignated and amended and in effect Jan. 1, 1959]

§ 47.4315–1 Cross references.

(a) For definitions, see section 4381, § 47.4381–1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271–1.

(c) For other general and administrative provisions, see section 4384, § 47.4384–1, Subpart J, and the applicable sections of subtitle F and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart D—Tax on Sales or Transfers of Capital Stock and Similar Interests

§ 47.4321 Statutory provisions; imposition of tax.

SEC. 4321 *Imposition of tax.* There is hereby imposed on each sale or transfer of shares or certificates of stock, or of rights to subscribe for or to receive such shares or certificates, issued by a corporation, a tax at the rate of 4 cents on each $100 (or major fraction thereof) of the actual value of the certificates, of the shares where no certificates are sold or transferred, or of the rights, as the case may be. In no case shall the tax so imposed on any such sale or transfer be—

(1) More than 8 cents on each share, or

(2) Less than 4 cents on the sale or transfer.

[Sec. 4321 as amended and in effect Jan. 1, 1959, and as further amended by sec. 5(a), Act of Sept. 21, 1959 (Pub. Law 86–344, 73 Stat. 619)]

§ 47.4321–1 Imposition of tax.

(a) *Scope of tax.* Section 4321 imposes a tax on each sale or transfer (as defined in section 4351(b)), within the territorial jurisdiction of the United States of shares or certificates of stock, or of rights to subscribe for or to receive such shares or certificates, issued by a corporation. As to sales or transfers of warrants to subscribe for or to purchase stock, see § 47.4321–3. The tax applies to the specified dealings or transactions in stock, whether occurring before, after, or without the issuance of a certificate. The tax attaches at the time of making the sale or transfer, regardless of the time or manner of delivery of the certificate, agreement, or memorandum of sale. For requirements as to the making and keeping of records of such sales or transfers, see §§ 47.4352–1 and 47.6001–1. See section 4381 and § 47.4381–1 for definitions of the terms "corporation" and "shares or certificates of stock". For purposes of the tax imposed by section 4321, the term "stock", as used in the regulations in this part, includes shares or certificates of stock and rights to subscribe for or to receive such shares or certificates.

(b) *Rate and computation of tax*—(1) *Computation.* Where, by sale or transfer, stock of the same class issued by one corporation is transferred from

a single transferor to a single transferee, the tax is computed on the basis of the aggregate actual value of all the shares transferred. Where there are two or more transferors or two or more transferees, or where in a single transaction transfer is made of the stock of two or more corporations or of two or more classes issued by a single corporation, a separate tax computation must be made with respect to each transferor and each transferee and with respect to the stock of each corporation and the stock of each class issued by a single corporation. The foregoing rule may be illustrated by the following examples:

Example (1). A, owning 25 shares of common stock and 25 shares of preferred stock of the X Corporation, and 50 shares of the common stock of the Y Corporation, transfers all the stock by delivering the certificates to B. In this situation, there are three distinct transactions, namely, a transfer of 25 shares of common stock of the X Corporation, a transfer of 25 shares of preferred stock of the X Corporation, and a transfer of 50 shares of common stock of the Y Corporation, and the tax is computed, in the case of each transfer, upon the actual value of the stock.

Example (2). A, owning 100 shares of stock in the X Corporation represented by one or more certificates, sells 50 shares each to B and C. To that end, A sends his certificate or certificates to the transfer agent with instructions to issue one or more certificates aggregating 50 shares to each purchaser. In this situation, there are two distinct transactions, namely, two sales of 50 shares of stock each, and the tax is computed upon the actual value of the stock transferred to each purchaser.

Example (3). A and B, each owning 50 shares of stock in the X Corporation represented in each case by one or more certificates, make a gift of their stock to C. To that end, they send their certificates to the transfer agent with instructions to issue to the donee one or more certificates for the entire 100 shares. In this situation, there are likewise two distinct transactions, namely, two gifts of 50 shares of stock each, and a separate computation must be made with respect to each gift.

(2) *Rate of tax*—(i) *In general.* The rate of tax applicable to each sale or transfer of shares or certificates of stock or of rights to subscribe for or to receive shares or certificates of stock is 4 cents on each $100 (or major fraction thereof) of the actual value of the certificates, of the shares where no certificates are sold or transferred, or of the rights. In no case, however, shall the tax imposed on any such sale or transfer be—

(*a*) More than 8 cents on each share sold or transferred or, in the case of the sale or transfer of rights to subscribe for or to receive shares or certificates of stock, more than 8 cents in respect of each share covered by such rights, or

(*b*) Less than 4 cents on any one sale or transfer.

(ii) *Exception in the case of rights sold or transferred prior to November 1, 1959.* The rate of tax applicable in respect of any sale or transfer, prior to November 1, 1959, of rights to subscribe for or to receive shares or certificates of stock is 4 cents on each $100 (or major fraction thereof) of the actual value of the stock to which the rights relate. However, the provisions of subdivision (i) (*a*) (insofar as they relate to rights) and (*b*) of this subparagraph are applicable in computing the maximum and minimum amount of tax imposed on any sale or transfer of rights to which this subdivision has application.

(iii) *Major fraction.* A major fraction of $100 is any amount in excess of $50 and less than $100.

(3) *Actual value.* The principles set forth in paragraph (b)(2)(ii) of § 47.4301–1 for determining the actual value of shares or certificates of stock issued are equally applicable for purposes of determining the actual value of shares or certificates of stock, or rights thereto, sold or transferred.

(4) *Examples of computation.* The computation of the tax imposed by section 4321 may be illustrated by the following examples:

Example (1). A sells to B 100 shares of stock of the X Corporation having an actual value of $10,000 and gives to B 10 shares of stock of the Y Corporation having an actual value of $2,560. A separate computation must be made with respect to the stock of each corporation. Applying the rate of 4 cents for each $100 of actual value (or major fraction thereof), the tax on the sale of the X Corporation stock is $4 (100×$.04) and the tax on the gift of the Y Corporation stock is $1.04 (26, applying the major fraction rule, ×$0.04). Since the application of the 4-cent rate results in tax in excess of 8 cents per share in the case of the Y Corporation stock ($1.04÷10), the tax in respect of such stock is computed at the rate of 8 cents per share resulting in tax of $.80. Thus, the total tax in respect of the sale and gift of the stock of X Corporation and of Y Corporation is $4.80.

Example (2). A sells to B 10 shares of stock having an actual value of $50. Since $50 does not constitute a major fraction of $100 the provision of section 4321 imposing a minimum tax of not less than 4 cents on a sale or transfer applies. Accordingly, the tax on the sale of the 10 shares is 4 cents.

(5) *Cross reference.* For provisions relating to the application of the tax imposed by section 4321 in the case of certain changes in a partnership, see section 4383 and § 47.4383–1.

§ 47.4321–2 Illustrations.

(a) *Sales and transfers subject to tax.* The following transfers of stock are illustrations of transactions which are taxable, unless exempt from tax under a specific provision of the Internal Revenue Code (see sections 4322, 4341 to 4344, inclusive, 4382, and 4383(a) with respect to such exemptions):

(1) Transfer by gift.

(2) Transfer by an administrator or executor to a distributee or legatee (see, however, section 4344(b) and paragraph (b) of § 47.4344–1).

(3) Transfer to or by trustees (see, however, section 4343(a)(8)).

(4) Transfer of an interim certificate, a voting trust certificate, or a certificate of beneficial interest in an association.

(5) Transfer from persons holding legal title as tenants in common, as joint tenants, or as tenants by the entirety, to the same persons separately to effect a partition, or from one person to two or more persons, whether or not including the transferor, as tenants in common, as joint tenants, or as tenants by the entirety (see, however, section 4343(a)(9)).

(6) Transfer from a partnership on its termination under section 708; also from a partnership to an individual member thereof upon a dissolution of his interest in the partnership. See § 47.4383–1.

(7) Transfer to a corporation of its own stock (see, however, paragraph (b)(3) of this section).

(8) Transfer upon a merger from the name of a merging corporation of stock owned by it to the name of the continuing corporation. Similarly, upon a consolidation, a transfer from any of the consolidating corporations to the consolidated corporation (see, however, paragraphs (b) (6) and (7) of this section). For exemption from tax in respect of transfers to make effective a plan of reorganization or adjustment whereby a mere change in identity, form, or place of organization is effected, see paragraph (d) of § 47.4382–1.

(9) In addition to the tax on the issuance of stock in connection with a merger or consolidation, where such stock is issued directly to the stockholders of the merging or consolidating corporations by the continuing or consolidated corporation (see paragraphs (a) (8) and (9) of § 47.4301–2), there is also a transfer tax imposed at the time of the issuance of such stock. The transfer tax is applicable to such a transaction inasmuch as there is involved the transfer to the stockholders of the merging or consolidating corporations of such corporations' right to receive the stock of the continuing or consolidated corporation. For exemption from tax in respect of transfers to make effective a plan of reorganization or adjustment whereby a mere change in identity, form, or place of organization is effected, see paragraph (d) of § 47.4382–1.

(10) Transfer of stock to another person upon order of the purchaser; transfer of the right to receive a stock dividend already declared; issuance of stock to a person other than the subscriber; all other transfers of rights to receive stock; and all transfers of rights to subscribe for stock.

(11) Transfer by a broker to a customer of stock issued as a dividend on stock purchased for the customer by the broker and held by the broker in his own name or in the name of his nominee.

(12) Transfer of stock on the books of a domestic corporation, regardless of where the sale is made or the stock certificate is delivered.

(13) Sale or transfer within the territorial jurisdiction of the United States of stock of a foreign corporation.

(14) Transfers by operation of law (see, however, § 47.4343–1).

(b) *Sales and transfers not subject to tax.* In addition to the exemptions prescribed in sections 4382 and 4383(a) which apply to documentary stamp taxes generally and to the specific exemptions provided in sections 4322 and 4341 to 4344, inclusive, and the regulations thereunder, the following are examples of transactions not subject to the tax:

(1) Transfer of stock pursuant to a sale, where the requisite stamps have been affixed to the memorandum of sale.

(2) Surrender of certificates in exchange for other certificates representing the same stock issued to the same person (see also paragraph (b)(2) of § 47.4301–2).

(3) Surrender of stock to the issuing corporation for extinguishment (see also paragraph (a)(7) of this section).

(4) Change in the registration of stock for the sole purpose of recording a change in the name of a stockholder, such as from the maiden name to the married name of a stockholder, or a change in the name of a corporation which is a stockholder.

(5) Transfer of stock to or by an insolvent bank, where such transfer is within the provisions of section 7507.

(6) In a consolidation of corporations, the surrender of stock of any of the consolidating corporations in exchange for stock of the consolidated corporation (see, however, paragraph (a)(9) of this section and paragraph (a)(8) of § 47.4301–2).

(7) In a merger of corporations, the surrender of stock of both the merging and the continuing corporations in exchange for stock of the continuing corporation (see, however, paragraph (a)(9) of this section and paragraph (a)(9) of § 47.4301–2).

(8) Deliveries of stock to or by a clearinghouse for the sole purpose of clearing or adjusting accounts of its members.

(9) Transfer of stock pursuant to a call, since a "call" is an agreement to sell stock and taxable as such. However, a person making such nontaxable transfer shall furnish and attach to the certificate a statement in substantially the following form:

It is hereby certified that the transfer of _____ shares of the within stock to _____ has been made pursuant to a "call", and that the requisite Federal documentary stamps for the transaction are affixed to such "call", which is in the possession of the undersigned.

_____
Signature

(10) The mere delivery of a certificate of stock by a customer to his broker solely for the purpose of enabling such broker to sell the stock for the customer, where the broker has no legal title or other interest in the stock.

(11) The mere delivery of a certificate of stock by a purchasing broker to his customer, if the tax was paid upon the sale of the stock to such broker and such broker has no legal title or other interest in the stock.

§ 47.4321–3 Tax on warrants.

(a) *To subscribe for stock.* Transfers of warrants entitling the holder to subscribe for stock are taxable as transfers of rights to subscribe. For computation of the tax on transfers of rights to subscribe for stock, see paragraph (b) of § 47.4321–1. The issue of a warrant entitling the holder to subscribe for stock is not subject to tax, but the issue of stock upon exercise of the warrant is subject to the tax imposed by section 4301 (see paragraph (a)(7) of § 47.4301–2).

(b) *To purchase issued stock.* (1) Warrants entitling the holder to purchase issued stock are taxable upon issuance as agreements to sell stock (see definition of "sale or transfer" in section 4351(b) and paragraph (b) of § 47.4351–1). The tax imposed by section 4321 is computed on the basis of the actual value of the stock at the time the warrant is issued. The warrant price is not indicative of the actual value to be attributed to the stock for purposes of the tax.

(2) Transfers of warrants entitling the holder to purchase issued stock are not subject to the stamp tax since the statute does not impose a tax on sales or transfers of agreements to sell stock. If the transfer tax is paid upon the issuance of a warrant as an agreement to sell stock, no additional transfer tax is incurred upon the subsequent transfer of the stock pursuant to the exercise of the warrant. However, the person making such exempt transfer of stock shall furnish and attach to the certificate a statement in substantially the following form:

It is hereby certified that the transfer of the attached certificate for_____
(Number of
_____to
shares and description of stock)
_____is made
(Name of transferee)
pursuant to the exercise of a warrant which is in the possession of the undersigned, and that the requisite stamps due upon the issuance of such warrant have been affixed thereto.

_____
Signature

§ 47.4321–4 Cross references.

(a) *Records of sales and transfers of stock.* For recordkeeping requirements, see § 47.6001–1.

(b) *Registration of nominees.* For provisions with respect to registration of nominees, see paragraph (a) of § 47.4351–1.

(c) *Rules applicable to securities exchanges and clearinghouses.* For rules applicable to securities exchanges and clearinghouses, see § 47.4353–1.

§ 47.4322 Statutory provisions; exemptions.

SEC. 4322 *Exemptions*—(a) *Exemptions for certain transfers.* The tax imposed by section 4321 shall not apply to any delivery or transfer of shares, certificates, or rights—

(1) *Brokers.* To a broker or his registered nominee for sale of such shares, certificates, or rights; by a broker or his registered nominee to a customer for whom and upon whose order the broker has purchased same; or by a purchasing broker to his registered nominee to be held by such nominee for the same purpose as if held by the broker; or

(2) *Nominees of corporations.* From a corporation to a registered nominee of such corporation, or from one such nominee to another such nominee, provided that in each instance such shares, certificates, or rights are to be held by the nominee for the same purpose as if retained by the corporation; or from such nominee to such corporation.

(b) *Certain odd-lot transactions*—(1) *Exemption.* The tax imposed by section 4321 shall not apply to any odd-lot sale by an odd-lot dealer if the shares, certificates, or rights are delivered or transferred to a broker pursuant to an order of a customer of such broker for such shares, certificates, or rights.

(2) *Definitions.* For purposes of paragraph (1)—

(A) The term "odd-lot sale" means an odd-lot transaction under the rules of the securities exchange of which the odd-lot dealer is a member.

(B) The term "odd-lot dealer" means a person who is (i) a member of a securities exchange which is registered with the Securities and Exchange Commission as a national securities exchange, and (ii) registered under the rules of such exchange as an odd-lot dealer or as a specialist.

(c) *Other exemptions.* For other exemptions, see sections 4341, 4342, 4343, 4344, and 4382.

[Sec. 4322 as amended and in effect Jan. 1, 1959]

§ 47.4322–1 Exemptions.

(a) *Transfer from customer to broker.* (1) If stock is transferred to the name of a broker, or to the name of a broker's registered nominee, solely for the purpose of enabling such broker to sell the stock for the customer, the transfer is exempt from tax provided the broker furnishes at the time of transfer or delivery an exemption certificate in substantially the form prescribed in § 47.4345–1. For provisions relating to the registration of nominees, see paragraph (a) of § 47.4351–1.

(2) A transfer to the name of a selling agent other than a broker, as, for example, a bank, whether the sale be made by the agent direct or through a broker for the agent's account, is subject to tax, since the exemption applies only to deliveries and transfers to brokers (but see paragraph (b) of § 47.4342–1). However, liability is not incurred by the mere delivery of a certificate of stock to an agent who obtains no legal title or other interest in the stock.

(b) *Transfer from broker to customer.* (1) If stock is transferred to the name of a purchasing broker or his registered nominee who holds the stock for the same purpose as if held by the broker and tax on such transfer is paid, transfer may thereafter be made to the name of the purchaser (for whom and upon whose order the broker has purchased such stock) without payment of tax. If the tax was paid upon the transfer to the name of the purchasing broker, transfer may be made to the name of his registered nominee and from such nominee to the name of the purchaser without payment of tax. However, no exemption will be allowed under this paragraph unless the broker furnishes at the time of transfer or delivery an exemption certificate in substantially the form prescribed in § 47.4345–1. For provisions relating to the registration of nominees, see paragraph (a) of § 47.4351–1.

(2) Delivery to, or transfer to the name of, the customer may not be made tax free in any case in which the stock was transferred from the seller to the broker or his registered nominee without payment of the tax, since the law requires that the tax shall be paid on the transfer or transfers between the actual seller and actual buyer. A transfer from

the name of a purchasing agent other than a broker, as, for example, a bank, whether the purchase be made directly or through a broker for the agent's account, is subject to tax, since the exemption applies only to deliveries and transfers from brokers (but see paragraph (b) of § 47.4342–1). However, liability is not incurred by the mere delivery to the principal of a certificate of stock by an agent having no legal title or other interest in the stock, or by a broker for the account of such agent.

(c) *Transfers between corporations and nominees.* The tax does not apply to the delivery or transfer of stock from a corporation to a registered nominee of such corporation, or from one such nominee to another such nominee, if in either case the shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such corporation; or from such nominee to such corporation. No exemption is granted unless the nominee is registered in the manner provided in paragraph (a) of § 47.4351–1. Nor shall the exemption be granted in any case unless the delivery or transfer is accompanied by an exemption certificate, executed by the person making the exempt transfer, in substantially the form prescribed in § 47.4345–1.

(d) *Certain odd-lot transactions.* The tax imposed by section 4321 shall not apply to any odd-lot sale by an odd-lot dealer if the shares, certificates, or rights are delivered or transferred to a broker pursuant to an order of a customer of such broker for such shares, certificates, or rights and the broker furnishes at the time of transfer or delivery an exemption certificate in substantially the form prescribed in § 47.4345–1. Actual physical delivery or transfer of the shares, certificates, or rights sold is not required if the effect of the transaction is a sale to a customer of the broker. Thus, if an odd-lot dealer executes odd-lot purchase and sale orders in a particular stock for a broker pursuant to orders of the broker's customers during a given day and only the net balance of such stock for that day is physically delivered or transferred to the broker, all of the odd-lot sales which contributed to such net balance are exempt. The term "odd-lot sale" means an odd-lot transaction under the rules of the securities exchange of which the odd-lot dealer making the sale is a member. The term "odd-lot dealer" means a person who is (1) a member of a securities exchange which is registered with the Securities and Exchange Commission as a national securities exchange, and (2) registered under the rules of such exchange as an odd-lot dealer or as a specialist.

§ 47.4323 Statutory provisions; affixing of stamps.

SEC. 4323 *Affixing of stamps*—(a) *Books of the corporation.* The stamps representing the tax imposed by section 4321 shall be affixed to the books of the corporation in case of a sale where the evidence of transfer is shown only by the books of the corporation.

(b) *Certification as to value by transferor or transferee.* Where shares or certificates of stock, or of rights to subscribe for or to receive such shares or certificates, are presented for transfer and the tax thereon is paid by the use of adhesive stamps, such shares, certificates, or rights shall be accompanied by a certification signed by the transferor or his agent or the transferee or his agent as to the actual value of the shares, certificates, or rights so transferred, and any corporation or transfer agent to whom such shares, certificates, or rights are presented shall be entitled to rely on such certification without further inquiry.

(c) *Other evidences of sale or transfer.* For provisions applicable to the affixing of stamps in cases of sale or transfer shown otherwise than only by the books of the corporation, see section 4352.

[Sec. 4323 as amended and in effect Jan. 1, 1959 and as further amended by sec. 5(b), Act of Sept. 21, 1959 (Pub. Law 86–344, 73 Stat. 619)]

§ 47.4323–1 Affixing of stamps.

(a) *Books of the corporation.* (1) Except as provided in section 4353 and § 47.4353–1, only documentary stamps shall be used in payment of the tax imposed by section 4321. In the case of a sale or transfer evidenced only by the books of the corporation or other organization, the requisite stamps shall be affixed to such books. In the case of a sale or transfer evidenced otherwise than only by the books of the corporation or other organization, see section 4352 and § 47.4352–1 for provisions relating to the affixing of the requisite stamps. See also §§ 47.6804–1 and 47.6804–2 for the appropriate use, denominations, and cancellation of such stamps. For provisions relating to payment, through a national securities exchange or a clearinghouse for such exchange, of tax without use of stamps, see § 47.4353–1.

(2) Documentary stamps may be purchased, and requisitions for the purchase of such stamps may be obtained, from the sources and in the manner provided in § 47.6802–1. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801 (§ 47.6801), 6802 (§ 47.6802), and 6805 (§ 47.6805), and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration), and § 47.6801–1.

(b) *Certification as to value by transferor or transferee.* Where shares or certificates of stock, or of rights to subscribe for or to receive such shares or certificates, are presented for transfer and the tax thereon is paid by the use of documentary stamps, such shares, certificates, or rights shall be accompanied by a certification signed by the transferor or his agent or the transferee or his agent as to the actual value of the shares, certificates, or rights so transferred and any corporation or transfer agent to whom such shares, certificates, or rights are presented shall be entitled to rely on such certification without further inquiry. Where the documents are presented for transfer with a bill or memorandum of agreement to sell, sale, or transfer as required by paragraph (b) of § 47.4352–1, such bill or memorandum shall constitute the certification. Where the documents are presented for transfer without such bill or memorandum, the certification referred to in this paragraph shall be in substantially the following form:

It is hereby certified that the actual value on _____
(Date of taxable transfer or sale)
of the accompanying instrument(s) is $_____, as determined by _____
(Basis of valuation—sale price, mean selling price on market, etc.)

_____
Signature of transferor, transferee, or agent of either

§ 47.4324 Statutory provisions; cross references.

SEC. 4324 *Cross references.* For definitions, penalties, and other general and administrative provisions applicable to this part, see sections 4345, 4351, 4353, 4381, and 4384, and subtitle F.

[Sec. 4324 as amended and in effect Jan. 1, 1959]

§ 47.4324–1 Cross references.

(a) For definitions, see section 4351 and § 47.4351–1, section 4381 and § 47.4381–1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271–1.

(c) For other general and administrative provisions, see section 4345 and § 47.4345–1, section 4352 and § 47.4352–1, section 4353 and § 47.4353–1, section 4384 and § 47.4384–1, Subpart J, and the applicable sections of subtitle F and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart E—Tax on Sales or Transfers of Certificates of Indebtedness

§ 47.4331 Statutory provisions; imposition of tax.

SEC. 4331 *Imposition of tax.* There is hereby imposed, on each sale or transfer of any certificates of indebtedness issued by a corporation, a tax at the rate of 5 cents on each $100 or fraction thereof of the face value.

[Sec. 4331 as amended and in effect Jan. 1, 1959]

§ 47.4331–1 Imposition of tax.

(a) *Scope of tax.* Section 4331 imposes a tax on each sale or transfer (as defined in section 4351(b)) within the territorial jurisdiction of the United States of certificates of indebtedness issued by a corporation. See section 4381 and § 47.4381–1 for definitions of the terms "certificates of indebtedness" and "corporation". The tax attaches at the time of making the sale or transfer, regardless of the time or manner of delivery of the certificate or agreement or memorandum of sale. As to sales or transfers of warrants to subscribe for or purchase certificates of indebtedness, see § 47.4331–3. For requirements in respect of records and memoranda of such sales or transfers, see §§ 47.4331–4 and 47.4352–1. For provisions relating to the application of the tax imposed by section 4331 in the case of certain changes in a partnership, see section 4383 and § 47.4383–1.

(b) *Rate and computation of tax.* (1) Where by sale or otherwise certificates of indebtedness of the same issue of a single corporation are transferred by a single transferor to a single transferee, the tax is 5 cents on each $100 of face

value, or fraction thereof, of the aggregate face value of all the certificates. Where there are two or more transferors or two or more transferees, or where in a single transaction transfer is made of certificates of two or more corporations or of two or more classes issued by a single corporation, a separate tax computation must be made with respect to each transferor and each transferee, and with respect to the certificates of each corporation and of the certificates of each class issued by a single corporation. The foregoing rule may be illustrated by the following examples:

Example (1). M, owning 25 class A bonds of the X Corporation and 25 class B bonds of the same corporation, and 50 class A bonds of the Y Corporation, transfers all the bonds to N. In this situation there are three taxable transfers, and a separate tax computation must be made with respect to the aggregate face value of the bonds involved in each.

Example (2). M, owning 100 class A bonds of the X Corporation, sells 50 bonds to N and 50 bonds to O. In this situation, there are two sales of 50 bonds each, and the tax is measured by the aggregate face value of the bonds sold to each purchaser.

Example (3). A husband and wife, each owning $50,000 face amount of class A bonds of the X Corporation, simultaneously give their bonds to their son. In this situation, there are two gifts, and a separate computation must be made with respect to the aggregate face value of the bonds included in each gift.

(2) The separate tax computation required will result in a difference in the amount of tax only where the face value of the certificates transferred is not $100 or multiples thereof.

(c) *Affixing of stamps.* (1) Except as provided in section 4353 and § 47.4353–1, only documentary stamps shall be used in payment of the tax imposed by section 4331. For provisions relating to the affixing of the requisite stamps in case of a sale or transfer of certificates of indebtedness, see section 4352 and § 47.4352–1. See also §§ 47.6804–1 and 47.6804–2 for the appropriate use, denominations, and cancellation of such stamps. For provisions relating to payment, through a national securities exchange or a clearinghouse for such exchange, of tax without use of stamps, see § 47.4353–1.

(2) Documentary stamps may be purchased, and requisition forms for the purchase of such stamps may be obtained, from the sources and in the manner provided in § 47.6802–1. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801 (§ 47.6801), 6802 (§ 47.6802), and 6805 (§ 47.6805), and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration), and § 47.6801–1.

§ 47.4331–2 Illustrations.

(a) *Sales and transfers subject to tax.* The tax on sales or transfers of certificates of indebtedness imposed by section 4331 is similar in scope to the tax on stock transfers imposed by section 4321. Accordingly, the various examples set forth in paragraph (a) of § 47.4321–2 of sales and transfers of stocks subject to the stock transfer tax apply, with certain exceptions, to sales and transfers of certificates of indebtedness unless such sales and transfers of certificates of indebtedness are exempt from tax under a specific provision of the Internal Revenue Code (see sections 4332, 4341 to 4344, inclusive, 4382, and 4383(a) with respect to such exemptions). These exceptions are the examples stated in paragraphs (a) (9) and (10) of § 47.4321–2.

(b) *Sales and transfers not subject to tax.* In addition to the exemptions prescribed in sections 4382 and 4383(a) which apply to documentary stamp taxes generally and to the specific exemptions provided in sections 4332, and 4341 to 4344, inclusive, and the regulations thereunder, the examples set forth in paragraph (b) of § 47.4321–2 of sales and transfers of stocks not subject to the stock transfer tax illustrate sales and transfers of certificates of indebtedness which are not subject to the tax imposed by section 4331.

§ 47.4331–3 Tax on warrants.

(a) *To subscribe for certificates of indebtedness.* Warrants entitling the holder to subscribe for unissued certificates of indebtedness are not subject to tax under section 4331.

(b) *To purchase issued certificates of indebtedness.* Warrants entitling the holder to purchase issued certificates of indebtedness are, upon issuance, subject to tax under section 4331, as agreements to sell certificates (see definition of "sale or transfer" in section 4351(b) and paragraph (b) of § 47.4351–1). Subsequent transfers of such warrants are not subject to the transfer tax since the statute does not impose a tax upon transfers of agreements to sell certificates of indebtedness. For rate and computation of tax, see paragraph (b) of § 47.4331–1. If the transfer tax is paid upon issuance of a warrant, the subsequent transfer of the certificate pursuant to the exercise of such warrant is not subject to the transfer tax. However, the person transferring the certificate shall furnish and attach thereto a statement substantially as follows:

It is hereby certified that the transfer of the attached certificates of indebtedness,

---
(description and face value of certificates)

to ----------,
(name of transferee)

is made pursuant to the exercise of a warrant which is in the possession of the undersigned, and that the requisite stamps due upon the issuance of such warrant have been affixed thereto.

(Signature)

§ 47.4331–4 Records of sales and transfers of certificates of indebtedness.

The provisions of § 47.6001–1 relating to records of sales and transfers of stock are also applicable to sales and transfers of certificates of indebtedness, except that the records of sales of certificates of indebtedness need not show the sales prices, since the selling price is immaterial for purposes of the tax imposed by section 4331.

§ 47.4331–5 Registration of nominees.

The provisions of paragraph (a) of § 47.4351–1 relating to registration requirements in connection with transactions involving stock are also applicable to transactions involving certificates of indebtedness.

§ 47.4331–6 Rules applicable to securities exchanges and clearinghouses.

For rules applicable to securities exchanges and clearinghouses, see § 47.4353–1.

§ 47.4332 Statutory provisions; exemptions.

SEC. 4332 *Exemptions*—(a) *Brokers.* The The tax imposed by section 4331 shall not apply to any delivery or transfer to a broker for sale, nor upon any delivery or transfer by a broker to a customer for whom and upon whose order he has purchased the certificates of indebtedness.

(b) *Installment purchase of obligations.* The tax imposed by section 4331 shall not apply to any instrument under the terms of which the obligee is required to make payment therefor in installments and is not permitted to make in any year a payment of more than 20 percent of the cash amount to which entitled upon maturity of the instrument.

(c) *Other exemptions.* For other exemptions, see sections 4341, 4342, 4343, 4344, and 4382.

[Sec. 4332 as amended and in effect Jan. 1, 1959]

§ 47.4332–1 Exemptions.

(a) *Transfer to or from brokers.* The rules stated in paragraphs (a) and (b) of § 47.4322–1 with respect to the exemption of transfers to or by brokers from the tax imposed by section 4321 also apply with respect to the tax imposed by section 4331.

(b) *Other exemptions.* For other exemptions with respect to the tax imposed on sales or transfers of certificates of indebtedness, see sections 4341, 4342, 4343, 4344, and 4382 and the regulations thereunder.

§ 47.4333 Statutory provisions; cross references.

SEC. 4333 *Cross references.* For definitions, penalties, and other general and administrative provisions applicable to this part, see sections 4345, 4381, and 4384; sections 4351 to 4353 inclusive; and subtitle F.

[Sec. 4333 as amended and in effect Jan. 1, 1959]

§ 47.4333–1 Cross references.

(a) For definitions, see section 4351 and § 47.4351–1, section 4381 and § 47.4381–1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271–1.

(c) For other general and administrative provisions, see section 4345 and § 47.4345–1, section 4352 and § 47.4352–1, section 4353 and § 47.4353–1, section 4384 and §47.4384–1, Subpart J, and the applicable sections of subtitle F and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart F—Provisions Common to Sales or Transfers of Capital Stock and Certificates of Indebtedness

EXEMPTIONS

§ 47.4341 Statutory provisions; transfers as security.

SEC. 4341 *Transfers as security.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections—

(1) *Collateral security.* To a lender as collateral security for money loaned thereon, if such collateral security is not actually sold, or by such lender as a return of such collateral security.

(2) *Security for performance.* To a trustee or public officer made pursuant to Federal or State law as security for the performance of an obligation, or by such trustee or public officer as a return of such security.

[Sec. 4341 as amended and in effect Jan. 1, 1959]

§ 47.4341–1 Transfers as security.

(a) *Stock or certificates of indebtedness deposited as collateral security.* The tax imposed by section 4321 or 4331 does not apply to an agreement evidencing a deposit of certificates of stock or certificates of indebtedness as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of the certificates so deposited. The exemption applies also to transfers of stock or certificates of indebtedness to a nominee of the lender and from such nominee back to the lender, if the stock or certificates of indebtedness are at all times held as collateral security for the loan; and to the return of the stock or certificates of indebtedness to the borrower by the lender or his nominee upon payment of the loan. The exemption does not apply, however, to deposits of stock or certificates of indebtedness as collateral security made otherwise than in connection with money loaned on such stock or certificates. The person making an exempt transfer under this paragraph shall, at the time of transfer or delivery, furnish an exemption certificate in substantially the form prescribed in § 47.4345–1. If the delivery or transfer is not accompanied by the required exemption certificate the person making the delivery or transfer will be required to pay the tax imposed by section 4321 or 4331. However, if an exemption certificate is furnished after the transfer or delivery, such person will be entitled to a refund of the tax paid upon filing a timely claim for refund. For provisions with respect to timely filing of claims, see section 6511 and the regulations thereunder in Part 301 of this chapter (Regulations on Procedure and Administration).

(b) *Transfer of stock or certificates of indebtedness made pursuant to Federal or State law to secure the performance of obligations.* The tax imposed by section 4321 or section 4331 does not apply to any delivery or transfer of stock or certificates of indebtedness to a trustee or public officer, which is made pursuant to Federal or State law to secure the performance of an obligation, or to a redelivery or retransfer of such stock or certificates of indebtedness to the transferor. The exemption provided under this paragraph shall be granted only if the delivery or transfer is accompanied by an exemption certificate in substantially the form prescribed in § 47.4345–1.

§ 47.4342 Statutory provisions; fiduciaries and custodians.

SEC. 4342 *Fiduciaries and custodians.* The taxes imposed by section[s] 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections—

(1) *Fiduciaries.* From a fiduciary to his nominee, or from one nominee of the fiduciary to another nominee, provided that in each instance such instruments are to be held by the nominee for the same purpose as if retained by the fiduciary; or from the nominee to such fiduciary; or

(2) *Custodians.* (A) From the owner to a custodian if under a written agreement between the parties such instruments are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or from such custodian to such owner; or

(B) From a custodian as specified in subparagraph (A) to a registered nominee of such custodian, or from one such nominee to another such nominee, provided that in each instance such instruments are to be held by the nominee for the same purpose as if retained by the custodian; or from such nominee to such custodian.

[Sec. 4342 as amended and in effect Jan. 1, 1959]

§ 47.4342–1 Transfers to or by fiduciaries or custodians.

(a) *Transfers between fiduciaries and their nominees.* The tax imposed by section 4321 or 4331 does not apply to deliveries or transfers of stock or certificates of indebtedness from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if the stock or certificates of indebtedness are to be held by such nominee for the same purpose as they would be held if retained by such fiduciary. Nor does the tax apply to deliveries or transfers from a nominee of a fiduciary to such fiduciary. The exemption provided under this paragraph shall be granted only if the delivery or transfer is accompanied by an exemption certificate in substantially the form prescribed in § 47.4345–1.

(b) *Transfers to or by a custodian.* (1) The tax imposed by section 4321 or 4331 does not apply to the delivery or transfer of stock or certificates of indebtedness from the owner thereof to a custodian if, under a written agreement between the owner and the custodian, the instruments so delivered or transferred are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or the delivery or transfer of stock or certificates of indebtedness from such custodian to such owner.

(2) The tax also does not apply to the delivery or transfer of stock or certificates of indebtedness from a custodian specified in subparagraph (1) of this paragraph to a registered nominee of such custodian, or from the owner direct to such registered nominee, or from one such nominee to another such nominee, if the stock or certificates of indebtedness are to be held by the nominee for the same purpose as they would be held if retained by such custodian. Nor does the tax apply to deliveries or transfers from a nominee of a custodian to such custodian or to the owner. No exemption is granted unless the nominee is registered in the manner provided in paragraph (a) of § 47.4351–1.

(3) Moreover, the tax does not apply to the delivery or transfer of stock or certificates of indebtedness from a custodian of the owner to another custodian of the owner or from a registered nominee of the first custodian to the second custodian or to the registered nominee of the latter, if the transfer would have been exempt under subparagraph (1) or (2) of this paragraph if made by the owner direct to the second custodian or to the registered nominee of the latter.

(4) For purposes of this paragraph, a custodian is a person to whom stock or certificates of indebtedness are delivered or transferred to be held or disposed of by such person for, and subject at all times to the instructions of, the owner and not otherwise. The term "custodian", as used in this paragragh, does not include a trustee. A custodian is to be distinguished from a nominee who merely lends his name and usually does not retain possession of the securities registered in his name.

(5) The exemption provided under this paragraph shall be granted only if the delivery or transfer is accompanied by an exemption certificate in substantially the form prescribed in § 47.4345–1.

§ 47.4343 Statutory provisions; transfers by operation of law.

SEC. 4343 *Transfers by operation of law*—(a) *Exempt transfers.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections—

(1) *Decedents.* From a decedent to his executor or administrator.

(2) *Minors.* From a minor to his guardian, or from a guardian to his ward upon attaining majority.

(3) *Incompetents.* From an incompetent to his committee or similar legal representative, or from a committee or similar legal representative to a former incompetent upon removal of disability.

(4) *Financial institutions.* From a bank, trust company, financial institution, insurance company, or other similar entity, or nominee, custodian, or trustee therefor, to a public officer or commission, or person designated by such officer or commission or by a court, in the taking over of its assets, in whole or part, under Federal or State law regulating or supervising such institutions, nor upon redelivery or retransfer by any such transferee or successor thereto.

(5) *Bankrupts.* From a bankrupt or person in receivership due to insolvency to the trustee in bankruptcy or receiver, from such receiver to such trustee, or from such trustee to such receiver, nor upon redelivery or retransfer by any such transferee or successor thereto.

(6) *Successors.* From a transferee under paragraphs (1) to (5), inclusive, to his successor acting in the same capacity, or from one such successor to another.

(7) *Foreign governments and aliens.* From a foreign country or national thereof to the United States or any agency thereof, or to the government of any foreign country, directed pursuant to the authority vested in the President by section 5(b) of the Trading With the Enemy Act, as amended by the First War Powers Act, 1941 (50 U.S.C. App. sec. 5).

(8) *Trustees.* From trustees to surviving, substituted, succeeding, or additional trustees of the same trust.

(9) *Survivors.* Upon the death of a joint tenant or tenant by the entireties, to the survivor or survivors.

(b) *Nonexempt transfers.* No delivery or transfer shall be exempt because effected by operation of law unless an exemption is otherwise specifically provided.

[Sec. 4343 as amended and in effect Jan. 1, 1959]

§ 47.4343–1 Transfers by operation of law.

No delivery or transfer shall be exempt from the tax imposed by section 4321 or 4331 because effected by operation of law unless an exemption is otherwise specifically provided. Each of the transfers specified in section 4343(a) is exempt from tax, but only if the delivery or transfer is accompanied by an exemption certificate as provided in § 47.4345–1.

§ 47.4344 Statutory provisions; certain other transfers.

SEC. 4344 *Certain other transfers*—(a) *Loans.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections to a borrower as a loan of such instruments, or to the lender as a return of such loan.

(b) *Worthless stock and obligations.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections by an executor or administrator to a legatee, heir, or distributee, if it is shown to the satisfaction of the Secretary or his delegate that the value of such instrument is not greater than the amount of the tax which would otherwise be imposed on such delivery or transfer.

(c) *Transfers between certain revocable trusts.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections by one revocable trust to another revocable trust if—

(1) The grantor of both trusts is the same person, and

(2) At the time of such delivery or transfer, such grantor is treated under section 676 as the owner of both trusts.

For purposes of the preceding sentence, if 2 or more grantors are treated under section 676 as owners in the same relative proportions of both trusts, such grantors shall be treated as the same person.

[Sec. 4344 as added and in effect Jan. 1, 1959]

§ 47.4344–1 Certain other transfers.

(a) *Loan of stock or certificate of indebtedness and the return thereof.* A mere loan of stock or certificates of indebtedness or the return of stock or certificates of indebtedness loaned is exempt from the taxes imposed by sections 4321 and 4331 if the loan or return is accompanied by an exemption certificate in substantially the form prescribed in § 47.4345–1.

(b) *Transfers of worthless stock or certificates of indebtedness by executors, etc.* The taxes imposed by sections 4321 and 4331 do not apply to deliveries or transfers of stock or certificates of indebtedness by an executor or administrator to a legatee, heir, or distributee, if it is shown to the satisfaction of the district director that the value of the stock or certificates of indebtedness so delivered or transferred is not greater than the amount of tax that would otherwise be imposed on such delivery or transfer.

(c) *Transfers between certain revocable trusts.* The taxes imposed by sections 4321 and 4331 do not apply to any delivery or transfer of stock or certificates of indebtedness by one revocable trust to another revocable trust if (1) the grantor of both trusts is the same person, (2) at the time of such delivery or transfer such grantor is treated under section 676 and the regulations thereunder as the owner of the entire interest in both trusts, and (3) the delivery or transfer is accompanied by an exemption certificate in substantially the form prescribed in § 47.4345–1. If two or more grantors are treated under section 676 as owners in the same relative proportions of the entire interest in both trusts, such grantors shall be treated as the same person. For regulations under section 676, see Part 1 of this chapter (Income Tax Regulations).

§ 47.4345 Statutory provisions; exemption certificates.

SEC. 4345 *Exemption certificates.* Except as provided in regulations prescribed by the Secretary or his delegate, no exemption shall be granted under section 4322, 4332(a), 4341, 4342, 4343(a), or 4344 (a) or (c) unless the delivery or transfer is evidenced by a certificate setting forth such facts as the Secretary or his delegate may by regulations prescribe.

[Sec. 4345 as amended and redesignated and in effect Jan. 1, 1959]

§ 47.4345–1 Exemption certificates.

No exemption shall be granted under section 4322, 4332(a), 4341, 4342, 4343 (a), or 4344 (a) or (c) unless the delivery or transfer is accompanied by a certificate in substantially the following manner:

It is hereby certified that the transfer of the accompanying instrument(s) is made under such circumstances as to come within one of the exemptions specified in section 4322, 4332(a), 4341, 4342, 4343(a), or 4344 (a) or (c) of the Internal Revenue Code, and that the evidence in proof of the exemption is maintained by the undersigned and is available for inspection by internal revenue officers.

_____
(Signature)

§ 47.4346 Statutory provisions; cross references.

SEC. 4346 *Cross references.* For other exemptions, see sections 4322, 4332, and 4382.

[Sec. 4346 as redesignated and in effect Jan. 1, 1959]

MISCELLANEOUS PROVISIONS

§ 47.4351 Statutory provisions; definitions.

SEC. 4351 *Definitions*—(a) *Registered nominee.* For purposes of this subchapter, the term "registered nominee" means any person registered in accordance with such regulations as the Secretary or his delegate shall prescribe.

(b) *Sale or transfer.* For purposes of this subchapter, the term "sale or transfer" means any sale, agreement to sell, memorandum of sale or delivery, or transfer of legal title, whether or not shown by the books of the corporation or other organization (or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale), and whether or not the holder acquires a beneficial interest in the instruments.

[Sec. 4351 as amended and in effect Jan. 1, 1959]

§ 47.4351–1 Definitions.

(a) *Registered nominee.* For purposes of the regulations in this part, the term "registered nominee" means any person appointed as nominee of a broker, custodian, or corporation if the person so appointed is registered with the district director for the district in which the principal office of the broker, custodian, or corporation is located. No special form is prescribed for use in registering a nominee. Substitution of a nominee may be effected by the registration of the successor nominee. Upon registration of any person as a nominee of a broker, custodian, or corporation, the district director shall issue to the broker, custodian, or corporation a certificate of registration signed by him and setting forth the date of issue, the name of the person registered as nominee, and the name of the broker, custodian, or corporation on whose behalf the nominee is registered. Such certificate shall be kept at the principal place of business of the broker, custodian, or corporation to whom the certificate is issued. The certificate of registration issued as provided in this paragraph shall be held available for ready inspection by internal revenue officers.

(b) *Sale or transfer.* For purposes of the regulations in this part, the term "sale or transfer" includes sales of, agreements to sell, or memoranda of sales of, stock or certificates of indebtedness; deliveries of stock or certificates of indebtedness with intent to pass title; transfer of legal title to stock or certificates of indebtedness; transfers of rights to subscribe for stock; and transfers of rights to receive stock. The taxes imposed by sections 4321 and 4331 apply to the specified dealings or transactions in stock or certificates of indebtedness, whether effected by any assignment in blank, or by any delivery, or by any paper, agreement, memorandum or other evidence of transfer or sale (and in the case of stock, whether made before, after, or without the issuance of a certificate and whether made upon or shown by the books of the corporation or other organization), and without regard to whether the holder or transferee of the stock or certificate of indebtedness (or specified right in the case of stock) is entitled to any beneficial interest therein.

(c) *Agreement to sell.* As used in the regulations in this part, unless otherwise specified or indicated by the context, the term "agreement to sell" includes contracts to sell, either written or oral, and

whether on the deferred or partial payment plan or otherwise, options, calls, offers, indemnities, and privileges.

(d) *Clearinghouse.* For definition of the term "clearinghouse", see paragraph (d) of § 47.4353–1.

§ 47.4352 Statutory provisions; affixing of stamps.

SEC. 4352 *Affixing of stamps.* The stamps representing the taxes imposed by section 4321 and section 4331 shall be affixed to—

(1) *Instrument.* The instrument where the change of ownership is by transfer of the instrument.

(2) *Bill or memorandum of sale.* The bill or memorandum of sale in cases of an agreement to sell or where the transfer is by delivery of the instrument assigned in blank. Such bill or memorandum of sale shall be made and delivered by the seller to the buyer, and shall show the date thereof, the name of the seller, the amount of the sale, and the instrument to which it refers.

[Sec. 4352 as amended and redesignated and in effect Jan. 1, 1959]

§ 47.4352–1 Affixing of stamps.

(a) *Documents to which stamps to be affixed.* (1) In all cases where the change of ownership of stock or a certificate of indebtedness is by transfer or by delivery of the stock or certificate of indebtedness under special endorsement, i.e., by insertion of the name of the transferee in the endorsement on the back of the certificate, the stamps shall be affixed to the certificate, whether or not the change of ownership results from a sale.

(2) In cases of agreements to sell stock or certificates of indebtedness and in cases of transfers of title thereto by delivery of certificates assigned in blank, the stamps shall be affixed to the memoranda of such transactions. See paragraph (b) of this section. For cases where the evidence of sale or transfer of stock is shown only by the books of the corporation or other organization, see paragraph (a)(1) of § 47.4323–1.

(b) *Requirement of memoranda of agreements to sell, etc.* Every person who makes an agreement to sell stock or certificates of indebtedness, or who, by sale or otherwise, transfers title to stock or certificates of indebtedness by delivery of certificates assigned in blank, shall, as a part of the transaction, promptly make and deliver to the buyer or transferee, a bill or memorandum of such agreement to sell, sale, or transfer, duly signed by the seller, or transferor, or his agent. Such bill or memorandum shall show the date of the transaction, the names of the parties thereto, the description and number of shares of stock or certificates of indebtedness, the tax paid on the transaction, and, where a sale of stock is involved, the sale price, or where a transfer is involved without a sale, the actual value of the stock and the basis used for determining such value. (For definition of "actual value" see paragraph (b)(2)(ii) of § 47.4301–1 and paragraph (b)(3) of § 47.4321–1.) No more than one stamped bill or memorandum shall be required in respect of a single transaction. (See § 47.4353–1 relative to rules applicable to securities exchanges and clearinghouses.)

(c) *In general.* In no event shall any corporation or transfer agent transfer any shares, certificates of stock, or certificates of indebtedness unless stamps for the transfer tax due have been properly affixed and cancelled as required by the regulations in this part or unless tax has been paid without the use of stamps as provided in § 47.4353–1.

§ 47.4353 Statutory provisions; payment of tax through national securities exchanges without use of stamps.

SEC. 4353 *Payment of tax through national securities exchanges without use of stamps*—(a) *General rule.* Under regulations prescribed by the Secretary or his delegate, if a member of a securities exchange which is registered with the Securities and Exchange Commission as a national securities exchange appoints such exchange, or the clearinghouse for such exchange, as his agent for purposes of paying the taxes imposed by sections 4321 and 4331 in respect of his transactions, the taxes imposed by such sections in respect of such transactions may be paid through such agent without the use of stamps.

(b) *Treatment as stamp tax.* For purposes of this title—

(1) Any tax which is payable as provided under subsection (a) shall be treated as tax payable by stamp, and

(2) Any amount of tax which is paid as provided under subsection (a) shall be treated as tax paid by stamp.

[Sec. 4353 as added and in effect Jan. 1, 1959]

§ 47.4353–1 Payment of tax through national securities exchanges or their clearinghouses.

(a) *Appointment of agent.* A member of a securities exchange which is registered with the Securities and Exchange Commission as a national securities exchange may appoint in writing such exchange or the clearinghouse for such exchange as his agent for the purpose of paying the tax required in respect of his transactions in stock or certificates of indebtedness.

(b) *Conditions for payment through agent.* The privilege granted by paragraph (a) of this section may be exercised only upon compliance with the following conditions:

(1) *Authorization.* The member shall authorize and require the exchange or the clearinghouse to pay the tax in respect of all transactions in stock or certificates of indebtedness, including rights to subscribe for or to receive stock, arising in the conduct of his business, irrespective of whether the stock or certificates of indebtedness are listed or unlisted, whether the transactions are clearable or not, and including transactions involving over-the-counter sales.

(2) *Daily report of member.* The member shall make a daily report to the exchange or clearinghouse for each business day showing the total amount of tax payable on all his business transactions as specified in subparagraph (1) of this paragraph. The report shall be filed with the exchange or clearinghouse on the day on which the transactions covered thereby are due for settlement (blotter date).

(3) *Daily records to be kept by member.* The member shall maintain complete and adequate daily records, such as a blotter or similar book of original entry, of all transactions in stock or certificates of indebtedness as specified in subparagraph (1) of this paragraph, whether the transaction is taxable or not. In the case of taxable transactions, the daily record shall show the amount of tax payable in respect of each transaction. In the case of nontaxable transactions, the daily record shall disclose the basis on which the exemption from the tax is claimed. Such daily records shall be kept in permanent form for a period of at least 3 years from the date any part of the tax is paid on the transaction and must be available for ready inspection by internal revenue officers.

(4) *Payment of tax.* The exchange or clearinghouse shall pay to the district director for the district in which the exchange or clearinghouse is located the total tax shown on the daily reports specified in subparagraph (2) of this paragraph. Any such payment of tax shall be made on the day on which the report specified in subparagraph (2) of this paragraph is received by the exchange or clearinghouse. Each daily payment of tax to the district director shall be accompanied by a statement, in substantially the following form:

The accompanying check No. ------ in the amount of $------ is in payment of the total documentary stamp transfer tax liability as shown to be due on the reports received by the exchange or clearinghouse for ----------.
(Date)

(Name of stock exchange or clearinghouse)
by ---------- ----------
(Name) (Title)

(5) *Records to be kept by exchange or clearinghouse.* The daily reports received from its members shall be kept in permanent form by the exchange or clearinghouse for a period of at least 3 years from the date any part of the tax is paid with respect to any transaction reported therein, and must be available for ready inspection by internal revenue officers.

(6) *Endorsement showing payment of tax.* The member shall make and deliver to the buyer the bill or memorandum required by paragraph (b) of § 47.4352–1 and shall make an endorsement on the bill or memorandum substantially in the following form:

It is hereby certified that the Federal stamp tax applicable to this transaction has been paid through the ----------
(Insert name of stock
---------- on our behalf.
exchange or clearinghouse)

(Member ---------- Stock Exchange)

If so desired, the member may also make a similar endorsement on the certificates of stock or certificates of indebtedness covered by the bill or memorandum. In that event, the endorsement shall be in substantially the following form:

It is hereby certified that the Federal stamp tax applicable to the transfer of ------ shares of this certificate (or applicable to

the transfer of this certificate of indebtedness) has been paid through _____ (Insert name of _____ on our stock exchange or clearinghouse) behalf.

_____ _____
(Date) (Member _____ Stock Exchange)

The endorsement (including a facsimile signature of the member) may be made on the bill or memorandum and on the accompanying certificate of stock or certificates of indebtedness by a hand-stamped impression, if (i) the hand-stamp is held at all times in the custody of the person authorized to make such impression, and (ii) the records of the member contain sufficient information to establish the identity of the person so authorized.

(c) *Treatment of payment of tax without use of stamps.* For purposes of the regulations in this chapter, any tax payable under section 4353 and the regulations in this section shall be treated as tax payable by stamp, and any amount of tax paid as provided thereunder shall be treated as tax paid by stamp.

(d) *Definition of clearinghouse.* The term "clearinghouse" includes every corporation, and every association of individuals, partnerships, or corporations, wholly or partly engaged in the business of clearing, settling or adjusting transactions in the purchase, sale, receipt, or delivery of stock, certificates of indebtedness, rights, or warrants, whether or not a part or department of a securities exchange or an independent body.

§ 47.4354 Statutory provisions; cross references.

SEC. 4354 *Cross references.* For penalties and other general and administrative provisions applicable to this subchapter, see section 4384 and subtitle F.

[Sec. 4354 as amended and in effect Jan. 1, 1959]

§ 47.4354–1 Cross references.

(a) For other definitions, see section 4381, § 47.4381–1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271–1.

(c) For other general and administrative provisions, see section 4384, § 47.4384–1, Subpart J, and the applicable sections of subtitle F and regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart G—Tax on Conveyances

§ 47.4361 Statutory provisions; imposition of tax.

SEC. 4361 *Imposition of tax.* There is hereby imposed, on each deed, instrument, or writing by which any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds $100, a tax at the rate of 55 cents for each $500 or fractional part thereof.

[Sec. 4361 as amended and in effect Jan. 1, 1959]

§ 47.4361–1 Imposition of tax.

(a) *Scope of tax.* (1) Section 4361 imposes a tax upon deeds, instruments, or other writings, whereby realty sold is granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or, at his direction, any other person, when the consideration for, or value of, the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds $100.

(2) The tax is limited to conveyances of realty sold and does not apply to other conveyances (see paragraph (b) of § 47.4361–2). The tax attaches at the time the deed or other instrument of conveyance is delivered, irrespective of the time when the sale is made. Deeds deposited in escrow become subject to the tax upon delivery to the grantee. A conveyance of realty subject to an equity of redemption is taxable when made, not when the time for redemption expires.

(3) For purposes of the tax imposed by section 4361, the determination of what constitutes "realty" is not controlled by the definition or scope of that term under State law. State law determines the character of the rights conveyed by an instrument, but whether such conveyance constitutes a conveyance of "realty" is to be determined under Federal law.

(4) For purposes of the regulations in this part—

(i) The term "realty" includes—

(*a*) Those interests in real property which endure for a period of time, the termination of which is not fixed or ascertained by a specific number of years, such as an estate in fee simple, life estate, perpetual easement, etc., and

(*b*) Those interests enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consist of a bundle of rights approximating those of the class of interests mentioned in (*a*) of this subdivision.

(ii) The term "sold" imports a transfer of an interest for a valuable consideration, which may involve money or anything of value.

(iii) The term "deed" includes any instrument or writing whereby realty is assigned, transfererd, or otherwise conveyed to, or vested in, the purchaser, or at his direction, any other person.

(b) *Rate and computation of tax.* The rate of tax is 55 cents on each $500 or fractional part thereof of the net consideration paid for, or the net value of, the realty conveyed, that is, the gross consideration or gross value less, in either case, the amount of all liens or encumbrances on the realty existing before the sale and not removed thereby. The tax is based upon the net consideration where it is definite in amount, or may be definitely determined. The tax is based upon net value where the amount of the consideration is indefinite, or is left open to be fixed by future contingencies. In determining the amount of the net consideration for, or net value of, the realty conveyed, only the amount of the liens and encumbrances on the property existing before the sale and not removed thereby may be deducted. Thus, for example, taxes or assessmnets which are liens on the property before the sale and are not paid at the time of sale are deductible. No deduction shall be made on account of any lien or encumbrance placed upon the property in connection with the sale, or by reason of deferred payments of the purchase price whether represented by notes or otherwise.

§ 47.4361–2 Illustrations.

(a) *Conveyances subject to tax.* The following are examples of conveyances subject to the tax:

(1) A conveyance of realty in exchange for other property; also the conveyance of the other property, if it is realty.

(2) A conveyance of realty in consideration of life maintenance. The tax is computed on the net value of the realty conveyed.

(3) A conveyance by a defaulting mortgagor to the mortgagee in consideration of the cancellation of the mortgage debt. The tax is computed on the amount of the unpaid mortgage debt plus unpaid accrued interest.

(4) Deeds given by masters in chancery, sheriffs, clerks of court, etc., for realty sold under foreclosure or execution. The tax is computed on the amount bid for the property plus the costs if paid by the purchaser, whether the purchaser is the mortgagee, judgment creditor, or any other person.

(5) A conveyance of realty by a judgment or decree in a condemnation proceeding under the power of eminent domain, or a conveyance of such property under threat or imminence of such proceeding.

(6) Conveyances to or by building and loan associations. However, the tax does not apply to a conveyance of realty to a building and loan association for the purpose of securing a loan thereon, nor to the reconveyance of the realty to its owner as part of the loan transaction.

(7) A conveyance of realty to a corporation in exchange for shares of its capital stock.

(8) A conveyance of realty by a corporation in liquidation or in dissolution to its shareholders subject to the debts of the corporation; however, if there are no corporate debts and the conveyance is made solely for the cancellation and retirement of the capital stock, the tax does not apply.

(9) Deeds to standing timber and to mines. (For definition of the term "deed", see paragraph (a)(4)(iii) of § 47.4361–1.)

(10) In jurisdictions where common-law dower still exists, an instrument conveying the estate acquired by a widow upon assignment of dower. However, an instrument purporting to convey the inchoate right of dower of a wife, or the consummate right of dower of a widow prior to assignment of dower, is not subject to the tax. Where by statute dower has been abolished and in lieu thereof a different interest in the husband's real property conferred upon the wife, the taxability of an instrument purporting to convey such interest prior to its assignment must be determined by the nature of the wife's interest as fixed by the statutes and decisions of the jurisdiction in which the real estate is located.

(11) A conveyance of real estate sold to or by the United States (see, however, paragraph (a) of § 47.4384–1).

(12) A conveyance of realty by a partner to the partnership as a contribution of partnership assets. See section 4383 and § 47.4383–1 for application of tax in case of a termination of a partnership owning realty.

(b) *Conveyances not subject to tax.* In addition to the various exemptions prescribed in sections 4362 and 4382 and in the Bankruptcy Act as amended, the following are examples of conveyances not subject to tax:

(1) The reconveyance of realty, conveyed to secure a debt, upon payment of such debt.

(2) Conveyances of realty without consideration and otherwise than in connection with a sale, including a deed conveying realty as a bona fide gift, although the deed may recite a consideration for the transfer, such as "natural love and affection and $1", "desire to promote public welfare and $1", or "$1 and other valuable consideration"; a gift of realty by a husband to his wife accomplished through the conveyance of the property for an ostensible consideration to a "straw man" who immediately reconveys the property to the wife; and a deed to or by a trustee not pursuant to a sale.

(3) A deed to confirm title already vested in the grantee, such as a quit claim deed to correct a flaw in title.

(4) A deed given by an executor in accordance with the terms of the will; however, if, by reason of a consideration passing between devisees, one of them takes a greater share in the realty than that to which he is entitled under the will, the deed given by the executor to convey such greater share is subject to a tax computed upon the amount of such consideration.

(5) A deed from an agent to his principal conveying real estate purchased for and with funds of the principal.

(6) An option for the purchase of real property or a contract for the sale of real property, if the contract does not vest legal title.

(7) Partition deeds, unless, for consideration, some of the parties take shares greater in value than their undivided interests, in which event a tax attaches to each deed conveying such greater share computed upon the consideration for the excess.

(8) Ordinary leases of real property for a definite term of years (see, however, paragraph (a)(4)(i) of § 47.4361–1).

(9) A deed executed by a debtor conveying property to a trustee for the benefit of his creditors; however, when the trustee conveys such property to a creditor or sells it to any other person, the deed executed by him is taxable.

(10) Conveyance to a receiver of realty included in the receivership assets, and reconveyance of such realty upon termination of the receivership.

(11) A deed conveying real estate situated in a foreign country.

(12) Transfer of real estate in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation.

§ 47.4361–3 Affixing of stamps.

(a) Only documentary stamps shall be used in payment of the tax imposed by section 4361. The requisite stamps shall be affixed to the deed, instrument, or other writing by which the realty is conveyed. See §§ 47.6804–1 and 47.6804–2 for the appropriate use, denominations, and cancellation of such stamps.

(b) Documentary stamps may be purchased, and requisition forms for the purchase of such stamps may be obtained, from the sources and in the manner provided in § 47.6802–1. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801 (§ 47.6801), 6802 (§ 47.6802), and 6805 (§ 47.6805), and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration) and § 47.6801–1.

§ 47.4362 Statutory provisions; exemptions.

SEC. 4362 *Exemptions*—(a) *Security for debt.* The tax imposed by section 4361 shall not apply to any instrument or writing given to secure a debt.

(b) *State and local government conveyances.* No State or Territory, or political subdivision thereof, or the District of Columbia, shall be liable for the tax imposed by section 4361 with respect to any deed, instrument, or writing to which it is a party, and affixing of stamps thereby shall not be deemed payment for the tax, which may be collected by assessment from any other party liable therefor.

(c) *Other exemptions.* For other exemptions, see section 4382.

[Sec. 4362 as amended and in effect Jan. 1, 1959]

§ 47.4362–1 Exemptions.

(a) *Security for debt.* Section 4362 expressly exempts from the tax imposed by section 4361 any instrument or writing, such as a mortgage or a deed of trust, given to secure a debt.

(b) *Conveyance to which State is party.* No State or Territory, or political subdivision thereof, or the District of Columbia shall be liable for the tax imposed by section 4361 in respect of a conveyance to which it is a party regardless of the capacity in which it acts. However, the conveyance is not exempt from tax, and the nonexempt party to the conveyance shall be liable for the tax. The affixing of stamps to the deed or other instrument of conveyance by the exempt governmental body does not constitute payment of the tax, and the nonexempt party remains liable for the tax in such case. Where all parties to a taxable conveyance are governmental bodies exempt under section 4362, no tax shall be imposed.

(c) *Other exemptions.* For other exemptions, see section 4382 and § 47.4382–1.

§ 47.4363 Statutory provisions; cross references.

SEC. 4363 *Cross references.* For penalties and other general and administrative provisions applicable to this subchapter, see section 4384 and subtitle F.

[Sec. 4363 as amended and in effect Jan. 1, 1959]

§ 47.4363–1 Cross references.

(a) For definitions, see section 4381, § 47.4381–1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271–1.

(c) For other general and administrative provisions, see section 4384, § 47.4384–1, Subpart J, and the applicable sections of subtitle F and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart H—Tax on Policies Issued by Foreign Insurers

§ 47.4371 Statutory provisions; imposition of tax.

SEC. 4371 *Imposition of tax.* There is hereby imposed, on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer, a tax at the following rates:

(1) *Casualty insurance and indemnity bonds.* Four cents on each dollar, or fractional part thereof, of the premium charged on the policy of casualty insurance or the indemnity bond, if issued to or for, or in the name of, an insured as defined in section 4372(d).

(2) *Life insurance, sickness, and accident policies, and annuity contracts.* One cent on each dollar, or fractional part thereof, of the premium charged on the policy of life, sickness, or accident insurance, or annuity contract, unless the insurer is subject to tax under section 819.

(3) *Reinsurance.* One cent on each dollar, or fractional part thereof, of the premium charged on the policy of reinsurance covering any of the contracts taxable under paragraph (1) or (2).

[Sec. 4371 as amended and in effect Jan. 1, 1959, and as further amended by sec. 3(f)(3) Life Insurance Income Tax Act 1959 (73 Stat. 140)]

§ 47.4371–1 Imposition of tax on policies issued by foreign insurers; scope of tax.

(a) *Certain insurance policies, and indemnity, fidelity, or surety bonds.* Section 4371(1) imposes a tax upon each policy of insurance (other than those referred to in paragraph (b) of this section), upon each indemnity, fidelity, or surety bond, or upon each certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of insurance of the character involved or an obligation of the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed, if issued—

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as insurer, and the policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory, or the District of Columbia in which the insurer is authorized to do business; and

(2) To or for, or in the name of, a domestic corporation, domestic partnership, or an individual resident of the United States, against or with respect to hazards, risks, losses, or liabilities wholly or partly within the United States; or

(3) To or for, or in the name of, a foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States with respect to hazards, risks, or

liabilities wholly within the United States.

For definition of the term "indemnity bond", see section 4372(c).

(b) *Life insurance, sickness, and accident policies and annuity contracts.* Section 4371(2) imposes a tax upon each policy of insurance or annuity contract, or certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of insurance or an annuity contract is made, continued, or renewed, if issued—

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as insurer, and the policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory, or the District of Columbia in which such insurer is authorized to do business, or if not so signed or countersigned, the insurer is not subject to tax under section 819; and

(2) To any person with respect to the life or hazards to the person of a citizen or resident of the United States.

(c) *Reinsurance.* Section 4371(3) imposes a tax upon each policy of reinsurance, certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of reinsurance is made, continued, or renewed, if issued—

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as reinsurer, and the policy or other instrument is not signed or countersigned by an officer or agent of the reinsurer in a State, Territory, or the District of Columbia in which such reinsurer is authorized to do business; and

(2) To any person against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts described in section 4371 (1) or (2).

(d) *Exempt indemnity bonds.* The tax imposed by section 4371 does not apply to any indemnity bond described in section 4373(2).

§ 47.4371–2 Rate and computation of tax.

(a) *Rate of tax.* (1) The tax under section 4371(1) is imposed at the rate of 4 cents on each dollar, or fractional part thereof, of the premium charged.

(2) The tax under section 4371 (2) and (3) is imposed at the rate of 1 cent on each dollar, or fractional part thereof, of the premium charged.

(b) *Computation of tax.* The tax is measured strictly by the amount of the premium charged. The time and method of payment of the premium are immaterial; the tax liability attaches if the insurance becomes effective, even though the premium is never paid. The full rate of tax applies to each fractional part of a dollar of the premium charged. For example, upon a premium charge of $10.10, the tax at the rate of 4 cents amounts to 44 cents, and at the rate of 1 cent amounts to 11 cents.

(c) *Meaning of premium.* For purposes of the regulations in this part, the term "premium" means the agreed price or consideration for assuming and carrying the risk or obligation, and includes any additional assessment or charge which may be assessed or charged under the contract, whether payable in one sum or installments.

§ 47.4372 Statutory provisions; definitions.

SEC. 4372 *Definitions*—(a) *Foreign insurer or reinsurer.* For purposes of this subchapter, the term "foreign insurer or reinsurer" means an insurer or reinsurer who is a nonresident alien individual, foreign partnership, or a foreign corporation. The term includes a nonresident alien individual, foreign partnership, or foreign corporation which shall become bound by an obligation of the nature of an indemnity bond.

(b) *Policy of casualty insurance.* For purposes of section 4371(1), the term "policy of casualty insurance" means any policy (other than life) or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed.

(c) *Indemnity bond.* For purposes of this subchapter, the term "indemnity bond" means any instrument by whatever name called whereby an obligation of the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed. The term includes any bond for indemnifying any person who shall have become bound or engaged as surety, and any bond for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, where a premium is charged for the execution of such bond.

(d) *Insured.* For purposes of section 4371(1), the term "insured" means—

(1) A domestic corporation or partnership, or an individual resident of the United States, against, or with respect to, hazards, risks, losses, or liabilities wholly or partly within the United States, or

(2) A foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States, against, or with respect to, hazards, risks, losses, or liabilities within the United States.

(e) *Policy of life, sickness, or accident insurance, or annuity contract.* For purposes of section 4371(2), the term "policy of life, sickness, or accident insurance, or annuity contract" means any policy or other instrument by whatever name called whereby a contract of insurance or an annuity contract is made, continued, or renewed with respect to the life or hazards to the person of a citizen or resident of the United States.

(f) *Policy of reinsurance.* For purposes of section 4371(3), the term "policy of reinsurance" means any policy or other instrument by whatever name called whereby a contract of reinsurance is made, continued, or renewed against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts taxable under paragraph (1) or (2) of section 4371.

[Sec. 4372 as amended and in effect Jan. 1, 1959]

§ 47.4373 Statutory provisions; exemptions.

SEC. 4373 *Exemptions.* The tax imposed by section 4371 shall not apply to—

(1) *Domestic agent.* Any policy, indemnity bond, or annuity contract signed or countersigned by an officer or agent of the insurer in a State, Territory, or District of the United States within which such insurer is authorized to do business.

(2) *Indemnity bond.* Any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant, or check, issued by the United States.

[Sec. 4373 as amended and in effect Jan. 1, 1959]

§ 47.4374 Statutory provisions; affixing of stamps.

SEC. 4374 *Affixing of stamps.* Any person to or for whom or in whose name any policy, indemnity bond, or annuity contract referred to in section 4371 is issued, or any solicitor or broker acting for or on behalf of such person in the procurement of any such instrument shall affix the proper stamps to such instrument.

[Sec. 4374 as originally enacted and in effect Jan. 1, 1959]

§ 47.4374–1 Affixing of stamps.

(a) *General.* (1) Documentary stamps shall be used in payment of the tax. Requisite stamps must be affixed to the first instrument whereby the taxable contractual relationship is created, continued, or renewed, whether it be a letter of acceptance, a cablegram, or other instrument by whatever name called. Where the instrument which creates or evidences the contractual relationship is confirmed by a subsequent instrument, the latter shall bear a notation designating such prior instrument (referred to in this section as the original instrument) and showing that the requisite stamps have been affixed thereto and canceled.

(2) In any case where the amount of the premium is not definitely determined at the time of entering into the taxable contractual relationship, the stamps may be affixed to the receipts for monthly or other payments if proper notation be made upon such receipts identifying the original instruments to which they apply.

(3) The stamps shall be affixed by any person who is a party to the taxable contractual relationship, including any solicitor or broker acting for or on behalf of such person.

(b) *Subsequent instruments.* In case a subsequent instrument provides for the payment of a premium greater than that provided for in the original instrument, the subsequent instrument must have affixed thereto stamps equal to the tax imposed upon the additional premium charged and must bear a notation of the stamps affixed to the original instrument.

(c) *Affixing of stamps.* (1) Only documentary stamps shall be used in payment of the tax imposed by section 4371. See also §§ 47.6804–1 and 47.6804–2 for the appropriate use, denominations, and cancellation of such stamps.

(2) Documentary stamps may be purchased, and requisition forms for the purchase of such stamps may be obtained, from the sources and in the manner provided in § 47.6802–1. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801 (§ 47.6801), 6802 (§ 47.6802), 6805 (§ 47.6805), and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration), and § 47.6801–1.

(d) *Instruments without stamps or notation of stamping.* For provisions

relating to the penalty for failure to comply with the requirements of section 4374, see § 47.7270.

(e) *Record requirements.* For provisions relating to the requirements concerning records and the retention of policies for a period of 3 years, see § 47.6001–2.

§ 47.4375 Statutory provisions; cross references.

SEC. 4375. *Cross references.* For penalties and other general and administrative provisions, see section 4384 and subtitle F.

[Sec. 4375 as amended and in effect Jan. 1, 1959]

§ 47.4375–1 Cross references.

(a) For definitions, see section 4381, § 47.4381–1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271–1.

(c) For other general and administrative provisions, see section 4384, § 47.4384–1, Subpart J, and the applicable sections of subtitle F and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart I—Miscellaneous Provisions Applicable to Documentary Stamp Taxes

§ 47.4381 Statutory provisions; definitions.

SEC. 4381 *Definitions*—(a) *Certificates of indebtedness.* For purposes of the taxes imposed by sections 4311 and 4331, the term "certificates of indebtedness" means bonds, debentures, or certificates of indebtedness; and includes all instruments, however termed, issued by a corporation with interest coupons or in registered form, known generally as corporate securities.

(b) *Corporation.* For purposes of the taxes imposed by this chapter, the term "corporation" includes any investment trust or similar organization (or any person acting in behalf of such investment trust or similar organization) issuing, holding or dealing in shares or certificates of stock, or in certificates of indebtedness. For purposes of the tax imposed by section 4311, the term "corporation" also includes any receiver, trustee in bankruptcy, assignee, or other person having custody of property of, or charge of the affairs of, the corporation. Nothing contained in this subsection shall be construed to limit the effect of the definition of the term "corporation" provided in section 7701(a)(3).

(c) *Shares or certificates of stock.* For purposes of the taxes imposed by sections 4301 and 4321, the term "shares or certificates of stock" includes shares or certificates of profits or of interest in property or accumulations.

[Sec. 4381 as amended and in effect Jan. 1, 1959]

§ 47.4381–1 Definitions.

(a) *Certificates of indebtedness.* The term "certificates of indebtedness" includes bonds, debentures, and certificates of indebtedness. Such term also includes all instruments, however termed, issued by a corporation with interest coupons or in registered form and known generally as corporate securities. The essence of a corporate security is marketability. An instrument is ordinarily considered to be marketable if it is issued in series, under a trust indenture, and in registered form or with interest coupons attached. For example, an instrument containing the essential features of a promissory note is included within the meaning of the term "certificates of indebtedness" if it has, in addition, the general characteristics of a corporate security. Whether or not an instrument is a certificate of indebtedness within the meaning of section 4381(a) is not determined by its name alone, but depends upon all the facts which can be derived from the face of the instrument, such as the form and terms of the instrument. The nature of the transaction or any act appearing outside of the instrument itself is immaterial for purposes of making such determination.

(b) *Corporation.* For purposes of the taxes imposed by sections 4301, 4311, 4321, 4331, 4361, and 4371, the term "corporation" includes associations, joint-stock companies, and insurance companies (see § 47.7701), as well as any investment trust or similar organization (or any person acting in behalf of such investment trust or similar organization) issuing, holding or dealing in shares or certificates of stock, or in certificates of indebtedness. In addition, for purposes of the tax imposed by section 4311, the term "corporation" also includes any receiver, trustee in bankruptcy, assignee, or other person having custody of property, or charge of the affairs, of the corporation.

(c) *Shares or certificates of stock.* For purposes of the regulations in this part, the term "stock" includes shares or certificates of stock. The term "stock" also includes shares in an association, joint-stock company, or insurance company (see § 47.7701). For purposes of the tax imposed by section 4321, the term "stock" also includes rights to subscribe for or to receive shares or certificates of stock (see paragraph (a) of § 47.4321–1). For purposes of the taxes imposed by sections 4301 and 4321, the term "shares or certificates of stock" includes shares or certificates of profits or of interest in property or accumulations.

(d) *Cross references.* For other definitions of general application, see §§ 47.0–2 and 47.7701.

§ 47.4382 Statutory provisions; exemptions.

SEC. 4382 *Exemptions*—(a) *Governments; certain associations.* The taxes imposed by this chapter shall not apply to—

(1) *Government and State obligations.* Any certificate of indebtedness, note, or other instrument, issued by the United States, or by any foreign government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power.

(2) *Domestic building and loan associations and mutual ditch or irrigation companies.* Shares or certificates of stock and certificates of indebtedness issued by domestic building and loan associations, savings and loan associations, cooperative banks, and homestead associations substantially all the business of which is confined to making loans to members, or by mutual ditch or irrigation companies.

(3) *Farmers', fruit growers', or cooperative associations.* Shares or certificates of stock and certificates of indebtedness issued by any farmers' or fruit growers' or like associations organized and operated on a cooperative basis for the purposes, and subject to the conditions, prescribed in section 521.

(b) *Certain reorganizations, etc.* The taxes imposed by sections 4301, 4311, 4321, 4331, and 4361 shall not apply to—

(1) *Corporate and railroad reorganization.* The issuance, transfer, or exchange of securities, or the making, delivery, or filing of conveyances, to make effective any plan of reorganization or adjustment—

(A) Confirmed under the Bankruptcy Act, as amended (11 U.S.C.),

(B) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in section 77(m) of the Bankruptcy Act, as amended (11 U.S.C. 205(m)),

(C) Approved in an equity receivership proceeding in a court involving a corporation, as defined in section 106(3) of the Bankruptcy Act, as amended (11 U.S.C. 506), or

(D) Whereby a mere change in identity, form, or place of organization is effected, but only if the issuance, transfer, or exchange of securities, or the making, delivery, or filing of instruments of transfer or conveyances, occurs within 5 years from the date of such confirmation, approval, or change.

(2) *Orders of the Securities and Exchange Commission.* The issuance, transfer, or exchange of securities, or making or delivery of conveyances, to make effective any order of the Securities and Exchange Commission as defined in section 1083(a); but only if—

(A) The order of the Securities and Exchange Commission in obedience to which such issuance, transfer, exchange, or conveyance is made recites that such issuance, transfer, exchange, or conveyance is necessary or appropriate to effectuate the provisions of section 11(b) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79k(b)),

(B) Such order specifies and itemizes the securities and other property which are ordered to be issued, transferred, exchanged, or conveyed, and

(C) Such issuance, transfer, exchange, or conveyance is made in obedience to such order.

[Sec. 4382 as amended and in effect Jan. 1, 1959]

§ 47.4382–1 Exemptions.

(a) *Government and State obligations.* Section 4382(a)(1) exempts from the tax imposed by section 4311 or 4331 any certificate of indebtedness issued by the United States, or by any foreign government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power.

(b) *Stocks and certificates of indebtedness of domestic building and loan associations, etc.* Section 4382(a)(2) exempts from the tax imposed by section 4301, 4311, 4321, or 4331 any stock or certificate of indebtedness issued by a (1) domestic building and loan association, savings and loan association, cooperative bank, or homestead association, substantially all the business of which is confined to making loans to members, or (2) mutual ditch or irrigation company. For definition of the term "domestic building and loan association", see § 47.7701.

(c) *Stocks and certificates of indebtedness of farmers', fruit growers', or cooperative associations.* Section 4382(a)(3), exempts from the tax imposed by section 4301, 4311, 4321, or 4331 any

stock or certificate of indebtedness issued by any farmers' or fruit growers' or like associations organized and operated on a cooperative basis for the purposes, and subject to the conditions, prescribed in section 521. For regulations under section 521, see Part 1 of this chapter (Income Tax Regulations).

(d) *Corporate and railroad reorganizations.* (1) Section 4382(b)(1) exempts from the taxes imposed by sections 4301, 4311, 4321, 4331, and 4361 the issuance, transfer, or exchange of securities, or the making, delivery, or filing of conveyances, to make effective any plan of reorganization or adjustment—

(i) Confirmed under the Bankruptcy Act, as amended (11 U.S.C.);

(ii) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in section 77(m) of the Bankruptcy Act, as amended (11 U.S.C. 205(m));

(iii) Approved in an equity receivership proceeding in a court involving a corporation, as defined in section 106(3) of the Bankruptcy Act, as amended (11 U.S.C. 506); or

(iv) Whereby a mere change in identity, form, or place of organization is effected,

if the issuance, transfer, or exchange of securities, or the making, delivery, or filing of instruments of transfer or conveyance, occurs within 5 years from the date of such confirmation, approval, or change.

(2) Section 267 of the Bankruptcy Act (11 U.S.C. 667) also exempts from stamp tax the issuance, transfer, or exchange of securities, or the making or delivery of instruments of transfer under any plan of reorganization confirmed under chapter X of the Bankruptcy Act, as amended. However, by reason of the provisions of section 4382(b)(1) the exemption conferred by section 267 has no application to the issuance, transfer, or exchange of securities, or the making, delivery, or filing of conveyances, which occurs after 5 years from the date of confirmation or approval of the plan of reorganization.

(e) *Orders of the Securities and Exchange Commission.* Section 4382(b)(2) exempts from the taxes imposed by sections 4301, 4311, 4321, 4331, and 4361 the issuance, transfer, or exchange of securities, or the making or delivery of conveyances, to make effective any order of the Securities and Exchange Commission as defined in section 1083(a), if (1) the order of the Securities and Exchange Commission in obedience to which such issuance, transfer, or exchange of securities or conveyance is made recites that such issuance, transfer, or exchange of securities or conveyance is necessary or appropriate to effectuate the provisions of section 11(b) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79k(b)); (2) such order specifies and itemizes the securities and other property which are ordered to be issued, transferred, exchanged, or conveyed; and (3) such issuance, transfer, exchange, or conveyance is made in obedience to such order.

(f) *Alteration and modification of securities under the Interstate Commerce Act.* Section 20b of the Interstate Commerce Act (49 U.S.C. 20b) provides for alteration or modification of securities of a carrier as defined in section 20a(1). Paragraph (12) of such section 20b (by application of section 7852) makes sections 4301, 4311, 4321, 4331, and 4361, and any amendments thereto, unless specifically provided to the contrary, inapplicable to the issuance, transfer, or exchange of securities or the making or delivery of conveyances to make effective any alteration or modification effected pursuant to section 20b.

§ 47.4383 Statutory provisions; certain changes in partnerships.

SEC. 4383 *Certain changes in partnerships*—(a) *Continuing partnerships.* In the case of any share, certificate, right, or realty held by a partnership, no tax shall be imposed under section 4321, 4331, or 4361 by reason of any transfer of an interest in a partnership or otherwise, if—

(1) Such partnership (or another partnership) is considered as a continuing partnership (within the meaning of section 708), and

(2) Such continuing partnership continues to hold the share, certificate, right, or realty concerned.

(b) *Terminated partnerships.* If there is a termination of any partnership (within the meaning of section 708)—

(1) For purposes of this chapter, such partnership shall be treated—

(A) As having transferred all shares, certificates, and rights held by such partnership at the time of such termination; and

(B) As having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination; but

(2) Not more than one tax shall be imposed under section 4321, 4331, or 4361, as the case may be, by reason of such termination (and any transfer pursuant thereto) with respect to the shares, certificates, rights, or realty held by such partnership at the time of such termination.

[Sec. 4383 as added and in effect Jan. 1, 1959]

§ 47.4383–1 Certain changes in partnerships.

(a) *Continuing partnerships.* No tax shall be imposed under section 4321, 4331, or 4361 by reason of any transfer of an interest in a partnership holding shares, certificates, rights, or realty if such partnership (or another partnership) is considered to be a continuing partnership within the meaning of section 708 and if such shares, certificates, rights, or realty continue to be held, regardless of the name in which held, by the continuing partnership (or the continuing partnerships if more than one). For rules relating to continuations of partnerships, see section 708 and the regulations thereunder in Part 1 of this chapter (Income Tax Regulations). To the extent that the shares, certificates, rights, or realty do not continue to be so held, the taxes imposed by sections 4321, 4331, and 4361 will apply. For example, if a partner withdraws from a partnership under such circumstances that the withdrawal does not constitute a termination of the partnership under the provisions of section 708 and the regulations thereunder, and if the partnership transfers to him, in consideration for his withdrawal, stock owned by the partnership, the stock so transferred will be subject to tax. However, if the partner receives cash in consideration for his withdrawal, and the partnership retains the stock, no tax is imposed since the stock is held by a continuing partnership.

(b) *Termination of partnerships.* If there is a termination, within the meaning of section 708, of a partnership holding shares, certificates, rights, or realty, the partnership is considered, for purposes of the taxes imposed by sections 4321, 4331, and 4361, as having transferred at the time of such termination all of such shares, certificates, and rights, and as having executed at the time of such termination an instrument conveying, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all of such realty. However, not more than one tax shall be imposed under each section with respect to such shares, certificates, rights, or realty by reason of a termination and any transfer pursuant thereto. Tax should be computed with respect to the transfer or conveyance deemed to occur under this paragraph. Any other deemed or actual transfer or conveyance which occurs by reason of the transaction resulting in the termination is not subject to tax. The operation of this paragraph may be illustrated by the following examples:

Example (1). Partnership AB owns 150 shares of X Corporation stock having a total actual value of $13,000 and real estate having a fair market value (exclusive of the value of any lien or encumbrance thereon) of $10,000. Partner B retires and receives 100 shares of X Corporation stock in liquidation of his entire partnership interest. Partner A receives the remainder of the partnership properties in liquidation of his entire partnership interest, and he continues to run the business as a sole proprietor. Partnership AB is terminated within the meaning of section 708 since the partnership business is no longer carried on by a partnership. Partnership AB is, therefore, considered to have executed an instrument conveying the real estate for $10,000 and to have transferred the X Corporation stock having a total actual value of $13,000. The transaction is subject to the taxes imposed by sections 4321 and 4361. No tax is imposed on the actual transfer of 100 shares of X Corporation stock to partner B or on the actual transfer and conveyance of the remaining stock and realty to partner A since such conveyance and transfers are made by reason of the transaction resulting in the termination.

Example (2). Partnership ABCD owns 1,000 shares of Y Corporation stock having a total actual value of $60,000. Partner A owns a 40 percent interest in the capital and profits of the partnership and partners B, C, and D each have a 20 percent interest. In January, 1960, partner A sells his partnership interest to E, and in September, 1960, partner B sells his partnership interest to F thereby causing a termination of the partnership within the meaning of section 708. The partnership is, therefore, considered to have transferred in September, 1960, the 1,000 shares of Y Corporation stock, and there is a tax under section 4321 with respect to such shares. No further tax is imposed with respect to the transaction. Inasmuch as A is not a partner in the partnership at the time of its termination, he incurs no liability for the tax imposed with respect to the 1,000 shares of stock.

Example (3). Partnership ABCDE terminates within the meaning of section 708 by reason of the sale by E of his partnership interest to F. Pursuant to the termination transaction, partners A and B withdraw from the partnership, receiving stock owned by the partnership in consideration for their withdrawal, under such circumstances that the withdrawal constitutes a liquidation under section 708 and the regulations thereunder. All of the stock owned by the partnership is considered to be transferred on termination and tax is imposed with respect to such stock, but no additional tax is imposed with respect to the stock actually distributed to partners A and B in liquidation of their partnership interest. Furthermore, no tax will be imposed on the transfer by partners A and B of the stock distributed to them to a new partnership AB if such transfer is made pursuant to an agreement entered into concurrently with and as a result of the transaction in which partnership ABCDE is terminated.

(c) *Application of section.* Only those partnership changes occurring on or after January 1, 1959, shall be considered in determining whether a partnership is a continuing or terminated partnership under section 708.

§ 47.4384 Statutory provisions; liability for tax.

SEC. 4384 *Liability for tax.* The taxes imposed by this chapter shall be paid by any person who makes, signs, issues, or sells any of the documents and instruments subject to the taxes imposed by this chapter, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax with respect to an instrument to which it is a party, and affixing of stamps thereby shall not be deemed payment for the tax, which may be collected by assessment from any other party liable therefor.

[Sec. 4384 as amended and redesignated and in effect Jan. 1, 1959]

§ 47.4384–1 Liability for tax.

(a) *In general.* Except as otherwise provided in paragraphs (c) and (d) of this section, the tax is payable by any of the parties to a taxable transaction. For example, in the case of the transfer of stock, the liability therefor is imposed upon the transferor, the transferee, and the corporation whose stock is transferred (if there is a transfer of record). The parties to the transaction may agree among themselves as to which shall pay the tax, but such agreement does not relieve the others from their liability in the event it is not carried out. No provisions, by-laws, or rules, of any exchange, and no custom, shall exempt any person from payment of the tax imposed.

(b) *Liability of subscriber for tax on issuance of stock.* The liability of a subscriber for the tax imposed by section 4301 on an issuance of stock to him by a corporation extends only to that portion of the total tax on all issuances of stock by such corporation for the day that the total actual value of the shares or certificates of stock issued to him in that day bears to the total actual value of all shares or certificates issued by the corporation in such day. For example, if a total of 100 shares of stock having a total actual value of $1,800 are issued in one day by a corporation, the tax would be $1.80. If A were issued in that day 10 shares of such stock having a total value of $180, his liability for tax would be 18 cents.

(c) *United States as party to transaction.* The United States or any agency or instrumentality thereof shall not be liable for tax in respect of an instrument to which it is a party regardless of the capacity in which it acts. However, the transaction is not exempt from tax, and the nonexempt party to the transaction shall be liable for the tax. The affixing of stamps to the instrument by the United States or any agency or instrumentality thereof does not constitute payment of the tax, and the nonexempt party remains liable for the tax in such case.

(d) *State as party to transaction.* Except with respect to the tax imposed by section 4361, where a State or a political subdivision thereof, acting in its governmental capacity, is a party to a taxable transaction, under chapter 34 of the Code, the transaction will not be exempt from the documentary stamp tax merely by reason of the governmental character of one of the parties. The legal incidence of the tax in such a case rests upon the other party to the transaction. However, if in a taxable transaction with a private party, a State or political subdivision thereof is acting in its proprietary function, both parties will be liable for the tax. Where all parties to a transaction are States or political subdivisions thereof, acting in their governmental capacity, no tax shall be imposed. See section 4362(b) and paragraph (b) of § 47.4362–1 for the exemption of any State, Territory, political subdivision thereof, or the District of Columbia from the tax imposed by section 4361 on conveyances of realty to which it is a party, regardless of the capacity in which it acts.

Subpart J—Administrative Provisions Applicable to Documentary Stamp Taxes

§ 47.6001 Statutory provisions; notice or regulations requiring records, statements, and special returns.

SEC. 6001 *Notice or regulations requiring records, statements, and special returns.* Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe. Whenever in the judgment of the Secretary or his delegate it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary or his delegate deems sufficient to show whether or not such person is liable for tax under this title.

[Sec. 6001 as originally enacted and in effect Jan. 1, 1959]

§ 47.6001–1 Records of sales and transfers of stock.

(a) *Brokers, dealers, etc.* All persons who are wholly or partly engaged in the business of buying, selling, or transferring stock, either at public or private sale, whether or not they are members of an exchange, including persons engaged in transactions known as "matched", "on-order", "pass-outs", or "give-ups", or transactions which are settled directly between the seller and buyer or which are cleared or adjusted through a clearinghouse or otherwise, or persons (other than those described in paragraph (b) of this section) engaged in accepting and procuring the transmission of orders for purchase or sale of shares of stock shall keep a record as to each transaction showing:

(1) Date of transaction.
(2) Name of customer for whom sold or loaned, or for whom bought or borrowed.
(3) Name of party to whom sold or loaned, or from whom bought or borrowed.
(4) Name of correspondent broker, if any.
(5) Number of shares involved.
(6) Name and description of stock.
(7) Selling price of stock, per share.
(8) Amount of tax paid.

(b) *Correspondent brokers.* Persons engaged in accepting and procuring the transmission of orders for the purchase or sale of stock, to be executed at a brokerage office or at an exchange, board of trade, or similar place, shall keep a record as to each transaction showing:

(1) Date of acceptance and transmission of order.
(2) Name of person from whom accepted.
(3) Name and address of person to whom transmitted.
(4) Name and description of stock.
(5) Number of shares involved.
(6) Whether purchase or sale.
(7) Selling price of stock, per share.
(8) Date of execution of order.

(c) *Floor brokers, etc.* Brokers known as strictly "floor brokers", "two-dollar men", or "room traders", whether their transactions are settled directly between seller and buyer, by "matched", "on-order", "pass-out", "scratch sale", or "give-up", or by any other kind of sale or purchase, or whether their transactions are cleared through a clearinghouse or otherwise, shall, in lieu of the record prescribed in paragraph (a) of this section, keep a record as to each transaction showing:

(1) Date of transaction.
(2) Name of seller.
(3) Name of purchaser.
(4) Name and description of stock.
(5) Number of shares involved.
(6) Selling price of stock, per share.
(7) Whether the transaction is "matched", "on-order", "pass-out", "scratch sale", or "give-up".
(8) Name of person to whom "given-up".

(d) *General.* Persons keeping records as prescribed in this section may incorporate therein additional information for their own use, which should be entered, however, so as not to interfere with the recording of the information required by this section. These records must be kept in permanent form for a period of at least three years from the date any part of the tax is paid on the transaction and must be available for ready inspection by internal revenue officers.

§ 47.6001–2 Records with respect to foreign insurance policies.

(a) *Records to be kept by solicitors, brokers, etc.* No return or statement showing a list of policies or other instruments subject to the tax imposed by section 4371 is required from any person to or for whom, or in whose name, such policy or other instrument is issued, or from the solicitor or broker acting directly or indirectly for or on behalf of such person. However, each person, solicitor, or broker, accepting, placing, soliciting, or making, directly or indirectly, or paying or receiving compensation with respect to, a policy or other instrument subject to the tax imposed by section 4371 shall keep a record of such policy or other instrument for a period of at least three years from the date any part of the tax was paid with respect to the issuance thereof and shall be prepared to furnish full information to the district director at any time upon demand.

(b) *Records to be kept by policy holder.* The person having control or possession of a policy of insurance, or reinsurance, or other instrument to which documentary stamps must be affixed shall retain such instrument for at least 3 years from the date any part of the tax was paid with respect to the issuance thereof to enable internal revenue officers to ascertain whether the requisite stamps have been affixed and cancelled.

§ 47.6801 Statutory provisions; authority for establishment, alteration, and distribution.

SEC. 6801 *Authority for establishment, alteration, and distribution.*—(a) *Establishment and alteration.* The Secretary or his delegate may establish, and from time to time alter, renew, replace, or change the form, style, character, material, and device of any stamp, mark, or label under any provision of the laws relating to internal revenue.

(b) *Preparation and distribution of regulations, forms, stamps and dies.* The Secretary or his delegate shall prepare and distribute all the instructions, regulations, directions, forms, blanks, and stamps; and shall provide proper and sufficient adhesive stamps and other stamps or dies for expressing and denoting the several stamp taxes.

[Sec. 6801 as originally enacted and in effect Jan. 1, 1959]

§ 47.6801–1 Establishment of meter machines and stamps.

The Commissioner of Internal Revenue or his delegate shall have the authority to set the standards for and to approve meter machines for use in the sale of documentary stamps and to prescribe instructions and requirements governing the circumstances and conditions under which such machines may be used. In addition to the documentary stamps customarily sold and used for the payment of taxes imposed under chapter 34 of the Code, stamps produced by authorized documentary stamp meter machines shall be proper for such use. See paragraph (a) (5) of § 47.0–2 for the definition of the term "documentary stamps".

§ 47.6802 Statutory provisions; supply and distribution.

SEC. 6802 *Supply and distribution.* The Secretary or his delegate shall furnish, without prepayment, to—

(1) *Postmaster General.* The Postmaster General a suitable quantity of adhesive stamps (other than the stamps on playing cards), coupons, tickets, or such other devices as may be prescribed by the Secretary or his delegate pursuant to section 6302(b) or this chapter, to be distributed to, and kept on sale by, the various postmasters in the United States in all post offices of the first and second classes, and such post offices of the third and fourth classes as—

(A) Are located in county seats, or

(B) Are certified by the Secretary to the Postmaster General as necessary;

(2) *Designated depositary of the United States.* Any designated depositary of the United States a suitable quantity of adhesive stamps to be kept on sale by such designated depositary;

(3) *State agents.* Any person who is—

(A) Duly appointed and acting as agent of any State for the sale of stock transfer stamps of such State, and

(B) Designated by the Secretary or his delegate for the purpose,

a suitable quantity of such adhesive stamps as are required by section 4301, to be kept on sale by such person.

[Sec. 6802 as originally enacted and in effect Jan. 1, 1959]

§ 47.6802–1 Where stamps may be purchased and when unused documentary stamps may be used or resold.

(a) *Where stamps may be purchased.* Documentary stamps may be purchased from (1) district directors and other duly authorized officials; (2) postmasters in all post offices of the first and second classes and such post offices of the third and fourth class as are located in county seats; (3) designated depositaries of the United States (see section 6802(2) (§ 47.6802)); and (4) State agents designated under paragraph (3) of section 6802 (§ 47.6802).

(b) *Use or resale of unused documentary stamps.* Unused documentary stamps may be used at any time in payment of any tax imposed by section 4301, 4311, 4321, 4331, 4361, or 4371, or may be resold by the owner at any time. For redemption of stamps see section 6805 (§ 47.6805).

§ 47.6804 Statutory provisions; attachment and cancellation.

SEC. 6804 *Attachment and cancellation.* Except as otherwise expressly provided in this title, the stamps referred to in section 6801 shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as the Secretary or his delegate may prescribe by rules or regulations.

[Sec. 6804 as originally enacted and in effect Jan. 1, 1959]

§ 47.6804–1 Stamps to be used and denominations thereof.

(a) *Documentary stamps only to be used.* Except as provided in section 4353 and § 47.4353–1, documentary stamps only shall be used in payment of the stamp taxes imposed by sections 4301, 4311, 4321, 4331, 4361, and 4371. Ordinary postage stamps shall not be used in payment of documentary stamp taxes.

(b) *Use of stamps.* Wherever feasible, a stamp tax shall be paid by the use of a single stamp. If a stamp of a denomination equal to the tax is not readily available, the smallest practical number of stamps shall be used. A stamp affixed to an instrument and canceled cannot lawfully be removed therefrom and affixed to another instrument requiring a stamp (see section 7208 (§ 47.7208), relating to penalties).

(c) *Denominations of documentary stamps.* Documentary stamps (other than stamps issued by authorized meter machines) are issued in the following denominations: 1 cent, 2 cents, 3 cents, 4 cents, 5 cents, 8 cents, 10 cents, 20 cents, 25 cents, 40 cents, 50 cents, 55 cents, 80 cents, $1, $1.10, $1.65, $2, $2.20, $2.75, $3, $3.30, $4, $5, $10, $20, $30, $50, $60, $100, $500, $1,000, $2,500, $5,000, and $10,000.

§ 47.6804–2 Cancellation of stamps.

(a) *Stamps affixed by adhesion.* Except as provided by paragraph (b) of this section, a person using or affixing a stamp shall cancel it and so deface it as to render it unfit for reuse by marking it with his initials and the day, month, and year when the affixing occurs. (See section 7271(1) (§ 47.7271), relating to penalties.) Such marking shall be made by writing or stamping in indelible ink or by perforating with a machine or punch. However, the stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness. (See paragraph (b) of § 47.6804–1 relating to the prohibition against reuse of used stamps.)

(b) *Stamps printed directly on documents.* A stamp printed directly on a document by an authorized meter machine is considered cancelled provided the printing on such stamp contains the date of such printing and a number which identifies the machine which printed the stamp.

§ 47.6805 Statutory provisions; redemption of stamps.

SEC. 6805 *Redemption of stamps*—(a) *Authorization.* The Secretary or his delegate, subject to regulations prescribed by him, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of any internal revenue law, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use.

(b) *Method and conditions of allowance.* Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Secretary or his delegate, or until satisfactory proof has been made showing the reason why the same cannot be returned; or, if so required by the Secretary or his delegate, when the person presenting the same cannot satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid.

(c) *Time for filing claims.* No claim for the redemption of, or allowance for, stamps shall be allowed under this section unless

presented within 3 years after the purchase of such stamps from the Government.

(d) *Finality of decisions.* The findings of fact in and the decision of the Secretary or his delegate upon the merits of any claim presented under or authorized by this section shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

[Sec. 6805 as amended and in effect Jan. 1, 1959]

§ 47.6805–1 Redemption of stamps.

For provisions with respect to redemption of stamps, see the regulations under section 6805 in Part 301 of this chapter (Regulations on Procedure and Administration).

§ 47.7208 Statutory provisions; offenses relating to stamps.

SEC. 7208 *Offenses relating to stamps.* Any person who—

(1) *Counterfeiting.* With intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed under authority of this title for the collection or payment of any tax imposed by this title, or sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such stamp, coupon, ticket, book, or other device; or

(2) *Mutilation or removal.* Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title; or

(3) *Use of mutilated, insufficient, or counterfeited stamps.* Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title,

(A) Any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or

(B) Any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or

(C) Any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article; or

(4) *Reuse of stamps*—(A) *Preparation for reuse.* Willfully removes, or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has already been used; or

(B) *Trafficking.* Knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same; or

(C) *Possession.* Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article; or

(5) *Emptied stamped packages.* Commits the offense described in section 7271 (relating to disposal and receipt of stamped packages) with intent to defraud the revenue, or to defraud any person;

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

[Sec. 7208 as originally enacted and in effect Jan. 1, 1959]

§ 47.7209 Statutory provisions; unauthorized use or sale of stamps.

SEC. 7209 *Unauthorized use or sale of stamps.* Any person who buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this title or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device prescribed by the Secretary or his delegate under this title for the collection or payment of any tax imposed by this title, shall, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 6 months, or both.

[Sec. 7209 as originally enacted and in effect Jan. 1, 1959]

§ 47.7209–1 Use or resale of unused stamps.

For provisions with respect to the use or resale of unused stamps, see paragraph (c) of § 47.6802–1. For provisions with respect to the unauthorized use or sale of stamps, see the regulations under section 7209 in Part 301 of this chapter (Regulations on Procedure and Administration).

§ 47.7270 Statutory provisions; insurance policies.

SEC. 7270 *Insurance policies.* Any person who fails to comply with the requirements of section 4374 (relating to the affixing of stamps on insurance policies, etc.), with intent to evade the tax shall, in addition to other penalities provided therefor, pay a fine of double the amount of the tax.

[Sec. 7270 as originally enacted and in effect Jan. 1, 1959]

§ 47.7271 Statutory provisions; penalties for offenses relating to stamps.

SEC. 7271 *Penalties for offenses relating to stamps.* Any person who with respect to any tax payable by stamps—

(1) *Failure to attach or cancel stamps, etc.* Fails to comply with rules or regulations prescribed pursuant to section 6804 (relating to attachment, cancellation, etc., of stamps), unless such failure is shown to be due to reasonable cause and not willful neglect; or

* * * * *

(3) *Instruments.* Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid; or

* * * * *

shall be liable for each such offense to a penalty of $50.

[Sec. 7271 as originally enacted and in effect Jan. 1, 1959]

§ 47.7271–1 Cross references.

For other provisions relating to penalties, see the applicable sections of the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

§ 47.7701 Statutory provisions; definitions.

SEC. 7701 *Definitions.* (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) *Person.* The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

(4) *Domestic.* The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(5) *Foreign.* The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) *Fiduciary.* The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) *Stock.* The term "stock" includes shares in an association, joint-stock company, or insurance company.

* * * * *

(9) *United States.* The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

(10) *State.* The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Delegate*—(A) *In general.* The term "Secretary or his delegate" means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform the function mentioned or described in the context, and the term "or his delegate" when used in connection with any other official of the United States shall be similarly construed.

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(13) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

* * * * *

(19) *Domestic building and loan association.* The term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association, substantially all the business of which is confined to making loans to members.

* * * * *

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

* * * * *

(d) *Cross references*—(1) *Other definitions.* For other definitions, see the following sections of Title 1 of the United States Code:

(1) Singular as including plural, section 1.

(2) Plural as including singular, section 1.

(3) Masculine as including feminine, section 1.

* * * * *

[Sec. 7701 as originally enacted and in effect Jan. 1, 1959, and as amended by sec. 22 (g) and (h) of the Alaska Omnibus Act (73 Stat. 146, 147); sec. 18 (i) and (j) of the Hawaii Omnibus Act (74 Stat. 416); sec.

103(t) of the Social Security Amendments 1960 (74 Stat. 941)]

§ 47.7805 Statutory provisions; rules and regulations.

SEC. 7805 *Rules and regulations*—(a) *Authorization.* Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary or his delegate shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary or his delegate may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.

(c) *Preparation and distribution of regulations, forms, stamps, and other matters.* The Secretary or his delegate shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

[Sec. 7805 as originally enacted and in effect Jan. 1, 1959]

§ 47.7805–1 Promulgation of regulations.

In pursuance of section 7805 of the Internal Revenue Code of 1954, the foregoing regulations are hereby prescribed. (See § 47.0–3 relating to the scope of the regulations.)

[F.R. Doc. 62–1205; Filed, Feb. 6, 1962; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

[Docket No. AO16–A8]

PART 131—HANDLING OF ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

Order Amending Order

§ 131.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Anti-Hog-Cholera Serum and Hog-Cholera Virus Marketing Agreement Act (7 U.S.C. 851–855), and the rules of practice and procedure governing formulation of marketing agreements and marketing orders applicable to anti-hog-cholera serum and hog-cholera virus (9 CFR Part 132), a public hearing was held at Kansas City, Missouri, on May 10, 1961, upon proposed amendments to the marketing agreement and the order regulating the handling of anti-hog-cholera serum and hog-cholera virus. Upon the basis of the evidence adduced at the hearing and the record thereof, it is found that:

(1) The said marketing agreement, as amended, and as hereby further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act; (2) the order, as amended, and as hereby further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act; (3) the said order, as amended, and as hereby further amended, regulates the handling of anti-hog-cholera serum and hog-cholera virus in the same manner as, and contains only such terms and conditions as are contained in a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that the agreement, amending the marketing agreement, as amended, regulating the handling of anti-hog-cholera serum and hog-cholera virus, upon which a public hearing has been held, has been signed by handlers who, during the calendar year 1960, handled not less than 75 per centum of the volume of anti-hog-cholera serum and hog-cholera virus which was handled in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of anti-hog-cholera serum and hog-cholera virus shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order is hereby amended as follows:

Delete § 131.44 and substitute therefor the following:

§ 131.44 Fee to accompany application for wholesaler classification.

(a) Each application for classification as a wholesaler shall be accompanied by an application fee of $100.00. Seventy-five dollars of such fee shall cover the cost of processing the application and the remaining $25.00 shall cover the applicant's pro rata share of the expenses of the Control Agency for the calendar year in which the application is approved.

(b) If the application for classification as a wholesaler is cancelled at the request of the applicant or denied by the Control Agency, $25.00 shall be refunded to the applicant and $75.00 shall be retained by the Control Agency to cover the cost of processing the application: *Provided,* That, in the event the Control Agency receives a written request from the applicant for cancellation of the application before any expense has been incurred in processing such application, the Control Agency shall refund the $75.00 processing fee: *And provided,* That, in the event of the death of the applicant, or the destruction of the applicant's place of business, or the institution of insolvency proceeding by or against the applicant, during the pendency of the application, the Control Agency may refund that portion of the processing fee which is unexpended at the time of the receipt of a written request for cancellation of the application: *And provided further,* That, in the event of the death of the applicant during the pendency of his application or within a short time after action has been taken on such application by the Control Agency, and the Control Agency determines, upon evidence satisfactory to it, that the illness and death of the applicant prevented the timely filing of a request for cancellation of such application, the Control Agency may refund all or a portion of the application fee, whichever is consistent with its findings and conclusions in the matter.

(c) The Control Agency shall make refunds on application fees only in accordance with the provisions of this section.

(49 Stat. 781–782; 7 U.S.C. 851–855)

All provisions of this amended order shall become effective 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 1st day of February 1962.

FRANK J. WELCH,
Assistant Secretary.

[F.R. Doc. 62–1223; Filed, Feb. 6, 1962; 8:46 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Post Office Department

Effective February 3, 1962, paragraph (a) (4) of § 6.109 is revoked.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 62–1251; Filed, Feb. 6, 1962; 8:49 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of State and U.S. Arms Control and Disarmament Agency

§ 6.302 [Amendment]

1. Effective upon publication in the FEDERAL REGISTER, paragraph (v) of § 6.302 is revoked.

2. Effective upon publication in the FEDERAL REGISTER, a new § 6.372, paragraphs (a) and (b), is added to Part 6 as set out below.

§ 6.372 U.S. Arms Control and Disarmament Agency.

(a) One Private Secretary to the Director.

(b) One Private Secretary to the Deputy Director.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 62-1252; Filed, Feb. 6, 1962; 8:49 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. FSLIC-1,281]

PART 563—OPERATIONS

Loans and Investments

JANUARY 26, 1962.

Resolved that, notice and public procedure having been duly afforded (26 F.R. 9557, 10239), and all relevant matter presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration and of determination by it of the advisability of amendment of section 563.9 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.9) as hereinafter set forth, and for the purpose of effecting such amendment, hereby amends said section 563.9 to read as follows, effective February 10, 1962:

§ 563.9 Loans and investments.

(a) *General provisions.* Insured institutions may lend and otherwise invest their funds to the extent and in the manner authorized by law: *Provided,* That, except as hereinafter provided, no insured institution may make, or invest its funds in, loans on the security of real estate located more than 50 miles from its principal office and outside the territory within which the institution was operating on June 27, 1934, without the prior approval of the Corporation: *Provided further,* That

(1) Any insured institution may, to the extent that it has legal power to do so and without further approval of the Corporation, make, or invest its funds in, loans in an aggregate amount not exceeding 20 percent of such institution's assets on the security of real estate located more than 50 miles but not more than 100 miles from such institution's principal office and outside such territory;

(2) Any insured institution may, to the extent it has legal power to do so, without regard to said 20-percent-of-assets limitation and without further approval of the Corporation, make, or invest its funds in, any loan at least 20 percent of which is guaranteed or as to which a commitment to guarantee has been made under the provisions of the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38, United States Code, as now or hereafter amended; and

(3) Any insured institution may, to the extent it has legal power to do so, without regard to said 20-percent-of-assets limitation and without further approval of the Corporation, purchase any loan secured by a first lien on a home or a combination home and business property which is used in part for business purposes and in part for bona fide residential purposes for not more than four families, located in other territory more than 50 miles from its principal office: *Provided,* That as to each loan, such insured institution will be protected by insurance as provided in the National Housing Act or the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38, United States Code, as now or hereafter amended.

(b) *Applications and approvals.* Each application by an insured institution to the Corporation for approval to make, or invest its funds in, loans beyond any limitation of this section shall be supported by a map showing the area in which the institution desires to lend and invest its funds; shall state the type and character of loans to be made, including the maximum percentages of loans to appraisals; shall show the need in such territory for such loans by such institution; and shall establish that such operation is consistent with sound and economical home financing, and that the applicant is equipped to service the loans adequately. Every loan made pursuant to any approval by the Corporation of any such application shall comply with the terms and conditions of such approval.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

Resolved further that the Board hereby finds that, as the foregoing amendment relieves restriction, deferment of the effective date thereof for the period set forth in section 4(c) of the Administrative Procedure Act is not required under said section 4(c).

By the Federal Home Loan Bank Board.

HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 62-1233; Filed, Feb. 6, 1962; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER A—PROCEDURAL REGULATIONS

[Reg. Docket No. 1060]

PART 408—ENFORCEMENT PROCEDURES

Revision

The primary purpose of this amendment is to enlarge the scope of § 408.25 (a) so as to provide a certificate holder with an opportunity to have a full hearing before a Hearing Officer of the Agency in certificate actions taken by the Administrator pursuant to section 609 of the Act; the provision of a new Subpart D—Rules of Practice for Hearings in FAA Certificate Actions; and other amendments of Subparts A, B, and C to reflect new enforcement procedures and the decentralization of responsibility.

The safety enforcement processes of the Federal Aviation Agency presently afforded a certificate holder against whom action is proposed an opportunity to confer with Agency counsel and be informally heard with respect to his position in the matter. It has been decided that in addition to this procedure the certificate holder should be afforded an opportunity for a full evidentiary hearing. Accordingly, a panel of Hearing Officers has been established in the Office of the Administrator. They are authorized to act for him and to decide matters on his behalf. They will, upon request, hold a hearing at a time and place convenient to the parties in which the Agency counsel will bear the burden of proof with respect to the charges, witnesses will be called and subjected to examination and cross-examination, and a full record will be made of all of the testimony and evidence. Upon this record the Hearing Officer will decide the issues and determine whether the proposed certificate action should be carried out or whether it should be modified or terminated.

At the present time certificate holders whose certificate is suspended or revoked by Order issued on behalf of the Administrator may appeal to the Civil Aeronautics Board. The provision of a hearing before an Agency Hearing Officer will in no way affect the certificate holder's continued right to make such an appeal. However, if he elects to appeal, he may also elect to have the appeal considered on the basis of the record of testimony and evidence taken before the FAA Hearing Officer, and thus avoid the necessity of duplication in this phase of the hearing process. It is the expectation of the Agency that hearings will be so fairly conducted by the assigned FAA Hearing Officer and the facts and other relevant evidence so fully developed in the course of the hearing before him that in most cases this record will be satisfactory to the certificate holder, as well as to the Agency, and that appeals will thus be taken on the record without the necessity of completely new hearing before the Civil Aeronautics Board. Where requested, however, the certificate holder will be entitled to obtain a Board hearing on the issues in dispute.

The rules of practice which will guide the Hearing Officer and the parties where such a hearing has been requested closely parallel those which presently govern safety enforcement proceedings before the Civil Aeronautics Board. They should therefore provide a familiar pattern to attorneys and other interested persons who heretofore have been involved in the hearing process as conducted by designated Examiners of the Civil Aeronautics Board.

This revision also serves to prescribe enforcement procedures which conform to those now being utilized by the Agency, particularly those modifications required by the recent decentralization of responsibility to handle cases involving

scheduled and supplemental carriers and their personnel, air taxi operations, commercial operations and certificated repair stations. The previous division of authority, which reserved unto the General Counsel the authority for handling cases involving such certificate holders, has now been modified to permit the handling of such cases by the General Counsel and the Regional Counsels.

Since this amendment is not a substantive rule and one of Agency procedure, notice of public procedure hereon is unnecessary and the amendment may be made effective upon less than 30 days' notice.

In consideration of the foregoing, the Federal Aviation Agency hereby promulgates a revised Part 408 of the regulations of the Administrator of the Federal Aviation Agency (14 CFR Part 408), effective February 7, 1962:

Subpart A—Introduction

Sec.
408.1 Definition of terms.

Subpart B—Processes Used in Enforcement

408.11 Report channels.
408.12 Investigations.

Subpart C—Actions Taken in Enforcement

408.21 Filed for Record and Letter of Correction.
408.22 Reprimands.
408.23 Civil penalties.
408.24 Seizure of aircraft.
408.25 Certificate action.
408.26 Military aircraft.
408.27 Criminal violations.

Subpart D—Rules of Practice for Hearings in FAA Certificate Proceedings

408.31 Applicability of rules.
408.32 Appearances.
408.33 Request for hearing.
408.34 Hearing Officer's powers.
408.35 Disqualification of Hearing Officer.
408.36 Pleadings.
408.37 Time limitations.
408.38 Service and filing.
408.39 Amendment of Notice and Answer.
408.40 Withdrawal of Notice or Request for Hearing.
408.41 Motions.
408.42 Intervention.
408.43 Depositions.
408.44 Notice of hearing.
408.45 Subpoenas and witness fees.
408.46 Evidence.
408.47 Argument and submittals.
408.48 Record.
408.49 Federal Rules of Civil Procedure.
408.50 Order of Hearing Officer.

AUTHORITY: §§ 408.1 to 408.50 issued under secs. 313(a), 601, 609, 901, 902, 903, 1001, 1002, Federal Aviation Act of 1958 (72 Stat. 752, 775, 779, 783, 784, 786, 788; 49 U.S.C. 1354, 1421, 1429, 1471, 1472, 1474, 1481, 1482).

Subpart A—Introduction

§ 408.1 Definition of terms.

As used in this part:

(a) "Act" means the Federal Aviation Act of 1958.

(b) "Administrator" means the Administrator of Federal Aviation Agency, or his designee.

(c) "Agency" means the Federal Aviation Agency.

(d) "Agency counsel" means the representative of the Federal Aviation Agency Office of General Counsel or Office of Regional Counsel, who represents the Administrator in an enforcement proceeding.

(e) "Answer" means the pleading which is filed by the holder of certificate in response to a Notice of Proposed Certificate Action, replying to the charges contained in the notice, when a hearing has been requested before an Agency Hearing Officer.

(f) "Board" means the Civil Aeronautics Board.

(g) "Certificate" means a type certificate, production certificate, airworthiness certificate, airman certificate (including medical certificate), air carrier operating certificate, air navigation facilities certificate, or air agency certificate, issued by the Civil Aeronautics Administration or the Federal Aviation Agency.

(h) "Hearing Officer" means a Federal Aviation Agency officer assigned to hear Agency proceedings for the amendment, modification, suspension or revocation of a certificate, conducted under the rules contained in this part.

(i) "Notice of Proposed Certificate Action" means a notice issued by Agency counsel to a certificate holder, under section 609 of the Federal Aviation Act proposing to amend, modify, suspend or revoke his certificate, and specifying the charges or grounds upon which the proposed action is based.

(j) "Parties" means the Agency counsel, certificate holder, and intervenors who appear before a Hearing Officer in an Agency enforcement proceeding.

(k) "Request for a Hearing" means a written statement, given by a certificate holder to Agency counsel, in response to a Notice of Proposed Certificate Action, requesting a formal hearing before an Agency Hearing Officer.

(l) "Respondent" means the holder of a certificate who has requested a formal hearing before an Agency Hearing Officer, in defense against a Notice of Proposed Certificate Action.

Subpart B—Processes Used in Enforcement

§ 408.11 Report channels.

Violations of the Act or any rule, regulation, or order issued thereunder, may be reported by any person having knowledge of such violations, to the appropriate personnel of the Agency assigned to one of the Agency's regional or district offices. Such a report will be investigated by personnel of the Agency and the results of such investigation will constitute the basis for determining the enforcement action to be taken by the Agency.

§ 408.12 Investigations.

(a) Under section 313 of the Act, the Administrator may conduct public hearings or investigations and is authorized to take evidence, issue subpoenas, take depositions, and compel testimony in the manner provided in section 1004 of the Act.

(b) For the purpose of investigating alleged violations of the Act, or of any rule, regulation or order issued thereunder, the Administrator's authority under sections 313 and 1004 has been delegated to the General Counsel, Deputy General Counsel, and to all Associate General Counsel and Regional Counsel.

Subpart C—Actions Taken in Enforcement

§ 408.21 Filed for Record and Letter of Correction.

A report of a violation may be filed for record by the reporting inspector or may be terminated by a Letter of Correction, if it appears, after investigation, that the violation was so minor and unintentional as not to require disciplinary or remedial action, and the standards prescribed by Manual of Procedure 22 are satisfied. Such actions will be subject to review by Regional Flight Standards and Regional Counsels' Offices.

§ 408.22 Reprimands.

A letter may be sent to the violator by the General Counsel or Regional Counsel, reprimanding him for a minor violation. A Letter of Reprimand will terminate the action, but the violation will be taken into consideration in determining the action to be taken with respect to any future violations committed by the same person.

§ 408.23 Civil penalties.

Under section 901 of the Act, any person who violates any provision of Titles III, V, VI, or XII of the Act, or any rule, regulation, or order issued thereunder, shall be subject to a civil penalty not to exceed $1,000 for each such violation.[1] Such civil penalty may be compromised by the Administrator. In the event imposition of a civil penalty is contemplated, and it is considered advisable to compromise such penalty, a Regional Counsel or the General Counsel will send a letter to the violator advising as to the charges against him, stating what laws, rules, regulations, or orders have been violated, and affording an opportunity to compromise the civil penalty. The violator may submit to the official signing the letter, either orally or in writing, any material or information in answer to the charges, explaining, mitigating or denying the occurrence of the violation, or showing extenuating circumstances. Any material or information thus submitted will be considered in making the final determination as to probable existence of liability for a civil penalty, or the amount for which it will be compromised. If an offer is tendered to compromise the penalty for a specific amount, a certified check or money order in that amount, made payable to the Federal Aviation Agency, should be attached. The General Counsel, or the Regional Counsel handling the case, will accept or refuse the offer of compromise. If the offer of compromise is accepted, the violator will be notified by letter of its acceptance and that such acceptance constitutes full settlement of any civil penalties incurred by the violator. If a compromise settlement of the civil penalty cannot be effected, the Agency will, in an appropriate case, instigate proceedings in the United States District

[1] The same is true for violations of Title VII, but the Civil Aeronautics Board has cognizance of those violations.

Court, pursuant to section 903 of the Act, for the purpose of collecting the civil penalty due.

§ 408.24 Seizure of aircraft.

(a) *Authority to seize aircraft.* Under section 903 of the Act, when an aircraft is involved in a violation for which a civil penalty may be imposed upon its owner or operator, such aircraft may be summarily seized by any State or Federal law enforcement officer or Federal Aviation Agency safety inspector authorized in an order of seizure issued by the Assistant Administrator of the region in which the aircraft is located.

(b) *Custody of seized aircraft.* When an aircraft has been seized pursuant to this section, it will be placed in the nearest available adequate public storage facility in the judicial district in which the seizure is made.

(c) *Notice of seizure.* When an aircraft has been seized pursuant to this section, a written notice and a copy of this section will be sent without delay by the Assistant Administrator to the registered owner of, and to other persons having a recorded interest in, the aircraft according to the records of the Federal Aviation Agency. The written notice will state:

(1) The time, date, and place of seizure;

(2) The name and address of the custodian of the aircraft;

(3) The reasons for the seizure, including the violations believed, or judicially determined, to have been committed; and

(4) The amount which may be tendered;

(i) As an offer in compromise of any civil penalties which might have been incurred as a result of the alleged violation, or

(ii) As payment of civil penalties which have been imposed by a Federal Court as a result of the established violations.

(d) *Report of seizure.* When an aircraft has been seized pursuant to this section, a report will be transmitted immediately by the Regional Counsel to the United States Attorney for the judicial district in which the seizure is made, requesting the United States Attorney to institute proceedings for the enforcement of the lien.

(e) *Release of seized aircraft.* When an aircraft has been seized pursuant to this section, it will be released by direction of the Assistant Administrator under any one of the following conditions:

(1) Upon payment of the civil penalty or the amount agreed upon in compromise, and the costs incurred in connection with the seizure, storage, and maintenance of the aircraft;

(2) Upon seizure of the aircraft pursuant to process of a Federal court in proceedings in rem for enforcement of a lien against the aircraft, or notification by the United States Attorney of refusal to institute such proceedings; or

(3) Upon deposit of a bond in such amount and with such sureties as the Assistant Administrator may prescribe, conditioned upon payment of the penalty or the amount agreed upon in compromise, and the costs incurred in connection with the seizure, storage, and maintenance of the aircraft.

§ 408.25 Certificate action.

(a) Under section 609 of the Act, the Administrator, or his authorized agents, may reinspect any civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency, or may reexamine any civil airman. If, as a result of any such reinspection, reexamination, or any other investigation, it is determined that safety in air commerce or air transportation and the public interest requires such action, the Administrator, or his authorized agents, may issue an order amending, modifying, suspending, or revoking, in whole or in part, any type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facilities certificate, or air agency certificate. Prior to issuing such an order, the Agency's General Counsel or Regional Counsel will advise the certificate holder as to the charges or other reasons relied upon by the Administrator for the proposed action and, except in case of emergency, provide him an opportunity to answer any charges and to be heard as to why such certificate should not be amended, modified, suspended or revoked. At his option, the holder may (1) admit the charges and surrender his certificate, (2) answer the charges in writing, (3) request an opportunity to be heard in an informal conference with the Agency counsel, or (4) request and receive a formal hearing, either in lieu of or in addition to the informal conference, before a Hearing Officer appointed by and representing the Administrator. If the holder admits the charges, submits an answer in writing only, or seeks a conference, the General Counsel or Regional Counsel, after due consideration of the answer and information submitted by the certificate holder, shall issue the Order of the Administrator. If a full hearing is requested, the Order of the Administrator will be issued by the Hearing Officer following a hearing conducted in accordance with Subpart D of this part. The Hearing Officer may issue his order orally or in writing.

(b) Any person whose certificate is affected by an order issued under this section may appeal to the Civil Aeronautics Board. The filing of an appeal with the Board stays the effectiveness of the Administrator's Order unless the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the immediate effectiveness of his Order, in which event the Order shall remain effective and the Board shall finally dispose of the appeal within 60 days after being so advised by the Administrator.

§ 408.26 Military aircraft.

When a report reveals that violations have been committed by members of the Armed Forces of the United States or those civilian employees of the Department of Defense who are subject to the provisions of the Uniform Code of Military Justice, while engaged in the performance of their official duties, copies of the report will be forwarded by the General Counsel or Regional Counsel to the appropriate military authorities in order that they may take such disciplinary actions as they consider appropriate and report back to the Administrator thereon.

§ 408.27 Criminal violations.

Sections 902 and 1203 of the Act provide criminal penalties for persons who knowingly and wilfully violate specified provisions of the Act, or any order, rule or regulation issued thereunder. If a possible violation of any of the criminal provisions of the Act comes to the attention of the inspector or other employee of the Agency, a report shall be made to the Office of General Counsel who will, in an appropriate case, refer the report to the United States Department of Justice for criminal prosecution of the person who committed the offense. Violations of other federal statutes within the investigatory jurisdiction of another agency which come to the attention of an inspector or other employee shall be immediately reported to such agency in a manner provided by Manual of Procedure 22.

Subpart D—Rules of Practice for Hearings in FAA Certificate Proceedings

§ 408.31 Applicability of rules.

The provisions of this subpart shall govern all proceedings before Hearing Officers of the Federal Aviation Agency where a hearing has been requested by a certificate holder in response to a Notice of Proposed Certificate Action, proposing the amendment, modification, suspension, or revocation of an airman certificate.

§ 408.32 Appearances.

Any party to a proceeding may appear and be heard in person or by attorney.

§ 408.33 Request for hearing.

If, following the issuance of a Notice of Proposed Certificate Action, the certificate holder elects to have a formal hearing, he shall so request by checking the appropriate box on the form which is forwarded to him with the Notice of Proposed Certificate Action. He shall return this to Agency counsel within fifteen (15) days, together with an answer to the allegations contained in the Notice of Proposed Certificate Action. If an informal conference with Agency counsel is requested and held, then the certificate holder shall have ten (10) days thereafter within which to request a formal hearing. Agency counsel will forthwith forward the Request and Answer to the Hearing Officer with a copy of the Notice of Proposed Certificate Action. The Hearing Officer will docket the Notice, Request and Answer as of the time received by him.

§ 408.34 Hearing Officers' powers.

Hearing Officers shall have the following powers:

(a) To give notice concerning, and hold, prehearing conferences and hearings;

(b) To administer oaths and affirmations;

(c) To examine witnesses;
(d) To issue subpoenas and to take or cause depositions to be taken;
(e) To rule upon offers of proof and receive evidence;
(f) To regulate the course of the hearing;
(g) To hold conferences, before or during the hearing, for the settlement or simplification of issues by consent of the parties;
(h) To dispose of procedural requests or similar matters; and
(i) To issue an Order.

§ 408.35 Disqualification of Hearing Officer.

The Hearing Officer shall withdraw from a case if at any time he deems himself disqualified.

§ 408.36 Pleadings.

(a) *Notice of Proposed Certificate Action.* In cases transmitted to the Hearing Officer, the Notice of Proposed Certificate Action shall constitute the statement of the facts upon which the action is proposed.

(b) *Answer.* The certificate holder, concurrently with his Request for a Hearing, shall submit an Answer to the Notice. The Answer shall be responsive to the allegations set forth in the Notice and any allegation not denied shall be deemed admitted.

(c) *Averments.* Averments in an answer, or other pleading, to which no responsive pleading is required, will be taken as denied.

§ 408.37 Time limitations.

(a) *Request for Hearing and Answer.* The Request for a Hearing and Answer to the Notice shall be served on Agency counsel within fifteen (15) days from the time of service of the Notice of Proposed Certificate Action.

(b) *Request served after expiration of period.* If a Request for a Hearing is submitted subsequent to the fifteen-day period specified in paragraph (a) but prior to issuance of an order, it shall be transmitted by Agency counsel to the Hearing Officer, and when, in the opinion of the Hearing Officer, good cause is shown for failure to request a hearing within the time prescribed, he may, in his discretion, order a hearing.

§ 408.38 Service and filing.

The Request for Hearing and Answer to the Notice shall be mailed to the Agency counsel who originated the notice, and shall be deemed timely filed if postmarked before the end of the time limitation therefor. All other pleadings, motions or documents shall, at the time of filing, be served upon all other parties. Service shall be made by delivering a copy to the person to be served or by mailing a copy to him at the last address filed with the Agency by the certificate holder as required by the Civil Air Regulations. When a party is represented by an attorney, service shall be made upon the attorney.

§ 408.39 Amendment of Notice and Answer.

At any time more than ten (10) days prior to the date of hearing, either party may amend his Notice, or Answer, or other pleading, by filing the same with the Hearing Officer and by serving a copy thereof on all other parties. After that time, amendment shall be allowed only at the discretion of the Hearing Officer. Where amendment to an initial pleading has been permitted, the Hearing Officer shall allow the other parties a reasonable opportunity to answer. A pleading may be amended at any time to conform to the evidence.

§ 408.40 Withdrawal of Notice or Request for Hearing.

The Agency counsel may withdraw his Notice and the certificate holder may withdraw his Request for Hearing, at any time prior to hearing.

§ 408.41 Motions.

(a) *Motion to dismiss.* A respondent, in lieu of his Answer, may file a motion to dismiss, for failure of the allegations of the Notice to state a violation of the Civil Air Regulations, or lack of qualification of the Respondent. If the motion is denied, the Respondent shall file his Answer within ten (10) days.

(b) *Motion for judgment on the pleadings.* After the pleadings are closed, either party may move for judgment on the pleadings.

(c) *Motion to strike.* Upon motion of either party, the Hearing Officer may order stricken from any pleading an insufficient allegation or defense, or any immaterial, impertinent or scandalous matter.

(d) *Motion for more definite statement.* The certificate holder may file, in lieu of his Answer, a motion that the allegations set forth in the Notice be made more definite and certain. If the motion is granted, the Agency counsel shall comply within ten (10) days. If the motion is denied, the certificate holder shall then file his Answer within ten (10) days thereafter.

(e) *Motion for production of documents.* Upon motion of any party showing good cause therefor, the Hearing Officer may order any party to produce any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain evidence relevant to the subject matter of the hearing, and which are in the party's possession, custody or control, in the manner provided by Rule 34, Federal Rules of Civil Procedure.

(f) *Consolidation of motions.* A party who makes a motion under this section shall join with it all other motions then available to him. Any objections not so raised will be deemed to be waived.

§ 408.42 Intervention.

Any person may move for leave to intervene in a proceeding and may become a party thereof, if the Hearing Officer, following transmittal of the case for hearing, finds that such person may be bound by the order to be rendered in the proceeding or has a property or financial interest which may not be adequately represented by existing parties: *Provided,* That such intervention would not unduly broaden the issues or delay the proceeding. Except for good cause shown, no motion for leave to intervene will be entertained if filed less than ten (10) days prior to hearing.

§ 408.43 Depositions.

After a Request for Hearing and the Answer have been filed, testimony may be taken by deposition at the instance of any party to the proceeding in accordance with the provisions of section 1004 of the Act or Rule 26 of the Federal Rules of Civil Procedure.

§ 408.44 Notice of hearing.

The Hearing Officer to whom the case is assigned shall give the parties adequate notice of the date and place where the hearing will be held. The Hearing Officer may hold the hearing at the city in which there is located the Regional Headquarters, the originating Federal Aviation Agency office, or the Flight Standards District Office nearest to the residence of the certificate holder, or at such other location or locations as the Hearing Officer may direct.

§ 408.45 Subpoenas and witness fees.

(a) Subpoenas requiring the attendance of witnesses or the production of documentary or tangible evidence for the purpose of taking depositions or at a hearing may be issued by the Hearing Officer to whom the case is assigned upon application by any party to a proceeding; the application for production of documentary or tangible evidence shall show the general relevance and reasonable scope of the evidence sought.

(b) Witnesses shall be entitled to the same fees and mileage as are paid to witnesses in the courts of the United States. The fees shall be paid by the party at whose instance the witness is subpoenaed or appears.

(c) The provisions of paragraph (a) of this section are not applicable to the attendance of Federal Aviation Agency officers or employees or the production of documentary evidence in the custody of such persons at a hearing. Applications for documents shall be processed as motions under § 408.41(e) and applications for the attendance of officers and employees of the Agency shall be addressed to the Hearing Officer, in writing, and shall set forth the need of the party for such attendance.

§ 408.46 Evidence.

(a) *Right to full and true disclosure of the facts.* Every party shall have the right to present his case or defense by oral or documentary evidence, to submit evidence in rebuttal and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(b) *Burden of proof.* The burden of proof shall be upon the Agency counsel, except with respect to affirmative defenses.

§ 408.47 Argument and submittals.

At the hearing, the Hearing Officer shall give the parties adequate opportunity for the presentation of arguments in support of motions, objections and final Order. The Hearing Officer may determine whether argument shall be oral or in writing. At the conclusion of a hearing, either party shall be afforded

an opportunity to submit, in writing, proposed findings and conclusions and supporting reasons therefor.

§ 408.48 Record.

The testimony and exhibits together with all papers, requests and rulings filed in the proceedings shall constitute the exclusive basis for the issuance of an order. A transcript may be obtained by any party from the official reporter upon payment of the fees fixed therefor.

§ 408.49 Federal Rules of Civil Procedure.

In any situation not provided for or controlled by the foregoing rules of practice, the Federal Rules of Civil Procedure, where applicable, shall govern.

§ 408.50 Order of Hearing Officer.

(a) The Hearing Officer may issue an order orally or in writing.

(b) The order, oral or written, shall include a statement of findings and conclusions upon all material issues of fact and law presented in the record and the appropriate sanction or denial thereof.

(c) If the order is rendered in writing, it shall be served upon the parties.

(d) The order of the Hearing Officer may amend, modify, suspend, or revoke the Respondent's certificate as proposed, or in a lesser degree, may rescind the Notice of Proposed Certificate Action, or may, if the Hearing Officer deems such to be equitable and in the public interest, terminate the action upon agreement by the parties for disposition of the matter by the payment of a civil penalty in the agreed amount.

(e) If the order amends, modifies, suspends or revokes the Respondent's certificate, it shall advise the respondent of his right of appeal to the Civil Aeronautics Board.

Issued in Washington, D.C., on January 30, 1962.

N. E. HALABY,
Administrator.

[F.R. Doc. 62-1225; Filed, Feb. 6, 1962; 8:46 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 61-NY-111]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Alteration of Federal Airways, Associated Control Areas, and Control Area Extension

The purpose of these amendments to §§ 600.6091, 600.6487, 601.6487 and 601.1100 is to:

1. Alter low altitude VOR Federal airway No. 91 by deleting the Benson, Vt., VOR from the route description and substituting therefor, the intersection of the Glens Falls, N.Y., VORTAC 032° and the Burlington, Vt., VOR 187° radials.

2. Alter low altitude VOR Federal airway No. 487 by deleting the Benson VOR from the route description and substituting therefor, the intersection of the Cambridge, N.Y., VOR 002° and the Glens Falls VORTAC 032° radials.

3. Alter the Rutland, Vt., control area extension by deleting the Benson VORTAC from the description and substituting coordinates based on the geographical site of the Benson VORTAC.

The above actions are required due to fire damage to the Benson VOR. Since these amendments are minor in nature and impose no additional burden on any person, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), the following actions are taken:

§ 600.6091 [Amendment]

1. In the text of § 600.6091 (14 CFR 600.6091) "Benson, Vt., VOR; Burlington, Vt., VOR;" is deleted and "INT of the Glens Falls VORTAC 032° and the Burlington, Vt., VOR 187° radials; Burlington VOR;" is substituted therefor.

2. Section 600.6487 (14 CFR 600.6487, 26 F.R. 3463) is amended to read:

§ 600.6487 VOR Federal airway No. 487 (Poughkeepsie, N.Y., to Cambridge, N.Y.).

From the Poughkeepsie, N.Y., VOR via the Cambridge, N.Y., VOR; to the INT of the Cambridge VOR 002° and the Glens Falls, N.Y., VORTAC 032° radials.

3. The heading of § 601.6487 (14 CFR 600.6487, 26 F.R. 3463) is amended to read:

§ 601.6487 VOR Federal airway No. 487 control areas (Poughkeepsie, N.Y., to Cambridge, N.Y.).

4. Section 601.1100 (14 CFR 601.1100, 26 F.R. 12516) is amended to read:

§ 601.1100 Control area extension (Rutland, Vt.).

That airspace N of Rutland, Vt., bounded on the NW by VOR Federal airway No. 91, on the NE by VOR Federal airway No. 141 and on the S by the Lebanon, N.H., VOR 272° radial; and the airspace S of Rutland, bounded on the N by the Lebanon VOR 272° radial, on the E by a line 24 miles E of and parallel to the Cambridge, N.Y., VOR 002° radial, on the S by a line 5 miles N of and parallel to the Glens Falls, N.Y., VORTAC 090° radial and on the W by VOR Federal airway No. 91.

These amendments shall become effective 0001 e.s.t. April 5, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 31, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 62-1208; Filed, Feb. 6, 1962; 8:45 a.m.]

[Airspace Docket No. 60-NY-83]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

PART 608—SPECIAL USE AIRSPACE

Alteration of Federal Airway and Associated Control Areas, Continental Control Area, and Restricted Area

On March 21, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 2375) stating that the Federal Aviation Agency proposed to extend low altitude VOR Federal airway No. 435 from the Attica, Ohio, VOR direct to the Carleton, Mich., VOR and that the control areas associated with this segment of Victor 435 would extend upward from 1,200 feet above the surface, or if appropriate, 500 feet below the minimum IFR en route altitude when established. In addition, it was proposed that the portion of the airway within R-5502 would be used only after obtaining prior approval from the appropriate authority.

On November 4, 1961, a supplemental notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 10451) stating that the control areas associated with this segment of Victor 435 would extend upward from 700 feet above the surface to the base of the continental control area until such time as all of the control areas in the vicinity of Attica and Carleton can be altered by applying Amendment 60-21 to Part 60 of the Civil Air Regulations. In addition, it was proposed to alter the continental control area to include R-5502 and to designate the Federal Aviation Agency, Cleveland ARTC Center as the controlling agency of R-5502.

The Air Transport Association of America concurred with the amendments as proposed in the notice and supplemental notice. The Department of the Air Force offered no objection to the amendments proposed in the notice. The Department of the Navy offered no objections to the amendments proposed in the notice and supplemental notice provided that the restricted area requirements for NAS Grosse Ile are not derogated. As stated in the supplemental notice, the amendments proposed herein would promote more efficient and expeditious movement of air traffic by permitting unrestricted use of Victor 435 and the airspace above 14,500 feet MSL within R-5502 when the restricted area is not being used for its designated purpose.

Airspace Docket No. 61-NY-87 as published in the FEDERAL REGISTER on December 16, 1961 (26 F.R. 12071) amended the regulations of the Administrator by altering the dimensions of the Cleveland, Ohio, control area extension (§ 601.1158) and by excluding the portion which would coincide with R-5502. Action taken herein designates the FAA as con-

trolling agency of R-5502 and provides for joint use of a portion of the restricted area for en route traffic. Therefore, it appears to be in the public interest to also permit joint use of a portion of R-5502 for terminal operations associated with the Cleveland terminal area when the restricted area is not being used for its designated purpose. Accordingly, action is taken herein to alter the Cleveland control area extension to permit use of the portion within R-5502 after prior approval has been obtained from the appropriate authority.

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

The substance of the proposed amendments having been published, therefore pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated herein and in the notice and supplemental notice, the following actions are taken:

1. Section 600.6435 (14 CFR 600.6435) is amended to read:

§ 600.6435 VOR Federal airway No. 435 (Rosewood, Ohio, to Carleton, Mich.).

From the Rosewood, Ohio, VORTAC via the Attica, Ohio, VORTAC; to the Carleton, Mich., VORTAC. That airspace within R-5502 shall be used only after obtaining prior approval from the appropriate authority.

2. Section 601.6435 (14 CFR 601.6435) is amended to read:

§ 601.6435 VOR Federal airway No. 435 control areas (Rosewood, Ohio, to Carleton, Mich.).

All of VOR Federal airway No. 435.

§ 601.1158 [Amendment]

3. In the text of § 601.1158 (26 F.R. 12071) "excluding the portion which coincides with R-5502; and the area extending from the 50-mile radius area bounded on the SE by VOR Federal airway No. 43 and on the NW by VOR Federal airway No. 443 E alternate." is deleted and "and the area extending from the 50-mile radius area bounded on the SE by VOR Federal airway No. 43 and on the NW by VOR Federal airway No. 443 E alternate. The airspace within R-5502 shall be used only after obtaining prior approval from the appropriate authority." is substituted therefor.

§ 601.7101 [Amendment]

4. In the text of § 601.7101 (26 F.R. 1399), "R-5502, La Carne, Ohio." is added.

§ 608.55 [Amendment]

5. In the text of § 608.55, R-5502 La Carne, Ohio (26 F.R. 7200) "Controlling agency. Federal Aviation Agency, Cleveland ARTC Center." is added.

These amendments shall become effective 0001 e.s.t. April 5, 1962.

Issued in Washington, D.C., on January 31, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 62-1207; Filed, Feb. 6, 1962; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 8235 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Master Mechanic Mfg. Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service:* § 13.170-43 *Heating;*[1] §13.195 *Safety:* § 13.195-60 *Product.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Master Mechanic Mfg. Co. et al., Burlington, Wis., Docket 8235, Oct. 16, 1961]

In the Matter of Master Mechanic Mfg. Co., a Corporation, and Harry J. Allen, A. E. McFarland, and Margaret Allen, Individually and as Officers of Said Corporation

Consent order requiring manufacturers in Burlington, Wis., of their immersion electrode-type "Zip Instant Water Heater", to cease representing falsely in advertisements in newspapers and magazines, and by circulars and catalogs, that the device would heat any amount of water instantly and that under ordinary conditions of use it was harmless; and to attach to the device a "warning" and statement that for safe use the directions attached or enclosed should be followed.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Master Mechanic Mfg. Co., a corporation, and its officers, and Harry J. Allen, A. E. McFarland and Margaret Allen, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of respondents' electric water heating device "Zip Instant Water Heater", or any substantially similar device, whether sold under the same name or any other name, do forthwith cease and desist from:

1. Representing in any manner that other than a small amount of water can be heated instantly with said device;

2. Representing in any manner that said device is shockproof;

3. Representing in any manner that said device is harmless without adding the qualification that the said device must be used according to directions.

4. Distributing or selling said device unless there is attached thereto the word "caution" or "warning" together with a statement that for safe use of said device the directions for use thereof should be followed, which directions shall be attached to or enclosed with said device.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 16, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-1214; Filed, Feb. 6, 1962; 8:45 a.m.]

[Docket 8408 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Star Fruit Co. et al

Subpart—Discriminating in price under section 2, Clayton Act—payment or acceptance of commission, brokerage or other compensation under 2(c): § 13.820 *Direct buyers.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1527; 15 U.S.C. 13) [Cease and desist order, Star Fruit Co. et al., Lake Alfred, Fla., Docket 8408, Oct. 17, 1961]

In the Matter of Star Fruit Company, a Corporation, and Norman V. Huff, Robert V. Huff, and Mary H. Grantham, Individually and as Officers of Said Corporation

Consent order requiring packer-distributors of citrus fruit in Lake Alfred, Fla., to cease violating section 2(c) of the Clayton Act by paying commissions or brokerage to some of their brokers and direct buyers purchasing for their own accounts for resale.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Star Fruit Company, a corporation, and its officers, and Norman V. Huff, Robert V. Huff, and Mary H. Grantham, individually and as officers of Star Fruit Company, and respondents' agents, representatives and employees, directly or through any corporate, partnership, sole proprietorship, or other device in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from: Paying, granting or allowing, directly or indirectly, to any buyer or to anyone acting for or in behalf of, or who is sub-

[1] New.

ject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or fruit products to such buyer for his own account.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 17, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 62-1215; Filed, Feb. 6, 1962; 8:45 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter V—Foreign Assets Control, Department of the Treasury

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

Relation of This Chapter to Other Laws and Regulations

The Foreign Assets Control Regulations, 31 CFR 500.101–500.808 are being amended as follows:

Section 500.101(b) is being amended to make clear that licenses issued under Part 515 of this chapter authorize transactions prohibited under section 620(a) of the Foreign Assistance Act of 1961 (Public Law 87–195).

Section 500.101(b) is hereby amended to read as follows:

(b) No license or authorization contained in or issued pursuant to this chapter shall be deemed to authorize any transaction to the extent that it is prohibited by reason of the provisions of any law or statute other than Section 5(b) of the Trading with the Enemy Act, as amended, or any proclamation, order or regulation other than those contained in or issued pursuant to this chapter or pursuant to section 620(a) of the Foreign Assistance Act of 1961.

(Sec. 5, 40 Stat. 415, as amended; 50 U.S.C., App. 5. E.O. 9193, July 6, 1942, 7 F.R. 5205; 3 CFR 1943 Cum. Supp., E.O. 9989, August 20, 1948, 13 F.R. 4891; 3 CFR 1948 Supp.)

Effective date. This amendment shall become effective 12:01 a.m., e.s.t., February 7, 1962.

[SEAL] DOUGLAS DILLON, *Secretary of the Treasury.*

[F.R. Doc. 62-1312; Filed, Feb. 6, 1962; 10:19 a.m.]

PART 515—CUBAN IMPORT REGULATIONS

Sec.
515.201 Prohibitions.
515.202 Promulgation of regulations.
515.301 Definition of licenses.
515.401 Reference to amended sections.
515.402 Effect of amendment of sections of this chapter or of other orders, etc.
515.501 Effect of subsequent license or authorization.
515.502 Exclusion from licenses and authorizations.
515.503 Passengers baggage general license.
515.601 Records and reports.
515.701 Penalties.
515.801 Procedures.

AUTHORITY: §§ 515.201 to 515.801 issued under sec. 620(a), Public Law 87–195 and Proclamation 3447, 27 F.R. 1085.

§ 515.201 Prohibitions.

(a) The importation into the United States of all goods of Cuban origin and all goods imported from or through Cuba is prohibited except as authorized by the Secretary of the Treasury (Proclamation 3447).

(b) The effective date of this prohibition is 12:01 a.m., e.s.t., February 7, 1962 (Proclamation 3447).

§ 515.202 Promulgation of regulations.

Pursuant to Proclamation 3447, the Secretary of the Treasury hereby promulgates the following regulations.

§ 515.301 Definitions of licenses.

(a) The definitions of license, general license, and specific license contained in §§ 500.316, 500.317 and 500.318 of this chapter shall apply to this part.

(b) No regulation, ruling, instruction, or license authorizes an importation prohibited under § 515.201 unless the regulation, ruling, instruction, or license is issued by the Treasury Department and specifically refers to this part. No regulation, ruling, instruction or license referring to this part shall be deemed to authorize any transaction prohibited by § 500.201 of this chapter unless the regulation, ruling, instruction or license specifically refers to § 500.201.

§ 515.401 Reference to amended sections.

The provisions of § 500.401 of this chapter shall apply to this part.

§ 515.402 Effect of amendment of sections of this chapter or of other orders, etc.

Any amendment, modification, or revocation of any section of this chapter or of any order, regulation, ruling, instruction, or license issued thereunder shall not unless otherwise specifically provided be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case, prior to such amendment, modification, or revocation, and all penalties, forfeitures, and liabilities under any such section, order, regulation, ruling, instruction or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 515.501 Effect of subsequent license or authorization.

No license or other authorization contained in this chapter or otherwise issued thereunder shall be deemed to authorize or validate any transaction effected prior to the issuance thereof, unless such license or other authorization specifically so provides.

§ 515.502 Exclusion from licenses and authorizations.

The provisions of § 500.503 shall apply to this part.

§ 515.503 Passengers baggage general license.

The importation of goods otherwise prohibited under this part which are brought into the United States as baggage by any person arriving in the United States is hereby licensed, provided that such goods are not in commercial quantities and are not imported for resale.

§ 515.601 Records and reports.

The provisions of §§ 500.601 and 500.602 of this chapter shall apply to this part.

§ 515.701 Penalties.

Persons violating this part may be subject to the penalties of (a) section 592, 594 and 595a of the Tariff Act of 1930, as amended (19 U.S.C. 1592, 1594 and 1595a); (b) section 545 of the Criminal code (18 U.S.C. 545) and (c) section 1001 of the Criminal Code (18 U.S.C. 1001) and the penalties of any other applicable laws and regulations.

§ 515.801 Procedures.

(a) General licenses: General licenses are issued authorizing under appropriate terms and conditions certain types of transactions which are subject to the prohibitions set forth in § 515.201. Any such license is set forth in this part. It is the policy of Foreign Assets Control not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Persons availing themselves of general licenses are required to file reports and statements in the form and in accordance with the instructions specified in the licenses, when the licenses so provide.

(b) Specific licenses—general course of procedure: Transactions subject to the prohibitions set forth in § 515.201 which are not authorized by general license may be effected only under specific license. The specific licensing activities of Foreign Assets Control are performed by the Foreign Assets Control Division of the Treasury Department, Washington, D.C., and the Federal Reserve Bank of New York. When an unusual problem is presented, the proposed action is cleared with the Director of Foreign Assets Control or such person as he may designate.

(c) The provisions of § 500.801 (b) (2), (3), (4), (5), and (6) of this chapter and §§ 500.803, 500.804, 500.805, and 500.806 of this chapter shall apply to this part, except that Form TFAC–5 shall be used in lieu of Form TFAC–1 when making applications for specific licenses.

(d) Any action which the Secretary of the Treasury is authorized to take pursuant to Proclamation 3447 may be taken by the Director, Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

[SEAL] DOUGLAS DILLON, *Secretary of the Treasury.*

[F.R. Doc. 62-1311; Filed, Feb. 6, 1962; 10:19 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[No. 33581]

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 25—GENERAL ACCOUNTING REGULATIONS UNDER THE INTERSTATE COMMERCE ACT

Financial Statements Released by Carriers

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 25th day of January 1962.

The Commission having under consideration a notice of proposed rule making published in the FEDERAL REGISTER on October 15, 1960 (49 CFR Part 25), pertaining to financial statements released by carriers subject to the jurisdiction of this Commission and responses thereto;

It appearing, that investigation of the matters and things involved in this rule making proceeding having been made, and said division, on the date hereof, having made and filed a report containing its findings of fact and conclusions;

It is ordered, That the following new section be added:

§ 25.1 Financial statements released by carriers.

Carriers desiring to do so may prepare and publish financial statements in reports to stockholders and others, except in reports to this Commission, based on generally accepted accounting principles for which there is authoritative support, provided that any variance from this Commission's prescribed accounting rules contained in such statements is clearly disclosed in footnotes to the statements.

It is further ordered, That this order shall become effective July 1, 1962 and shall continue in effect until further order of the Commission;

It is further ordered, That notice be given to the general public by depositing a copy in the Office of the Secretary at Washington, D.C., and by filing with the Director, Office of the Federal Register.

(Sec. 20, 24 Stat. 386; 49 U.S.C. 20. sec. 220(a), 49 Stat. 563; 49 U.S.C. 320. sec. 313(a), 54 Stat. 944; 49 U.S.C. 913. sec. 412(a), 56 Stat. 294; 49 U.S.C. 1012)

By the Commission, Division 2.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 62-1231; Filed, Feb. 6, 1962; 8:47 a.m.]

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLES

PART 205—REPORTS OF MOTOR CARRIERS

Motor Carrier Annual Report Form D (Class I Motor Carriers of Passengers)

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 25th day of January A.D., 1962.

The matter of annual reports of Class I motor carriers of passengers being under further consideration, and the changes to be made by this order being minor changes in the data to be furnished, rule-making procedures under section 4(a) of the Administrative Procedure Act, 5 U.S.C. 1003, being deemed unnecessary:

It is ordered, That § 205.3a of the order of December 8, 1960, in the matter of Motor Carrier Annual Report Form D (Class I Motor Carriers of Passengers), be, and it is hereby, modified and amended, with respect to annual reports for the year ended December 31, 1961, and subsequent years, to read as shown below.

It is further ordered, That § 205.3a be modified and amended to read as follows:

§ 205.3a Annual reports of Class I carriers of passengers.

Commencing with reports for the year ended December 31, 1961, and thereafter, until further order, all Class I motor carriers of passengers, as defined in § 181.02-1, viz. of this chapter, carriers with average annual gross operating revenues (including interstate and intrastate) of $200,000 or more, from passenger motor carrier operations, are required to file annual reports in accordance with Motor Carrier Annual Report From D (Passenger) which is attached to and made a part of this section.[1] Such annual report shall be filed in duplicate in the Bureau of Transport Economics and Statistics, Interstate Commerce Commission, Washington 25, D.C., on or before March 31 of the year following the year to which it relates.

(Sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304. Interpret or apply sec. 220, 49 Stat. 563, as amended; 49 U.S.C. 320)

And it is further ordered, That a copy of this order and of Motor Carrier Annual Report Form D (Passenger) shall be served on all Class I motor carriers of passengers subject to its provisions, and upon every trustee, receiver, executor, administrator, or assignee of any such motor carrier, and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission in Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 2.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 62-1232; Filed, Feb. 6, 1962; 8:47 a.m.]

[1] Filed as part of the original document.

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2601]

[Colorado 031041]

COLORADO

Order Providing for Opening of Public Lands

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

The following described public lands, excluded from the Colorado National Monument by Proclamation No. 3307 of August 7, 1959, are hereby restored to the operation of the public land laws, including the mining and mineral leasing laws, subject to valid existing rights and equitable claims, the requirements of applicable law, rules and regulations, and the provisions of any existing withdrawals, provided that until 10:00 a.m. on August 2, 1962, the State of Colorado shall have a preferred right of application to select the lands in accordance with subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928: 43 U.S.C. 851, 852):

SIXTH PRINCIPAL MERIDIAN

T. 11 S., R. 101 W.,
Sec. 27, E½SE¼.

Containing 80 acres.

The lands are situated approximately five miles west of Grand Junction, Colorado. Terrain is moderately steep supporting shadscale and similar desert shrubs.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Denver, Colorado.

JOHN A. CARVER, Jr., *Assistant Secretary of the Interior.*

FEBRUARY 1, 1962.

[F.R. Doc. 62-1217; Filed, Feb. 6, 1962; 8:46 a.m.]

Proposed Rule Making

FEDERAL AVIATION AGENCY

[14 CFR Part 601]

[Airspace Docket No. 61-FW-20]

CONTROLLED AIRSPACE

Proposed Alteration; Supplemental Notice

In a notice of proposed rule making published in the FEDERAL REGISTER as Airspace Docket No. 61-FW-20, on September 14, 1961 (26 F.R. 8600), it was stated that the Federal Aviation Agency proposed to designate a control area extension within 5 miles either side of the 132° True bearing from the Key West, Fla., radio range extending from the radio range to the Marathon, Fla., control area extension (§601.1234) excluding the portion below 2,000 feet MSL.

Subsequent to publication of the notice, the controlled airspace requirements in the Key West terminal area have been reviewed attendant to the provisions of new holding pattern procedures effective January 11, 1962. These procedures were developed to accommodate the increasing variety of aircraft speeds and operating altitudes and flight levels in the IFR environment. In addition, the procedures provide for the containment of aircraft holding maneuvers within the holding pattern areas designed for such operation. However, it is recognized that a number of these holding pattern areas require the designation of additional controlled airspace to encompass the increased dimensions of such areas. Thus, with the designation of additional controlled airspace, the pilot need only adhere to the standardized operating procedures and limitation for his type aircraft to remain within controlled airspace.

To fulfill additional controlled airspace requirements, for the implementation of these procedures in the Miami, Fla., Air Route Traffic Control Center area, the Federal Aviation Agency is considering the redesignation of the Key West control area extension 1233 (§ 601.1233), as that airspace bounded on the north by the Key West control area extension (§ 601.1319) and low altitude VOR Federal airway No. 35, on the east by a line 5 miles east of and parallel to the 186° True bearing from the Marathon radio beacon, on the south by latitude 24°-00'00" N., and on the west by a line 5 miles west of and parallel to the southwest course of the Key West radio range, excluding the portion below 2,000 feet MSL and excluding the portion which would coincide with the Key West Warning Area (W-465). This would provide additional controlled airspace for the protection of aircraft in holding patterns at Dorado, Fla., intersection (intersection of a 132° True bearing from the Key West radio range and a 232° True bearing from the Marathon RBN) and Casa, Fla., intersection (intersection of a 312° True bearing to the Key West radio range and an 035° True bearing to the Marathon RBN).

The above control area extension § 601.1233 would include that airspace now encompassed by the Marathon, Fla., and Sombrero Key, Fla., control area extensions (§§ 601.1234 and 601.1475), thereby permitting the revocation of these areas, and would encompass the airspace under consideration in the original proposal which is needed for the protection of aircraft arriving and departing the Key West Terminal area via the Dorado and Casa intersections.

In order to provide interested persons time to adequately evaluate this proposal, as modified herein, and an opportunity to submit additional written data, views or arguments, the date for filing such material will be extended to March 15, 1962.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), I hereby give notice that the time within which comments will be received for consideration on Airspace Docket No. 61-FW-20 is extended to March 15, 1962. Communications should be submitted in triplicate to the Assistant Administrator, Southern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 52 Fairlie Street, Atlanta 3, Ga.

This amendment is proposed under section 307(a), and 1110, 72 Stat. 749 and 800; 49 U.S.C. 1348 and 1510, and Executive Order 10854, 24 F.R. 9565.

Issued in Washington, D.C., on February 1, 1962.

CLIFFORD P. BURTON,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 62-1206; Filed, Feb. 6, 1962; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 926]

HANDLING OF TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIF.

Notice of Proposed Rule Making

Consideration is being given to the following proposals submitted by the Industry Committee, established under the amended marketing agreement and Order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California, as the agency to administer the terms and provisions thereof. This is a regulatory marketing program effective under the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674):

(a) That an operating reserve be established in the maximum amount of $20,000 which approximates one-half the average expenses of the Industry Committee for one season.

(b) That the Industry Committee, at the end of each season, carryover in said operating reserve any excess assessment funds collected during such season up to, but not exceeding, 10 percent of the season's annual budget: *Provided,* That the total funds in such operating reserve do not exceed the aforesaid amount specified in paragraph (a).

(c) That funds in said operating reserve be used by the Industry Committee to cover (1) any authorized expenses incurred by such committee during any season when assessment income is less than such expenses, and (2) necessary expenses of liquidation in the event of termination of the amended marketing agreement and order.

(d) That, upon such termination, any funds not required to defray the necessary expenses of liquidation be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That, to the extent practical, such funds be returned pro rata to the shippers from whom such funds were collected.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2077, South Building, Washington 25, D.C., not later than the 20th day after the publication of this notice in the FEDERAL REGISTER. All documents should be filed in quadruplicate.

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

Dated: February 2, 1962.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62-1222; Filed, Feb. 6, 1962; 8:46 a.m.]

[7 CFR Part 949]

[Docket No. AO-294-A1]

IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN NORTH DAKOTA AND MINNESOTA

Determination on Basis of Results of Referendum on Proposed Amendments to Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was

held at Grand Forks, North Dakota, on June 28, 1961, pursuant to notice thereof which was published June 26, 1961, in the FEDERAL REGISTER (26 F.R. 5577), upon proposed amendments to Marketing Agreement No. 135 and Order No. 949 regulating the handling of Irish potatoes grown in certain designated counties in North Dakota and Minnesota. The recommended decision (26 F.R. 8947) and decision (26 F.R. 10058) of the Assistant Secretary of Agriculture setting forth the proposed amendments to the marketing agreement and order were published in the FEDERAL REGISTER on September 22, 1961, and October 26, 1961, respectively. The Assistant Secretary also issued an order (26 F.R. 10058) directing that a referendum be conducted among producers of potatoes grown in certain designated counties of North Dakota and Minnesota to determine whether the requisite majority of such producers favor or approve issuance of the proposed amendments to Order No. 949.

It is hereby determined, on the basis of the results of the referendum conducted pursuant to the aforesaid referendum order, that the issuance of the proposed amendments to Order No. 949 regulating the handling of Irish potatoes grown in certain designated counties of North Dakota and Minnesota, is not approved or favored (a) by at least two-thirds of the producers of potatoes who participated in such referendum and who, during the determined representative period (July 1, 1960, to July 1, 1961) were engaged within the counties of Pembina, Walsh, Cavalier, Towner, Grand Forks, Nelson, Steele, Traill, Cass, Richland, and Ramsey of the State of North Dakota and Kittson, Marshall, Red Lake, Pennington, Polk, Norman, Mahnomen, Wilken, Otter Tail, Becker, and Clay of the State of Minnesota in the production of potatoes for market grown in such production area, or (b) by producers of potatoes who participated in the aforesaid referendum and who, during the aforesaid representative period of July 1, 1960, to July 1, 1961, produced for market at least two-thirds of the volume of potatoes produced for market within the aforesaid production area within such period.

It is hereby further determined that the proposed amendments set forth in the Assistant Secretary's decision of October 23, 1961 (26 F.R. 10058), will not be made effective.

Dated: February 1, 1962.

JAMES T. RALPH,
Assistant Secretary.

[F.R. Doc. 62-1236; Filed, Feb. 6, 1962; 8:48 a.m.]

[7 CFR Part 959]

ONIONS GROWN IN SOUTH TEXAS

Notice of Proposed Expenses and Rate of Assessment

Notice is hereby given that the Secretary of Agriculture is considering the approval of the expenses and rate of assessment hereinafter set forth, which were recommended by the South Texas Onion Committee, established pursuant to Marketing Agreement No. 143 and Marketing Order No. 959 (7 CFR Part 959).

This marketing agreement and order program regulates the handling of onions grown in designated counties in South Texas, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Consideration will be given to any data, views, or arguments pertaining thereto which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 10 days following publication of this notice in the FEDERAL REGISTER.

§ 959.202 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the South Texas Onion Committee, established pursuant to Marketing Agreement No. 143 and this part, to enable such committee to perform its functions pursuant to the provisions of the aforesaid marketing agreement and order during the fiscal period February 1, 1962, through January 31, 1963, will amount to $50,000.

(b) The rate of assessment to be paid by each handler pursuant to Marketing Agreement No. 143 and this part shall be one cent ($0.01) per 50-pound sack of onions, or the equivalent quantity thereof, handled by him as the first handler thereof during said fiscal period.

(c) Terms used in this section shall have the same meaning as when used in the said marketing agreement and this part.

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

Dated: February 2, 1962.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 62-1235; Filed, Feb. 6, 1962; 8:48 a.m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Notice of Proposed Rule Making

Income tax regulations amended to conform to section 8 of Public Law 86-779 which amended section 162 by redesignating subsection (d) as subsection (e) and by adding a new subsection (d), and amended section 1054 by redesignating section 1054 as section 1055 and by adding a new section 1054.

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T: P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 8 of the Act of September 14, 1960 (Public Law 86-779, 74 Stat. 1003), such regulations are amended as follows:

PARAGRAPH 1. Section 1.162 is amended by redesignating subsection (d) as subsection (e), adding a new subsection (d), and amending the historical note at the end thereof. These amended provisions read as follows:

§ 1.162 Statutory provisions; trade or business expenses.

SEC. 162. *Trade or business expenses*—* * *

(d) *Capital contributions to Federal National Mortgage Association.* For purposes of this subtitle, whenever the amount of capital contributions evidenced by a share of stock issued pursuant to section 303(c) of the Federal National Mortgage Association Charter Act (12 U.S.C., sec. 1718) exceeds the fair market value of the stock as of the issue date of such stock, the initial holder of the stock shall treat the excess as ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business.

(e) *Cross reference.* For special rule relating to expenses in connection with subdividing real property for sale, see section 1237.

[Sec. 162 as amended by sec. 5, Technical Amendments Act 1958 (72 Stat. 1608); sec. 8, Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1003)]

PAR. 2. Paragraph (a) of § 1.162-1 is amended to read as follows:

§ 1.162-1 Business expenses.

(a) *In general.* Business expenses deductible from gross income include the ordinary and necessary expenditures directly connected with or pertaining to the taxpayer's trade or business, except items which are used as the basis for a deduction or a credit under provisions of law other than section 162. The cost of goods purchased for resale, with proper adjustment for opening and closing inventories, is deducted from gross sales in computing gross income. See

paragraph (a) of § 1.61–3. Among the items included in business expenses are management expenses, commissions (but see section 263 and the regulations thereunder), labor, supplies, incidental repairs, operating expenses of automobiles used in the trade or business, traveling expenses while away from home solely in the pursuit of a trade or business (see § 1.162–2), advertising and other selling expenses, together with insurance premiums against fire, storm, theft, accident, or other similar losses in the case of a business, and rental for the use of business property. No such item shall be included in business expenses, however, to the extent that it is used by the taxpayer in computing the cost of property included in its inventory or used in determining the gain or loss basis of its plant, equipment, or other property. See section 1054 and the regulations thereunder. Penalty payments with respect to Federal taxes, whether on account of negligence, delinquency, or fraud, are not deductible from gross income. The full amount of the allowable deduction for ordinary and necessary expenses in carrying on a business is nevertheless deductible, even though such expenses exceed the gross income derived during the taxable year from such business. In the case of any sports program to which section 114 (relating to sports programs conducted for the American National Red Cross) applies, expenses described in section 114(a)(2) shall be allowable as deductions under section 162(a) only to the extent that such expenses exceed the amount excluded from gross income under section 114(a).

PAR. 3. The following section is inserted immediately after § 1.162–18.

§ 1.162–19 Capital contributions to Federal National Mortgage Association.

(a) *In general.* The initial holder of stock of the Federal National Mortgage Association (FNMA) which is issued pursuant to section 303(c) of the Federal National Mortgage Association Charter Act (12 U.S.C., sec. 1718) in a taxable year beginning after December 31, 1959, shall treat the excess, if any, of the issuance price (the amount of capital contributions evidenced by a share of stock) over the fair market value of the stock as of the issue date of such stock as an ordinary and necessary business expense paid or incurred during the year in which occurs the date of issuance of the stock. The date of issuance of the stock is the date which appears on the stock certificates of the initial holder as the date of issue. The initial holder is the original purchaser who is issued stock of the Federal National Mortgage Association pursuant to section 303(c) of the Act, and who appears on the books of FNMA as the initial holder. In determining the period for which the initial holder has held such stock, such period shall begin with the date of issuance.

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

Example (1). A, a banking institution which reports its income on the calendar year basis, sold $12,500 of mortgage paper to FNMA on October 17, 1960. Pursuant to the Federal National Mortgage Association Charter Act, A was required to make certain capital contributions to FNMA. In accordance with this requirement on October 17, 1960, FNMA deducted $250 from the amount it paid A for the mortgage paper and credited A's account with this amount. A stock certificate evidencing two shares of common stock of $100 par value was mailed to A and FNMA deducted $200 from A's account leaving a net balance of $50 in A's account. The stock certificate was received by A on November 7, 1960, bearing an issue date of November 1, 1960. The fair market value of a share of FNMA stock on October 17, 1960, was $65, on November 1, 1960, was $67, and on November 7, 1960, was $68. A may deduct $66, the difference between the issuance price ($200) and fair market value ($134) of the two shares of the stock on the date of issuance, as a business expense for the taxable year 1960. The basis of each share of stock issued as of November 1, 1960, will be $67 per share. See section 1054 and § 1.1054–1.

Example (2). Assuming the same facts as in example (1), A sold an additional $12,500 of mortgage paper to FNMA on December 15, 1960. FNMA deducted $250 from the amount it paid A for the mortgage paper, and credited A's account with this amount. A now has a total credit of $300 to his account, the $50 balance from the previous transaction described in Example (1) and $250 from this transaction. On January 9, 1961, A received a stock certificate evidencing 3 shares of FNMA stock bearing an issue date of January 1, 1961. The fair market value of a share of FNMA stock on December 15, 1960, was $70 and on January 1, 1961, was $69. A may deduct $93, the difference between the issuance price ($300) and the fair market value ($207) of the three shares of stock on the date of issuance, as a business expense for the taxable year 1961.

PAR. 4. Section 1.1054 is redesignated § 1.1055 and as so redesignated is amended by redesignating section 1054 as section 1055 and by adding a historical note. The amended provisions read as follows:

§ 1.1055 Statutory provisions; cross references.

SEC. 1055. *Cross references.* * * *

[Sec. 1055 as renumbered by sec. 8, Act of Sept. 14, 1960 (Pub. Law 86–779, 74 Stat. 1003)]

PAR. 5. Immediately after § 1.1053–1 there are inserted the following new sections:

§ 1.1054 Statutory provisions; certain stock of Federal National Mortgage Association.

SEC. 1054. *Certain stock of Federal National Mortgage Association.* In the case of a share of stock issued pursuant to section 303(c) of the Federal National Mortgage Association Charter Act (12 U.S.C., sec. 1718), the basis of such share in the hands of the initial holder shall be an amount equal to the capital contributions evidenced by such share reduced by the amount (if any) required by section 162(d) to be treated (with respect to such share) as ordinary and necessary expenses paid or incurred in carrying on a trade or business.

[Sec. 1054 as added by sec. 8, Act of Sept. 14, 1960 (Pub. Law 86–779, 74 Stat. 1003)]

§ 1.1054–1 Certain stock of Federal National Mortgage Association.

(a) *In general.* The basis in the hands of the initial holder of a share of stock which is issued pursuant to section 303(c) of the Federal National Mortgage Association Charter Act (12 U.S.C., sec. 1718) in a taxable year beginning after December 31, 1959, shall be an amount equal to the issuance price of the stock reduced by the amount, if any, required by section 162(d) to be treated (with respect to such share) as an ordinary and necessary business expense. See section 162(d) and § 1.162–19. For purposes of this section the initial holder is the original purchaser who is issued stock of the Federal National Mortgage Association (FNMA) pursuant to section 303(c) of the Act and who appears on the books of FNMA as the initial holder. See § 1.162–19.

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

Example. Pursuant to section 303(c) of the Federal National Mortgage Association Charter Act a certificate of FNMA stock is issued to A as of January 1, 1961. The issuance price of the stock was $100 and the fair market value of the stock on the date of issue was $69. A was required by section 162(d) to treat $31 as a business expense for the year 1961. The basis of the share of stock in the hands of A, the initial holder, shall be $69, the amount paid for the stock ($100) reduced by $31.

[F.R. Doc. 62–1224; Filed, Feb. 6, 1962; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 13860 (RM–199) (RM–225) (RM–243)]

TABLE OF ASSIGNMENTS; TELEVISION BROADCAST STATIONS; (SUPERIOR, KEARNEY, ALBION AND TERRYTOWN, NEBRASKA AND OTHERS)

Order Extending Time for Filing Reply Comments

1. The Commission has before it for consideration the request of the Nebraska Council for Educational Television (NCET) that the time for filing reply comments in this proceeding be extended to February 28, 1962. Reply comments are due on February 1, 1962, but NCET states that it needs additional time to pursue studies looking toward a "plan of financing for the proposed Nebraska Educational Television Network." NCET avers that the delay will not prejudice the rights of any interested parties or result in undue delay in the resolution of this proceeding. Counsel for NCET also states that all parties who filed comments in response to the Third Notice of Proposed Rule Making have consented to the grant of this delay with the exception of the Bi-States Company.

2. The Commission is disposed to grant the requested extension in order to give NCET the opportunity to present what they consider to be relevant material to reply to the contentions of opposed par-

ties.[1] We would like to emphasize our concern, however, for the inordinate length of time which has passed since the commencement of this proceeding. While complex rule makings are often difficult to resolve with dispatch, NCET has had over one year to prepare the material in question. Moreover, the date which it now asks us to extend was originally set by them and the Kansas Legislative Council in another request for an extension of time which was granted by the Commission on November 29, 1961. In these circumstances, the grant of this extension represents a more than generous use of our discretionary powers.

3. *Accordingly, it is ordered,* This 29th day of January 1962, that the time for filing reply comments to the third notice of proposed rule making is extended from February 1, 1962, to February 28, 1962.

4. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and section 0.241(d)(8) of the Commission's rules.

Released: January 31, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-1250; Filed, Feb. 6, 1962; 8:49 a.m.]

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[1] The ability of NCET to effectuate the proposed educational network has been raised by Bi-States and Terry Carpenter, but see paragraphs 41-44, Sixth Report and Order, and paragraph 10, Memorandum Opinion and Order, Docket No. 13852 (FCC 62-66).

Notices

DEPARTMENT OF THE TREASURY

Foreign Assets Control

IMPORTATION OF CASHMERE, WASHED (SCOURED) DIRECTLY FROM BELGIUM

Available Certifications by the Government of Belgium

Notice is hereby given that certificates of origin issued by the Ministry of Economic Affairs of the Government of Belgium under procedures agreed upon between that government and the Foreign Assets Control are now available with respect to the importation into the United States directly, or on a through bill of lading, from Belgium of the following additional commodity:

Cashmere, washed (scoured).

[SEAL] MARGARET W. SCHWARTZ,
Acting Director,
Foreign Assets Control.

[F.R. Doc. 62-1297; Filed, Feb. 6, 1962; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-196]

WESTINGHOUSE ELECTRIC INTERNATIONAL CO.

Notice of Proposed Issuance of Facility Export License

Please take notice that, unless within fifteen days after the publication of this notice in the FEDERAL REGISTER a request for a formal hearing is filed with the United States Atomic Energy Commission by the licensee or an intervener as provided by the Commission's rules of practice (Title 10, CFR, Chapter I, Part 2), the Commission proposes to issue to Westinghouse Electric International Company the facility export license below.

Pursuant to section 104 of the Atomic Energy Act of 1954 and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities", and upon a finding by the Commission that (a) the reactor proposed to be exported is a utilization facility as defined in said Act and regulations, and (b) the issuance of a license for the export thereof is within the scope of and is consistent with the terms of an Agreement for Cooperation between the United States of America and Italy, the Commission will issue a license authorizing export of a 165 megawatt (electrical) pressurized light water nuclear power reactor to Societa Elettronucleare Italiana (SELNI), having offices at Foro Bonaparte 31, Milan, Italy. This reactor is to be erected at Trino, Italy.

In its review of applications solely to authorize the export of production or utilization facilities, the Commission does not evaluate the health and safety characteristics of the subject reactor.

A copy of the application is on file in the AEC Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated at Germantown, Md., this 5th day of February 1962.

For the Atomic Energy Commission.

R. LOWENSTEIN,
Director, Division of
Licensing and Regulation.

[F.R. Doc. 62-1300; Filed, Feb. 6, 1962; 8:51 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. Montana 023908]

MONTANA

Notice of Termination of Proposed Withdrawal and Reservation of Lands

JANUARY 30, 1962.

Notice of an application Serial No. Montana 023908, for withdrawal and reservation of lands was published as Federal Register Document No. 59-2340 on page 2092 of the issue for February 12, 1959. The applicant agency has canceled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Part 295, such lands will be at 10:00 a.m., on February 14, 1962, relieved of the segregative effect of the above mentioned application.

The lands involved in this notice of termination are:

T. 5. S., R. 1 W., P.M., Montana,
Sec. 30: Lots 1, 2, 3, 4, E½W½.
T. 5 S., R. 2 W., P.M., Montana,
Sec. 25: All;
Sec. 26: NE¼, N½SE¼.

R. PAUL RIGTRUP,
Manager, Land Office.

[F.R. Doc. 62-1234; Filed, Feb. 6, 1962; 8:48 a.m.]

Fish and Wildlife Service

REGIONAL DIRECTORS AND FIELD PERSONNEL

Delegations of Authority

Chapter 4, Part 4 of the Administrative Manual of the Bureau of Sport Fisheries and Wildlife is amended to limit the authority of regional directors with respect to exchanges of fish or fish eggs with any commercial fish-cultural establishments.

Paragraph A of section 4 AM 4.7 is revised to read as follows:

A. *Operation and maintenance of national fish hatcheries.* This authority does not include:

* * * * *

(4) Approval of the exchange of fish or fish eggs with any commercial fish-cultural establishment.

DANIEL H. JANZEN,
Director.

FEBRUARY 1, 1962.

[F.R. Doc. 62-1216; Filed, Feb. 6, 1962; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MISSISSIPPI AND MISSOURI

Declaration of Disaster Areas

For the purpose of making emergency loans pursuant to section 321(a) of Public Law 87-128 (7 U.S.C. 1961) it has been determined that in the following counties in the States of Mississippi and Missouri natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MISSISSIPPI

Covington.	Neshoba.
Kemper.	Noxubee.
Marion.	

MISSOURI

Adair.	Knox.
Andrew.	Lafayette.
Atchison.	Lewis.
Bates.	Linn.
Buchanan.	Livingston.
Caldwell.	Macon.
Carroll.	Marion.
Cass.	Mercer.
Chariton.	Monroe.
Clark.	Morgan.
Clay.	Nodaway.
Clinton.	Pettis.
Cooper.	Platte.
Daviess.	Putnam.
De Kalb.	Randolph.
Gentry.	Ray.
Grundy.	Saline.
Harrison.	Schuyler.
Henry.	Scotland.
Holt.	Shelby.
Howard.	Sullivan.
Jackson.	Vernon.
Johnson.	Worth.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1962, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 31st day of January 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-1238; Filed, Feb. 6, 1962; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 13336]

ALITALIA-LINEE AEREE ITALIANE-S.p.A.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on February 9, 1962, at 10 a.m., in Room 701 of the Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Chief Examiner Francis W. Brown.

Dated at Washington, D.C., February 2, 1962.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F.R. Doc. 62-1239; Filed, Feb. 6, 1962; 8:48 a.m.]

[Docket No. 13214]

VENEZOLANA INTERNACIONAL DE AVIACION, S.A.

Notice of Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on February 21, 1962, at 10:00 a.m., e.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Barron Fredricks.

Dated at Washington, D.C., February 1, 1962.

[SEAL] BARRON FREDRICKS, *Hearing Examiner.*

[F.R. Doc. 62-1240; Filed, Feb. 6, 1962; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14336 etc., FCC 62M-148]

ANTENNAVISION SERVICE CO., INC.

Order Severing Proceedings

In re applications of Antennavision Service Company, Inc., Docket No. 14336, File No. 657-Cl-R-61, for renewal of the license for Station KPH82, a facility in the domestic Public Point-to-Point Microwave Radio Service at Wildcat Peak, Arizona; Docket No. 14337, File No. 658-Cl-R-61, for renewal of the license for Station KPH83, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Jack's Peak, Arizona; Docket No. 14338, File No. 2326-Cl-R-61, for renewal of the license for Station KOU61, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Hutch Mountain, Arizona; Docket No. 14339, File No. 2525-Cl-ML-61, for a modification of license to cover a construction permit for additional facilities for Station KOU61 in the Domestic Public Point-to-Point Microwave Radio Service at Hutch Mountain, Arizona; Docket No. 14340, File No. 3699-Cl-P-61, for a construction permit to increase power and change antenna at existing licensed Station KOU61 in the Domestic Public Point-to-Point Microwave Radio Service at Hutch Mountain, Arizona; Docket No. 14348, File Nos. 4083, 4084, 4085, 4086, Cl-P-61, for construction permits to establish stations in the Point-to-Point Microwave Radio Service located respectively at Toro Peak, El Centro, 14 miles ESE of Holtville, and 8 miles SE of Ogilby, California.

The Hearing Examiner having under consideration a Petition, filed on January 31, 1962, by Antennavision Service Company, Inc. (Antennavision), wherein, among other things, it is requested that the proceedings in Docket No. 14348 be severed from the consolidated proceeding with those applications set for hearing in Docket Nos. 14336-14340;

It appearing, that, by order released by the Commission on October 30, 1961, certain applications filed by Antennavision, namely those designated in Docket Nos. 14336-14340, were set for hearing on specified issues;

It further appearing that on the same date other applications by Antennavision were set for hearing in Docket No. 14348 and that the hearing on the issues specified in such proceeding were ordered consolidated with the hearing in the aforementioned Docket Nos. 14336-14340;

It further appearing that the applications involved in Docket No. 14348 contemplate separate and distinct facilities from those involved in Docket Nos. 14336-14340;

It further appearing that at a further prehearing conference held on January 29, 1962, it was alleged that Antennavision was proposing modification of the facilities involved in the proceedings in Docket No. 14348 which might have the effect of obviating the need for formal procedures therein and, that the Examiner therefore indicated he would entertain a motion for continuance of the proceedings on such applications until the Commission has had the opportunity to consider a petition for reconsideration and grant;

It further appearing, that, at the aforementioned further prehearing conference the hearings on the applications involved in Docket Nos. 14336-14340 were scheduled for April 2, 1962, since they are not encompassed within the aforementioned petition for reconsideration and grant;

It further appearing, that, it is alleged by Antennavision that counsel for the Common Carrier Bureau, the only other party to the proceeding, has indicated that he has no objection to the request for severance or to a waiver of the provisions of the Commission's rules (47 CFR 1.43), relating to the withholding of action for a four-day period;

It further appearing that good cause has been shown for a waiver of the aforementioned rule and grant of the Petition for Severance;

It is ordered, This 31st day of January 1962, that the Petition for Severance is granted and that the proceedings in Docket No. 14348 are severed from the proceedings in Docket Nos. 14336-14340.

Released: February 1, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Acting Secretary.*

[F.R. Doc. 62-1241; Filed, Feb. 6, 1962; 8:49 a.m.]

[Docket No. 14336 etc.; FCC 62M-146]

ANTENNAVISION SERVICE CO., INC.

Order Following Further Prehearing Conference

In re applications of Antennavision Service Company, Inc., Docket No. 14336, File No. 657-Cl-R-61, for renewal of the license for Station KPH82, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Wildcat Peak, Arizona; Docket No. 14337, File No. 658-Cl-R-61, for renewal of the license for Station KPH83, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Jack's Peak, Arizona; Docket No. 14338, File No. 2326-Cl-R-61, for renewal of the license for Station KOU61, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Hutch Mountain, Arizona; Docket No. 14339, File No. 2525-Cl-ML-61, for a modification of license to cover a construction permit for additional facilities for Station KOU61 in the Domestic Public Point-to-Point Microwave Radio Service at Hutch Mountain, Arizona; Docket No. 14340, File No. 3699-Cl-P-61, for a construction permit to increase power and change antenna at existing licensed Station KOU61 in the Domestic Public Point-to-Point Microwave Radio Service at Hutch Mountain, Arizona; Docket No. 14348, File Nos. 4083, 4084, 4085, 4086, Cl-P-61, for construction permits to establish stations in the Point-to-Point Microwave Radio Service located respectively at Toro Peak, El Centro, 14 miles ESE of Holtville, and 8 miles SE of Ogilby, California.

The Hearing Examiner having under consideration the proceedings at the further prehearing conference in the above-entitled matter held on January 29, 1962;

It appearing that counsel for Antennavision Service Company, Inc. (Antennavision), desires to present the case for his client partly in the form of written sworn exhibits and partly through the oral testimony of witnesses; and

It further appearing that counsel for the Common Carrier Bureau has not at this stage determined whether any direct case will be presented on behalf of the Bureau either through the calling of officials of Antennavision as adverse witnesses or otherwise;

It is ordered, This 29th day of January 1962, that:

(1) The direct case of Antennavision insofar as it is to be presented in the form of sworn written exhibits shall be furnished to the other parties and to the Examiner no later than March 12, 1962;

(2) Insofar as the direct case of Antennavision is to be presented through oral testimony of witnesses, counsel for

Antennavision shall, no later than March 12, 1962, advise the other parties and the Examiner of the names of such witnesses and the issues with respect to which each of them will offer oral testimony;

(3) Insofar as counsel for the Common Carrier Bureau proposes to present the direct case through written sworn exhibits or through the oral testimony of witnesses, other than officials of Antennavision, he shall furnish the other parties and the Examiner with copies of such sworn written exhibits or with the names of witnesses who are to give oral testimony, specifying the issues with respect to which each of them will testify, no later than March 12, 1962;

(4) If any of the parties desire to make any motion with respect to the sworn written exhibits of any of the other parties they shall advise all such parties and the Examiner, in writing, no later than March 26, 1962, specifying the exhibit involved and the nature of the motion they propose to make;

(5) Each of the parties shall no later than March 26, 1962, notify the others in writing of the names of the witnesses who have prepared sworn written exhibits whom they desire to cross-examine, with copies of such notification to the Examiner, and the parties so notified shall make such witnesses available for cross-examination at the hearing; and

(6) Should counsel for the Common Carrier Bureau desire to call any official of Antennavision as a witness he shall, no later than March 26, 1962, notify counsel for Antennavision of the names of such persons and the issues with respect to which he proposes to examine such persons, with a copy of such notification to the Examiner; unless counsel for Antennavision shall advise counsel for the Common Carrier Bureau to the contrary, within three days of the receipt of the aforementioned notification, Antennavision shall conclusively be presumed to have agreed to supply such persons as witnesses without the need for subpoena;

It is further ordered, That the hearing herein, heretofore postponed until further order of the Examiner, is hereby rescheduled to commence on April 2, 1962, at 10:00 a.m., at the Offices of the Commission in Washington, D.C.; and

It is further ordered, That the agreements and understandings entered into between the parties concerning the future conduct of the hearing are approved as set forth in the transcript of the further prehearing conference which to this extent is incorporated by reference herein.

Released: February 1, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-1242; Filed, Feb. 6, 1962; 8:49 a.m.]

[Docket No. 14316; FCC 62M-143]

ARIZONA MICRO-WAVE SYSTEM CO.

Order Following Further Prehearing Conference

In re application of Arizona Micro-Wave System Company, Mule Mountain, Arizona, Docket No. 14316, File No. 1592-Cl-R-61; for renewal of the license for Station KOU84, a facility in the Domestic Public Point-to-Point Microwave Radio Service.

The Hearing Examiner having under consideration the proceedings at the further prehearing conference in the above-entitled matter held on January 29, 1962;

It appearing that counsel for Arizona Micro-Wave System Company (Arizona), desires to present the case for his client partly in the form of written sworn exhibits and partly through the oral testimony of witnesses; and

It further appearing that counsel for the Common Carrier Bureau has not at this stage determined whether any direct case will be presented on behalf of the Bureau either through the calling of officials of Arizona as adverse witneses or otherwise;

It is ordered, This 29th day of January 1962, that:

(1) The direct case of Arizona insofar as it is to be presented in the form of sworn written exhibits shall be furnished to the other parties and to the Examiner, no later than March 12, 1962;

(2) Insofar as the direct case of Arizona is to be presented through oral testimony of witnesses, counsel for Arizona shall, no later than March 12, 1962, advise the other parties and the Examiner of the names of such witnesses and the issues with respect to which each of them will offer oral testimony;

(3) Insofar as counsel for the Common Carrier Bureau proposes to present the direct case through written sworn exhibits or through the oral testimony of witnesses, other than officials of Arizona, he shall furnish the other parties and the Examiner with copies of such sworn written exhibits or with the names of witnesses who are to give oral testimony, specifying the issues with respect to which each of them will testify, no later than March 12, 1962;

(4) If any of the parties desire to make any motion with respect to the sworn written exhibits of any of the other parties they shall advise all such parties and the Examiner, in writing, no later than March 26, 1962, specifying the exhibit involved and the nature of the motion they propose to make;

(5) Each of the parties shall no later than March 26, 1962, notify the others in writing of the names of the witnesses who have prepared sworn written exhibits whom they desire to cross-examine, with copies of such notification to the Examiner, and the parties so notified shall make such witnesses available for cross-examination at the hearing; and

(6) Should counsel for the Common Carrier Bureau desire to call any official of Arizona as a witness he shall, no later than March 26, 1962, notify counsel for Arizona of the names of such persons and the issues with respect to which he proposes to examine such persons, with a copy of such notification to the Examiner; unless counsel for Arizona shall advise counsel for the Common Carrier Bureau to the contrary, within three days of the receipt of the aforementioned notification, Arizona shall conclusively be presumed to have agreed to supply such persons as witnesses without the need for subpoena;

It is further ordered, That the hearing herein, heretofore postponed until further order of the Examiner, is hereby rescheduled to commence on April 11, 1962, at 10:00 a.m., at the Offices of the Commission in Washington, D.C.; and

It is further ordered, That the agreements and understandings entered into between the parties concerning the future conduct of the hearing are approved as set forth in the transcript of the further prehearing conference which to this extent is incorporated by reference herein.

Released: January 31, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-1243; Filed, Feb. 6, 1962; 8:49 a.m.]

[Docket Nos. 13822, 13823; FCC 62M-151]

BI-STATES CO. (KHOL-TV) AND TOPEKA BROADCASTING ASSOCIATION, INC. (WIBW-TV)

Order Continuing Hearing Conference

In re applications of Bi-States Company (KHOL-TV), Kearney, Nebraska, Docket No. 13822, File No. BPCT-2178; Topeka Broadcasting Association, Inc. (WIBW-TV), Topeka, Kansas, Docket No. 13823, File No. BPCT-2743; for construction permits for new transmitter sites.

Upon written request of counsel for Bi-States Company, filed in the above-entitled matter on January 29, 1962, and without objection on the part of the other parties to this proceeding: *It is ordered,* This 31st day of January 1962, that the further prehearing conference presently scheduled for February 1, 1962, at 9:30 a.m., be, and the same is, hereby continued to April 3, 1962, at 9:30 a.m., in Washington, D.C.

Released: February 2, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-1244; Filed, Feb. 6, 1962; 8:49 a.m.]

[Docket No. 14320; FCC 62M-144]

CERACCHE & CO., INC.

Order Following Further Prehearing Conference

In re application of Ceracche & Company, Incorporated, Connecticut Hill,

New York, Docket No. 14320, file No. 1676-C1-R-61; for renewal of the license for Station KEG51, a facility in the Domestic Public Point-to-Point Microwave Radio Service.

The Hearing Examiner having under consideration the proceedings at the further prehearing conference in the above-entitled matter held on January 29, 1962;

It appearing, that counsel for Ceracche & Company, Incorporated (Ceracche), desires to present the case for his client partly in the form of written sworn exhibits and partly through the oral testimony of witnesses; and

It further appearing, that counsel for the Common Carrier Bureau has not at this stage determined whether any direct case will be presented on behalf of the Bureau either through the calling of officials of Ceracche as adverse witnesses or otherwise;

It is ordered, This 29th day of January 1962, that:

(1) The direct case of Ceracche insofar as it is to be presented in the form of sworn written exhibits shall be furnished to the other parties and to the Examiner no later than March 12, 1962;

(2) Insofar as the direct case of Ceracche is to be presented through oral testimony of witnesses, counsel for Ceracche shall, no later than March 12, 1962, advise the other parties and the Examiner of the names of such witnesses and the issues with respect to which each of them will offer oral testimony;

(3) Insofar as counsel for the Common Carrier Bureau proposes to present the direct case through written sworn exhibits or through the oral testimony of witnesses, other than officials of Ceracche, he shall furnish the other parties and the Examiner with copies of such sworn written exhibits or with the names of witnesses who are to give oral testimony, specifying the issues with respect to which each of them will testify, no later than March 12, 1962;

(4) If any of the parties desire to make any motion with respect to the sworn written exhibits of any of the other parties they shall advise all such parties and the Examiner, in writing, no later than March 26, 1962, specifying the exhibit involved and the nature of the motion they propose to make;

(5) Each of the parties shall no later than March 26, 1962, notify the others in writing of the names of the witnesses who have prepared sworn written exhibits whom they desire to cross-examine, with copies of such notification to the Examiner, and the parties so notified shall make such witnesses available for cross-examination at the hearing; and

(6) Should counsel for the Common Carrier Bureau desire to call any official of Ceracche as a witness he shall, no later than March 26, 1962, notify counsel for Ceracche of the names of such persons and the issues with respect to which he proposes to examine such persons, with a copy of such notification to the Examiner; unless counsel for Ceracche shall advise counsel for the Common Carrier Bureau to the contrary, within three days of the receipt of the aforementioned notification, Ceracche shall conclusively be presumed to have agreed to supply such persons as witnesses without the need for subpoena;

It is further ordered, That the hearing herein, heretofore postponed until further order of the Examiner, is hereby rescheduled to commence on April 5, 1962, at 10:00 a.m., at the Offices of the Commission in Washington, D.C.; and

It is further ordered, That the agreements and understandings entered into between the parties concerning the future conduct of the hearing are approved as set forth in the transcript of the further prehearing conference which to this extent is incorporated by reference herein.

Released: January 31, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-1245; Filed, Feb. 6, 1962; 8:49 a.m.]

[Docket No. 14365; FCC 62M-152]

NEIGHBORLY BROADCASTING CO., INC.

Order Continuing Hearing Conference

In the matter of revocation of license of The Neighborly Broadcasting Co., Inc., for FM Broadcast Station WLOV, Cranston, Rhode Island, Docket No. 14365.

The Hearing Examiner having under consideration a verbal request from the Broadcast Bureau for indefinite continuance;

It appearing that counsel for The Neighborly Broadcasting Co., Inc. has sent a communication to the Commission indicating an intent to waive hearing so that a scheduled prehearing conference set for February 5, 1962, would not be productive of any good;

It is ordered, This 1st day of February 1962, that the prehearing conference scheduled for February 5, 1962, is continued indefinitely.

Released: February 2, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-1246; Filed, Feb. 6, 1962; 8:49 a.m.]

[Docket No. 14330; FCC 62M-145]

NEW YORK PENN MICROWAVE CORP.

Order Following Further Prehearing Conference

In re application of New York Penn Microwave Corporation, Canisteo, New York, Docket No. 14330, File No. 2590-C1-R-61, for renewal of the license for Station KEG41, a facility in the Domestic Public Point-to-Point Microwave Radio Service.

The Hearing Examiner having under consideration the proceedings at the further prehearing conference in the above-entitled matter held on January 29, 1962;

It appearing that counsel for New York Penn Microwave Corporation (New York Penn), desires to present the case for his client partly in the form of written sworn exhibits and partly through the oral testimony of witnesses; and

It further appearing that counsel for the Common Carrier Bureau has not at this stage determined whether any direct case will be presented on behalf of the Bureau either through the calling of officials of New York Penn as adverse witnesses or otherwise;

It is ordered, This 29th day of January 1962, that:

(1) The direct case of New York Penn insofar as it is to be presented in the form of sworn written exhibits shall be furnished to the other parties and to the Examiner no later than March 12, 1962;

(2) Insofar as the direct case of New York Penn is to be presented through oral testimony of witnesses, counsel for New York Penn shall, no later than March 12, 1962, advise the other parties and the Examiner of the names of such witnesses and the issues with respect to which each of them will offer oral testimony;

(3) Insofar as counsel for the Common Carrier Bureau proposes to present the direct case through written sworn exhibits or through the oral testimony of witnesses, other than officials of New York Penn, he shall furnish the other parties and the Examiner with copies of such sworn written exhibits or with the names of witnesses who are to give oral testimony, specifying the issues with respect to which each of them will testify, no later than March 12, 1962;

(4) If any of the parties desire to make any motion with respect to the sworn written exhibits of any of the other parties they shall advise all such parties and the Examiner, in writing, no later than March 26, 1962, specifying the exhibit involved and the nature of the motion they propose to make;

(5) Each of the parties shall no later than March 26, 1962, notify the others in writing of the names of the witnesses who have prepared sworn written exhibits whom they desire to cross-examine, with copies of such notification to the Examiner, and the parties so notified shall make such witnesses available for cross-examination at the hearing; and

(6) Should counsel for the Common Carrier Bureau desire to call any official of New York Penn as a witnesses he shall, no later than March 26, 1962, notify counsel for New York Penn of the names of such persons and the issues with respect to which he proposes to examine such persons, with a copy of such notification to the Examiner; unless counsel for New York Penn shall advise counsel for the Common Carrier Bureau to the contrary, within three days of the receipt of the aforementioned notification, New York Penn shall conclusively be presumed to have agreed to supply such persons as witnesses without the need for subpoena;

It is further ordered, That the hearing herein, heretofore postponed until further order of the Examiner, is hereby

rescheduled to commence on April 9, 1962, at 10:00 a.m., at the Offices of the Commission in Washington, D.C.; and

It is further ordered, That the agreements and understandings entered into between the parties concerning the future conduct of the hearing are approved as set forth in the transcript of the further prehearing conference which to this extent is incorporated by reference herein.

Released: January 31, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-1247; Filed, Feb. 6, 1962; 8:49 a.m.]

[Canadian List 167]

CANADIAN BROADCAST STATIONS

List of Changes, Proposed Changes, Corrections in Assignments

JANUARY 19, 1962.

Notification under the provisions of Part III, section 2 of the North American Regional Broadcasting Agreement. List of changes, proposed changes, and corrections in assignments of Canadian Broadcast Stations modifying appendix containing assignments of Canadian Broadcast Stations (Mimeograph No. 47214-3) attached to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting.

Call letters	Location	Power kw	Antenna	Schedule	Class	Expected date of commencement of operation
		560 kilocycles				
CHOM (assignment of call letters).	Marystown, Newfoundland.	1 D/0.5 N	ND	U	III	
		620 kilocycles				
CKOM (assignment of call letters).	Grand Falls, Newfoundland.	10	DA-1	U	III	
		1220 kilocycles				
CJSS (delete assignment for increase in daytime power—(CJSS remaining 1220 kc 1 kw DA-2).	Cornwall, Ontario land.	10 D/1 N	DA-2	U	II	
		1370 kilocycles				
CFLV (assignment of call letters—now in operation).	Valleyfield, Province of Quebec.	1	DA-1	U	III	
		1470 kilocycles				
CFOX (delete assignment for increase in power (CFOX remaining 1470 kc 1 kw DA-2).	Pointe Claire, Province of Quebec.	5	DA-2	U	III	
		1490 kilocycles				
CKBM (PO: 1490 kc 0.25 kw ND).	Montmagny, Province of Quebec.	1 D/0.25 N	ND	U	IV	EIO 1-15-63
New	Wilmot Station, Nova Scotia.[1]	1 D/0.25 N	ND	U	IV	

[1] Correction of error in location as shown on Lst. No. 166—*Saskatchewan* should have read *Nova Scotia*.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-1249; Filed, Feb. 6, 1962; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP61-337]

CITY OF SLATER, MISSOURI

Notice of Application and Date of Hearing

JANUARY 31, 1962.

Take notice that on June 26, 1961, the City of Slater, Missouri (Applicant), a municipal corporation, filed an application, pursuant to section 7(a) of the Natural Gas Act, for an order directing Cities Service Gas Company (Cities Service) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant, and to sell and deliver to Applicant its natural gas requirements for resale and distribution in the City of Slater, all as more fully represented in the application, which is on file with the Commission and open for public inspection.

Applicant proposes to construct and operate 10 miles of 6-inch lateral transmission pipeline extending from a connection with the facilities of Cities Service near Marshall, Missouri, to the City of Slater, and a municipal gas distribution system to serve said city.

Applicant estimates its natural gas requirements as follows:

Year	Requirements in Mcf	
	Peak day	Annual
1	917	113,563
2	1,232	144,539
3	1,452	165,424

The gas will be used for domestic, commercial and industrial purposes.

Applicant estimates that the cost of its proposed facilities will be $489,500, which will be financed by the issuance and sale of 5½ percent 20 year gas revenue bonds.

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 March 20, 1962, at 10:00 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.

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 March 7, 1962.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 62-1210; Filed, Feb. 6, 1962; 8:45 a.m.]

[Docket No. CP62-130]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application and Date of Hearing

JANUARY 31, 1962.

Take notice that on November 24, 1961, as supplemented on December 13, 1961, Michigan Wisconsin Pipe Line Company (Applicant), 645 Griswold Street, Detroit 26, Mich., filed in Docket No. CP62-130 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 a meter station and appurtenant facilities necessary to the establishment of a new delivery point for Wisconsin Power and Light Company (Wisconsin Power), an existing customer of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The estimated total cost of the facilities proposed under this application is $20,000 which will be financed from funds on hand.

The purpose of this proposal is to enable Wisconsin Power to render natural gas service to the Village of McFarland, Dunn Township, Dane County, Wisconsin. Applicant states that no allocation of additional gas will be required.

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 March 8, 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:

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 to 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 rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 26, 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.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 62-1211; Filed, Feb. 6, 1962; 8:45 a.m.]

[Project No. 2106]

PACIFIC GAS AND ELECTRIC CO.

Order Fixing Time and Place for Hearing and Prescribing Procedure

JANUARY 30, 1962.

By order issued October 19, 1961, the Commission fixed a public hearing in Project No. 2106, respecting certain matters and issues raised by the State of California, acting by and through its Department of Fish and Game (Intervener), which are referred to in the application for rehearing filed September 18, 1961, and Article 45 of the license, the hearing to be held at a time and place to be specified by further order of the Commission.

The procedures hereinafter prescribed are intended to eliminate any cause which might otherwise exist for a protracted hearing: by requiring that the respective parties submit in advance of the hearing relevant facts in support of their respective positions; and by providing for motions to strike improperly prepared testimony, including conclusions and opinions presented without having set forth a proper foundation therefor.

The Commission finds: It is appropriate and in the public interest to hold the public hearing fixed by Commission order issued October 19, 1961, as hereinafter provided.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly section 308 thereof, and the Commission's rules of practice and procedure, a public hearing shall be held on May 28, 1962, at 10 a.m., at the Commission's Regional Office, 555 Battery Street, San Francisco, Calif., respecting the matters involved and issues referred to in the aforesaid order issued October 19, 1961.

(B) The following procedure is prescribed for the public hearing herein ordered:

(1) The Department of Fish and Game of the State of California shall by April 30, 1962, file with the Commission's Secretary an original and ten copies of all of its direct testimony (including qualifications of witnesses and exhibits) and at that time serve three copies thereof on the Licensee.

(2) The Licensee shall by May 14, 1962, file with the Commission's Secretary, an original and ten copies of all of its testimony (including qualifications of witnesses and exhibits) and at that time serve three copies thereof on the Department of Fish and Game.

(3) All of the testimony except exhibits, shall be in question and answer form.

(4) No exhibits (except those of which official notice may properly be taken) shall contain narrative material other than brief explanatory notes.

(5) All exhibits (except those of which official notice may properly be taken) shall contain brief and appropriate titles, and the exhibits shall be fully explained in the prepared testimony by the witness or witnesses sponsoring them.

(6) Each witness shall execute an affidavit adopting the testimony for which he assumes responsibility and an original and two conformed copies of such affidavits shall be filed with his prepared testimony.

(7) Any party submitting more than one exhibit shall enclose a cover sheet listing the title of each exhibit in the sequence they wish them to be marked for identification.

(8) Any motions to strike any part of the prepared testimony and exhibits (prior to cross-examination), shall be filed with the Presiding Examiner or Chief Examiner by May 18, 1962; answers thereto shall be filed by May 24, 1962; and rulings on such motions will be made by the Examiner at the time such testimony or exhibits are offered in accordance with subparagraph (9).

(9) Upon the commencement of the hearing and after appearances, opening statements, and other preliminary matters, the exhibits previously filed, as provided above, will be marked for identification in the sequence directed by the Presiding Examiner; and thereafter the Examiner will require that the affidavits of the respective witnesses and their prepared testimony (together with the qualifications of the respective witnesses) previously filed, as provided above, be copied into the record as though read, excepting any part or parts of the prepared testimony with respect to which he may have granted motion to strike.

(10) The Presiding Examiner will specify the order of cross-examination for the information of the parties in making their respective witnesses available for cross-examination.

(C) Requests for extension of time concerning the time for any filings specified herein shall be made in writing, served on all parties and filed with the Presiding Examiner or the Chief Examiner (together with a certificate of service) at least ten days in advance of the dates specified herein (or as may have been extended), and any answers thereto shall be filed with the Presiding Examiner or Chief Examiner within three days after the request for extension.

(D) The Commission's rules of practice and procedure shall apply in this proceeding except to the extent that they are modified or supplemented herein or to the extent that they are further modified or supplemented by the Examiner with the consent of the parties.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-1212; Filed, Feb. 6, 1962; 8:45 a.m.]

[Docket No. CP62-59]

PACIFIC GAS TRANSMISSION CO.

Notice of Application and Date of Hearing

JANUARY 31, 1962.

Take notice that on September 11, 1961, as supplemented on September 28, 1961, and October 20, 1961, Pacific Gas Transmission Company (Applicant), 245 Market Street, San Francisco 6, Calif., filed 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, as necessary, of taps and metering facilities at unspecified points along Applicant's 36-inch transmission line in Idaho, Washington and Oregon, in order to deliver to El Paso Natural Gas Company (El Paso), at such points, part of the gas Applicant has previously been authorized to transport for El Paso from Canada. Such facilities would be built only at locations where El Paso is or will be authorized by the Commission to sell gas to distributors for resale.

Applicant's proposals are more fully set forth in the application, as supplemented, on file with the Commission and open to public inspection.

In its order of August 5, 1960, issued in Docket Nos. G-17350, et al., the Commission authorized Applicant to construct and operate a 36-inch transmission line extending from the Canadian boundary at a point in Idaho to the Oregon-California border southeast of Klamath Falls, Oreg. That order also authorized Applicant to transport for El Paso a portion of the latter's Canadian gas from Canada to points along the 36-inch line in Idaho, Washington, and Oregon.

Applicant states that in Docket No. CP60-15 El Paso has pending an application for authority to build facilities to receive gas from Applicant's 36-inch line for sale to two distributors for resale in Klamath Falls and Bend, Oreg. The estimated cost of Applicant's proposed facilities at Klamath and Bend is $14,000 and $12,500, respectively. Applicant states that the estimated cost of similar facilities at any other point on its 36-inch line for delivery of gas to El Paso will not be more than $12,500 for each delivery point.

The application shows that the cost of each tap will be borne by El Paso in accordance with Applicant's FPC Gas Tariff.

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 March 5, 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: *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 February 23, 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.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 62-1213; Filed, Feb. 6, 1962; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24D-2534]

ALLIED METALS CO.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

FEBRUARY 1, 1962.

I. Allied Metals Company (issuer), a New Mexico corporation located at 3250 Broadway SE., Albuquerque, New Mexico, filed with this Commission on September 11, 1961, a notification on Form 1-A and an offering circular relating to an offering of 100,000 shares of its $1 par value non-assessable Class A common stock at an offering price of $1 per share, which was amended down to 50,000 shares for an aggregate of $50,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof, and Regulation A promulgated thereunder; and

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that:

1. The notification fails to disclose the affiliates and predecessors of the issuer as required by Item 2 of Form 1-A.

2. The issuer falsely stated in its notification, in responding to Item 6 of Form 1-A, that none of its directors, officers or others were subject to any order, judgment, or decree specified in subparagraph 2, paragraph (d) of Rule 252;

B. The Regulation A exemption is not available to the issuer in that Clifford G. Taylor, an officer and director of the issuer, is subject to a decree of permanent injunction of the character specified in subparagraph (2) of paragraph (d) of Rule 252.

C. The offering circular contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

1. The failure to disclose accurately and adequately the speculative and adverse features of the offering and risks attendant to the proposed business enterprise.

2. The failure to disclose whether there has been adequately controlled laboratory testing of the product Ber-Al and the process by which it is formed to determine the practicalities of the product's uses, the failure to disclose accurately and adequately the stage of research and development, and the failure to define the principal market for the product.

3. The failure to disclose whether the process of metallurgy proposed to be exploited has been subject to patent search.

4. The failure to disclose accurately and adequately the proposed use of proceeds, particularly in connection with the remuneration of officers and directors.

5. The failure to disclose that the shareholders' right to transfer stock of the corporation is subject to the corporation's option to purchase at par value such stock from the record owner within 30 days after written notice of transfer is filed with the company.

6. The failure to disclose accurately and adequately the background of officers and directors.

7. The failure to disclose the percentage of outstanding securities of the issuer to be held by directors, officers and promoters as a group and the percentage of such securities which will be held by the public if all securities to be offered are sold and the respective amounts of cash paid therefor by such group and by the public.

8. The failure to file appropriate financial statements.

D. The offering if made would be in violation of section 17(a) of the Securities Act of 1933, as amended.

III. *It is ordered,* Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will be promptly given by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 62-1218; Filed, Feb. 6, 1962; 8:46 a.m.]

[File No. 811-634]

DETROIT AND CLEVELAND NAVIGATION CO.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

JANUARY 31, 1962.

Notice is hereby given that Detroit and Cleveland Navigation Company ("Applicant"), 1201 Griswold Building, Detroit 26, Mich., a Michigan corporation and a closed-end, non-diversified investment company registered under the Investment Company Act of 1940 ("Act") has filed an application pursuant to section 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company.

Applicant represents that it was formally dissolved by the filing on October 5, 1960, with the Michigan Corporation and Securities Commission of an Agreement of Merger ("Agreement") between Applicant and Denver Chicago Trucking Company, Inc. ("Denver"), a Nebraska Corporation, whereby Applicant was merged into Denver. Said Agreement was submitted to shareholders and approved by a two-thirds vote of all of Applicant's outstanding common stock at a special meeting held on August 16, 1960.

The Agreement provided that Applicant was to turn over to the Secretary of Denver, 135,643 shares of its common stock, $5 par value, being all the outstanding stock of Applicant, and Denver, the surviving Corporation, thereupon agreed to deliver to the stockholders of Applicant shares of Denver at the rate of one and two-fifths shares of stock of Denver for each share of the common stock of Applicant surrendered with the additional payment at the rate of $20.00 per full share in lieu of fractional shares of Denver to which Applicant's shareholders were entitled. All of Applicant's shares have been surrendered except 162 shares held by eight individuals. The First National Bank of Denver holds 746⅝ shares of Denver common stock and $438.59 in cash in lieu of fractional interests for the satisfaction of Applicant's unsurrendered shares.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the

taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 16, 1962, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) should be filed contemporaneously with the request. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

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

[F.R. Doc. 62-1219; Filed, Feb. 6, 1962; 8:46 a.m.]

[File No. 1-1723]

GILCHRIST CO.

Notice of Application to Withdraw From Listing and Registration and of Opportunity for Hearing

FEBRUARY 1, 1962.

In the matter of Gilchrist Company, common stock; File No. 1-1723.

The above named issuer 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 withdraw the specified security from listing and registration on the Boston Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following: The continued listing and registration on the Exchange would result in unnecessary expense to Applicant, including fees for listing additional shares and expenses incident to the filing of various reports and other documents. In the past eight years Applicant has paid a total of $752.50 in listing fees alone and volumes averaged less than 150 shares per annum. The stock remains listed on the American Stock Exchange.

Upon receipt of a request, on or before February 16, 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 his 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 file of the Commission pertaining to the matter.

By the Commission.

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

[F.R. Doc. 62-1220; Filed, Feb. 6, 1962; 8:46 a.m.]

CIVIL SERVICE COMMISSION

CERTAIN VETERINARIAN POSITIONS THROUGHOUT THE WORLD

Notice of Increase in Minimum Rate of Pay

Under the provisions of section 803 of the Classification Act of 1949, as amended (68 Stat. 1106; 5 U.S.C. 1133), pursuant to 5 CFR 25.103, 25.105, the Commission has increased the minimum rate of pay for classes of positions at grade GS-9 in GS-701-0 Veterinarian Series from $6,435 (rate a) to $7,260 (rate f). The increases will be effective on the first day of the second pay period which begins after February 2, 1962, and apply to these positions on a worldwide basis.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL, *Executive Assistant to the Commissioners.*

[F.R. Doc. 62-1248; Filed, Feb. 6, 1962; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 196]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

FEBRUARY 2, 1962.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with service at no intermediate points have been filed with the Interstate Commerce Commission, under the Commission's deviation rules revised, 1957 (49 CFR 211.1 (c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's deviation rules revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 2401 (Sub-No. 5) (Deviation No. 3), MOTOR FREIGHT CORPORATION, 2345 South 13th Street, Terre Haute, Ind., filed January 25, 1962. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route between Chicago, Ill., and St. Louis, Mo., over Interstate Highway 55, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From St. Louis over U.S. Highway 40 to Marshall, Ill., thence over Illinois Highway 1 to Paris, Ill., thence over Illinois Highway 16 to junction Illinois Highway 49, near Kansas, Ill., thence over Illinois Highway 49 to Chicago, and return over the same route.

No. MC 11184 (Deviation No. 1), McDANIEL FREIGHT LINES, INC., 414 North Walnut Street, Crawfordsville, Ind., filed January 22, 1962. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over deviation routes as follows: (A) From the junction of Interstate Highway 74 and U.S. Highway 136, approximately 1½ miles east of Danville, Ill., over Interstate Highway 74 to junction U.S. Highway 136, 2 miles west of Veedersburg, Ind., and (B) from Lizton, Ind., over Indiana Highway 39 to junction Interstate Highway 74, thence over Interstate Highway 74 to junction U.S. Highway 136 (formerly Indiana Highway 34) at the west edge of Speedway, Ind., and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Danville, Ill., over U.S. Highway 136 to Indianapolis, Ind., and return over the same route.

No. MC 39763 (Deviation No. 1), G. E. GROGER TRUCK LINE, INC., Walton, Ky., filed January 26, 1962. Attorney Fred F. Bradley, P.O. Box 127, Frankfort, Ky. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From the junction of Interstate Highway 75 and U.S. Highway 25, at Covington, Ky., over Interstate Highway 75, to junction Kentucky Highway 16, at Walton, Ky., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Walton, over Kentucky Highway 16 to junction Kentucky Highway 17, thence over Kentucky Highway 17 to junction U.S. Highway

25, thence over U.S. Highway 25 to Cincinnati, Ohio, and return over the same route.

No. MC 49387 (Deviation No. 1), ORSCHELN BROS. TRUCK LINES, INC., 339 North Williams Street, Moberly, Mo., filed January 22, 1962. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route between East Peoria and Morton, Ill., over Interstate Highway 74, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From East Peoria over U.S. Highway 150 to Morton, and return over the same route.

No. MC 73462 (Deviation No. 3), CLINTON TRANSPORTATION CORP., 516 West 43d Street, New York 18, N.Y., filed January 25, 1962. Attorney Samuel P. Delisi, 1515 Park Building, Pittsburgh 22, Pa. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From New York, N.Y., over Interstate Highway 95 to its junction with the Connecticut Turnpike, at or near Interchange 76, thence over the Connecticut Turnpike to junction U.S. Highway 6, thence over U.S. Highway 6 to Providence, R.I., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From New York over U.S. Highway 1 to junction Connecticut Highway 95 (formerly Connecticut Highway 84), thence over Connecticut Highway 95 to the Connecticut-Rhode Island State line, thence over Rhode Island Highway 95 (formerly Rhode Island Highway 84) to Hopkinton, R.I., thence over Rhode Island Highway 3 to Providence, and return over the same route.

No. MC 73462 (Deviation No. 4), CLINTON TRANSPORTATION CORP., 516 West 43d Street, New York 18, N.Y., filed January 25, 1962. Attorney Samuel P. Delisi, 1515 Park Building, Pittsburgh 22, Pa. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route between Hopkinton and Providence, R.I., over Interstate Highway 95, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Hopkinton over Rhode Island Highway 3 to Providence, and return over the same route.

No. MC 73462 (Deviation No. 5), CLINTON TRANSPORTATION CORP., 516 West 43d Street, New York 18, N.Y., filed January 25, 1962. Attorney Samuel P. Delisi, 1515 Park Building, Pittsburgh 22, Pa. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions over a deviation route as follows: From Springfield, Mass., over Interstate Highway 90 (the Massachusetts Turnpike) to junction Massachusetts Highway 128, thence over Massachusetts Highway 128 to junction Massachusetts Highway 9, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Springfield over U.S. Highway 20 to Worcester, Mass., thence over Massachusetts Highway 9 to Boston, Mass., and return over the same route.

No. MC 105275 (Deviation No. 1), W. T. BYRNS MOTOR EXPRESS, INC., 646 Coffeen Street, Watertown, N.Y., filed January 22, 1962. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route between Syracuse and Watertown, N.Y., over Interstate Highway 81, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Syracuse over U.S. Highway 11 to Watertown, and return over the same route.

No. MC 111231 (Deviation No. 17), JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ark., filed January 22, 1962. Carrier's representative B. J. Wiseman, same address. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of U.S. Highway 69 and Kansas Highway 57, near Franklin, Kans., over Kansas Highway 57 to junction U.S. Highway 59, thence over Kansas Highway 47 to junction Kansas Highway 96, thence over Kansas Highway 96 to junction Kansas Highway 99, thence over Kansas Highway 99 to junction U.S. Highway 54, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: From Kansas City, Mo., over city streets to Kansas City, Kans., thence over U.S. Highway 69 to junction U.S. Highway 66, thence over U.S. Highway 66 to Tulsa, Okla.; and from Fort Scott, Kans., over U.S. Highway 54 to Wichita, Kans., and return over the same routes.

No. MC 111231 (Deviation No. 18), JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ark., filed January 24, 1962. Carrier's representative B. J. Wiseman, same address. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of U.S. Highway 69 and Kansas Highway 57 over Kansas Highway 57 to the Kansas-Missouri State Line, thence over Missouri Highway 171 to junction Missouri Highway 96, thence over Missouri Highway 96 to junction Missouri Highway 43, thence over Missouri Highway 43 to junction County Road "H", thence over County Road "H" to Jasper, Mo., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: From Kansas City, Mo., over U.S. Highway 71, via Carthage and Lanagan, Mo. to Fort Smith, Kans.; from the junction of U.S. Highways 71 and 160 over U.S. Highway 160 to Frontenac, Kans., thence over U.S. Highway 69 to Pittsburg, Kans.; and from Kansas City, Mo., over city streets to Kansas City, Kans., thence over U.S. Highway 69 to junction U.S. Highway 66, thence over U.S. Highway 66 to Tulsa, Okla., and return over the same routes.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary*.

[F.R. Doc. 62-1227; Filed, Feb. 6, 1962; 8:47 a.m.]

[Notice 420]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

FEBRUARY 2, 1962.

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 1485 (Sub-No. 5), filed October 5, 1961. Applicant: SCHROLL TRANSPORTATION, INCORPORATED, 360 Governor Street, East Hartford, Conn. Applicant's attorney: Thomas W. Murrett, 410 Asylum Street, Hartford 3, Conn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products and commodities used by packinghouses* as defined by the Commission, and *fish and frozen foods*, restricted against the transportation of such commodities in bulk, in tank vehicles, (1) from Worcester and Springfield, Mass., to points in Connecticut, (2) from New Haven, New Britain, Meriden, and Waterbury, Conn., to Springfield, and Worcester, Mass., and (3) *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified above, on return.

HEARING: March 12, 1962, at the Bond Hotel, Hartford, Conn., before Joint Board No. 22, or, if the Joint Board waives its right to participate, before Examiner William A. Royall.

No. MC 11220 (Sub-No. 77), filed January 4, 1962. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Street, Memphis, Tenn. Applicant's attorney: James W. Wrape, 2111 Sterick Building, Memphis 3, Tenn. 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), between Memphis, Tenn., and Huntsville, Ala.; from Memphis over U.S. Highway 72 to Huntsville (also from Memphis over U.S. Highway 72 to junction Alternate U.S. Highway 72, thence over Alternate U.S. Highway 72 to Huntsville), and return over the same routes, serving those intermediate and off-route points located within 25 miles of Decatur, Ala.

NOTE: Applicant states that in its Certificate No. MC 11220 (Sub-No. 67) it is authorized to transport the above-described commodities over irregular routes, between points within 25 miles of Decatur, Ala., not including Decatur, on the one hand, and, on the other, Memphis, Tenn., and Birmingham, Ala. Applicant also states that no new points will be served and no new service will result in the proposed operation. Applicant states that it merely seeks to convert its present irregular route operation into a regular route service; and that Huntsville, Ala. is within a 25 mile radius of Decatur. Applicant is agreeable to the cancellation of its corresponding irregular route authority in the event the authority sought under this application is granted.

HEARING: March 13, 1962, at the Claridge Hotel, Memphis, Tenn., before Examiner Lawrence A. Van Dyke, Jr.

No. MC 13964 (Sub-No. 3), filed October 12, 1961. Applicant: JOHN R. MORGAN, doing business as JOHN R. MORGAN CO., 20116 Greydale, Detroit 19, Mich. Applicant's attorney: Rex Eames, 1800 Buhl Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses* (other than ordinary), *grooms, mascots, equipment,* and *tack*, between points in Michigan, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Iowa, Louisiana, Maryland, Massachusetts, Missouri, New Jersey, New York, Rhode Island, Virginia, West Virginia, and Wisconsin.

HEARING: March 27, 1962, at the Detroit-Leland Hotel, Detroit, Mich., before Examiner Reece Harrison.

No. MC 22278 (Sub-No. 10), filed September 15, 1961. Applicant: TAKIN BROS. FREIGHT LINE, INC., 2125 Commercial Street, Waterloo, Iowa. Applicant's attorney: Charles B. Myers, 2106 Field Building, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dressed beef, frozen meat,* also *fresh meat and other packing-house products* as described in Appendix I of *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, between Spencer, Iowa, and Mason City, Iowa.

HEARING: March 23, 1962, in Room 401, Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Joint Board No. 92, or, if the Joint Board waives its right to participate, before Examiner Armin G. Clement.

No. MC 25798 (Sub-No. 63), filed January 22, 1962. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1075, Dade City, Fla. Applicant's attorney: Thomas F. Kilroy, Suite 610, 1000 Conn. Avenue NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Apple juice, apple juice concentrate, grape juice and grape juice concentrate*, in bulk, in tank vehicles, from Dundee, Westfield, Williamson, and Hilton, N.Y., to Spartanburg, S.C.

HEARING: March 20, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Leo M. Pellerzi.

No. MC 25798 (Sub-No. 66), filed January 22, 1962. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1075, Dade City, Fla. Applicant's attorney: Thomas F. Kilroy, 1000 Conn. Avenue NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fried onion rings, in mixed shipments with frozen seafoods*, from Gloucester, Mass., to points in Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Mississippi, Michigan, Missouri, New York, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

HEARING: March 22, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Dallas B. Russell.

No. MC 25798 (Sub-No. 67), filed January 22, 1962. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1075, Dade City, Fla. Applicant's attorney: Thomas F. Kilroy, 1000 Conn. Avenue NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods* from Seabrook, N.J., to points in Massachusetts, Connecticut, Pennsylvania, New York, Rhode Island, Maine, Vermont, and New Hampshire; and (2) *frozen fruits* and *frozen berries*, in straight and mixed shipments, and *frozen fruits, frozen berries* and *frozen eggs*, in mixed shipments, from points in Maine and New Hampshire to points in West Virginia, Virginia, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and the District of Columbia.

HEARING: March 21, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Leo A. Riegel.

No. MC 27817 (Sub-No. 42), filed January 18, 1962. Applicant: H. C. GABLER, INC., R.D. No. 3, Chambersburg, Pa. Applicant's attorney: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pyrophyllite*, from points in South Middleton and Dickinson Townships, Cumberland County, Pa., to points in Connecticut, Delaware, Massachusetts, Maryland, New Jersey, New York, Ohio, Rhode Island, Virginia, and West Virginia.

HEARING: March 12, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Richard H. Roberts.

No. MC 29660 (Sub-No. 11), filed December 7, 1961. Applicant: HERMAN LOZOWICK, KENNETH LOZOWICK, FRANK LOZOWICK, AND JACK LOZOWICK, a partnership, doing business as HERMAN LOZOWICK TRUCKING CO., 320 Myrtle Street, Elizabeth, N.J. Applicant's representative: Bert Collins, 140 Cedar Street, New York 6, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bronze, brass, copper and nickel products*, and in connection therewith, *materials and supplies used in the manufacture of such products;* between the plant site of Phelps Dodge Copper Products Corporation, at or near South Brunswick Township, Middlesex County, N.J., on the one hand, and, on the other, points in the New Jersey part of the New York, N.Y., Commercial Zone as defined by the Commission.

NOTE: Applicant states the proposed operation will be under continuing contract with Phelps Dodge Copper Products Corporation. Applicant further states it now holds authority for the same commodities between the same plant of the shipper and New York, N.Y., in Permit MC 29660 (Sub-No. 7).

HEARING: March 15, 1962, at 346 Broadway, New York, N.Y., before Examiner Alvin H. Schrutrumpf.

No. MC 29991 (Sub-No. 33) (CORRECTION), filed November 29, 1961, published FEDERAL REGISTER, issue of January 31, 1962, and republished as corrected this issue. Applicant: BRYAN TANK LINES, INC., 909 East Fifth Street, Cheyenne, Wyo. Applicant's attorney: Robert S. Stauffer, 1510 East 20th Street, Cheyenne, Wyo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude petroleum*, in bulk, in tank vehicles, from points in Jackson County, Colo., to points in Wyoming.

NOTE: The hearing information appended to the notice of the filing of the subject application as published in the FEDERAL REGISTER on the above date, was in error. Correctly stated, the application is assigned for hearing on March 12, 1962, at the Albany Hotel, Denver, Colo., before Joint Board No. 50, or, if the Joint Board waives its right to participate, before Examiner Charles B. Heinemann.

No. MC 30887 (Sub-No. 117), filed January 29, 1962. Applicant: SHIPLEY TRANSFER, INC., 534 Main Street, Reisterstown, Md. Applicant's representative: W. Wilson Corroum (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement (portland and masonry)*, from York, Pa., to points in Connecticut, Massachusetts, New Jersey, New York, Rhode Island, and Virginia, and *empty containers or other such incidental facilities* (not specified) used in transporting the commodity specified above, on return.

HEARING: February 19, 1962, at the Offices of the Interstate Commerce Com-

mission, Washington, D.C., before Examiner Samuel Horwich.

No. MC 31441 (Sub-No. 13), filed September 25, 1961. Applicant: GEORGE F. DOCKHAM, doing business as LEDO TRUCKING CO., Box 146, Raymond, N.H. Applicant's attorney: Andre J. Barbeau, 12 Parris Terrace, Manchester, N.H. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated granite products used in construction of bridges, highways and buildings*, from Milford, N.H., to points in Maine, Vermont, Massachusetts, Connecticut, Rhode Island, New York, and New Jersey.

HEARING: March 22, 1962, at the New Hampshire Public Service Commission, Concord, N.H., before Examiner Alvin H. Schutrumpf.

No. MC 31600 (Sub-No. 521), filed January 19, 1962. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham 54, Mass. Applicant's attorney: Harry C. Ames, Jr., Transportation Building, Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities* (except cements, salt, sugar, flour, ferro-alloys, fly ash and building materials, as defined by the Commission in 61 M.C.C. 666), in bulk, in tank or hopper type vehicles, from Hebronville, Mass., to points in Connecticut, Maryland, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island.

HEARING: March 19, 1962, at the Bond Hotel, Hartford, Conn., before Examiner William A. Royall.

No. MC 36313 (Sub-No. 2), filed January 18, 1962. Applicant: CHARLES A. MASTRONARDI, INC., 166 Montague Street, Brooklyn, N.Y. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City 6, N.J. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated cartons*, from Gloucester, N.J., to Seaford, Del.

NOTE: (1) Applicant states the proposed operation will be under continuing contract with Hinde and Auch Division of West Virginia Pulp and Paper Company. (2) Applicant's president is also president of Essex Warehouse Company, MC 76062, a common carrier; dual operations, or common control, may be involved.

HEARING: March 12, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Raymond V. Sar.

No. MC 38400 (Sub-No. 1), filed October 2, 1961. Applicant: HITCHCOCK BROS., INCORPORATED, High Street, Canaan, Conn. Applicant's representative: William L. Mobley, Rooms 311–315, 1694 Main Street, Springfield 3, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oils Nos. 1 and 2*, in bulk, from New Haven, Conn., to Sheffield, Mass.

HEARING: March 13, 1962, at the Bond Hotel, Hartford, Conn., before Joint Board No. 22, or, if the Joint Board waives its right to participate, before Examiner William A. Royall.

No. MC 52110 (Sub-No. 73), filed January 22, 1962. Applicant: BRADY MOTORFRATE, INC., 1223 Sixth Avenue, Des Moines, Iowa. Applicant's attorney: Homer E. Bradshaw, Suite 510 Central National Building, Des Moines 9, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Mashall, Macon, Milan, Carrollton, and Moberly, Mo., to points in Indiana, Ohio, and the lower peninsula of Michigan.

HEARING: March 19, 1962, at the U.S. Court House and Custom House, 1114 Market Street, St. Louis, Mo., before Examiner Garland E. Taylor.

No. MC 52458 (Sub-No. 163), filed December 26, 1961. Applicant: T. I. McCORMACK TRUCKING COMPANY, INC., U.S. Route 9, Woodbridge, N.J. Applicant's attorney: Chester A. Zyblut, 1700 K Street NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Fords, N.J., to points in Illinois, Wisconsin, Michigan, Missouri, Indiana, Kentucky, Tennessee, Virginia, and West Virginia, and *rejected shipments* of the above-specified commodities, on return.

HEARING: March 14, 1962, at 346 Broadway, New York, N.Y., before Examiner Alvin H. Schutrumpf.

No. MC 52657 (Sub-No. 621), filed January 22, 1962. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago 20, Ill. Applicant's attorney: G. W. Stephens, 121 West Doty Street, Madison, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Motor vehicles*, in initial driveaway and truckaway service, from points in Schuylkill County, Pa., to points in the United States, including Alaska, but excluding Hawaii; and (B) *Return of motor vehicles*, from points in the United States, including Alaska, but excluding Hawaii, to points in Schuylkill County, Pa.

NOTE: Applicant states the return shipments are restricted to motor vehicles that were manufactured or assembled at Schuylkill County, Pa., and returned because of rejection, damage, repairs, conversion or further research development.

HEARING: March 14, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Bernard J. Hasson, Jr.

No. MC 52709, Sub-No. 144), filed November 13, 1961. Applicant: RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver 5, Colo. Applicant's attorney: Donald L. Stern, 924 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from Milan, Macon, Marshall, Moberly, and Carrollton, Mo., to points in Arizona, California, Oregon, Washington, Nevada, Utah, Idaho, Montana, New Mexico, Colorado, and Wyoming.

NOTE: Applicant states that it controls United Freight, Inc. (Docket FF 155), and Inter State Express, Inc. (Docket FF 102), both of which are wholly owned by applicant.

HEARING: March 21, 1962, at the U.S. Court House and Custom House, 1114 Market Street, St. Louis, Mo., before Examiner Garland E. Taylor.

No. MC 52709 (Sub-No. 149), filed November 22, 1961. Applicant: RINGSBY TRUCK LINES, INC., a Nebraska corporation, 3201 Ringsby Court, Denver 5, Colo. Applicant's representative: Eugene St. M. Hamilton, 3201 Ringsby Court, Denver 5, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Helium*, in Government and shipper-owned trailers, from Navajo, Ariz., and points within ten (10) miles thereof, to points in Nevada, Idaho, California, Oregon, Washington, New Mexico, Texas, Utah, and Colorado.

NOTE: Applicant states that it "controls United Freight, Inc. (Docket FF 155), and Inter State Express, Inc. (Docket FF 102), both of which are wholly-owned by applicant; Arizona Pacific Tank Lines (MC–109584); Fortier Transportation Company under Temporary Management (MC–108398); and Colonial & Pacific Frigidways, Inc. (MC–111138), Temporary."

HEARING: March 27, 1962, at the Federal Building, Los Angeles, Calif., before Examiner Charles B. Heinemann.

No. MC 52776 (Sub-No. 6), filed January 5, 1962. Applicant: E. V. FITCH, JR., doing business as FITCH MOTOR LINES, 1510 Gardner Avenue, Scranton, Pa. Applicant's attorney: D. H. Jenkins, Suite 309, Mears Building, Scranton 3, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Lackawanna, Luzerne and Schuylkill Counties, Pa., to points in New York on and north of New York Highway 12 running from Lake Ontario to the junction with New York Highway 8, thence over New York Highway 8 to junction with U.S. Highway 9, (except New York City), and to points in Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine.

HEARING: March 20, 1962, at the New Post Office and Court House Building, Boston, Mass., before Examiner Alvin H. Schutrumpf.

No. MC 52721 (Sub-No. 8), filed October 2, 1961. Applicant: HOPPER TRUCK LINES, a corporation, 3220 West McDowell Road, Phoenix Ariz. 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 by the Commission, and those injurious to other lading), between Tucson, Ariz., on the one hand, and, on the other, missile sites, located in Pinal, Cochise, Pima, and Santa Cruz Counties, Ariz.

HEARING: March 22, 1962, at the Arizona Corporation Commission, Phoenix, Ariz., before Joint Board No. 240, or, if the Joint Board waives its right to participate, before Examiner Charles B. Heinemann.

No. MC 52869 (Sub-No. 65), filed December 18, 1961. Applicant: NORTHERN TANK LINE, 511 Pleasant Street, Miles City, Mont. Applicant's attorney: Robert N. Burchmore, 2106 Field Building, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transport-

ing: *Petroleum products,* in bulk, in tank vehicles, from points in Richmond and Roosevelt Counties, Mont., to points in North Dakota, and *contaminated and refused products,* on return.

HEARING: March 15, 1962, at the Yellowstone County Court House, Billings, Mont., before Joint Board No. 84, or, if the Joint Board waives its right to participate, before Examiner Richard White.

No. MC 59014 (Sub-No. 25) Filed November 22, 1961. Applicant: TALLANT TRANSFER, INC., 1341 2d Avenue, Hickory, N.C., Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street, NW., Washington 4, D.C. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *New furniture,* crated and uncrated, from Tupelo, Okolona and New Albany, Miss., to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia.

HEARING: March 15, 1962, at the U.S. Court Rooms, Charlotte, N.C., before Examiner Lacy W. Hinely.

No. MC 59014 (Sub-No. 27), filed January 5, 1962. Applicant: TALLANT TRANSFER, INC., 1341 2d Avenue SW., Hickory, N.C., Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street, NW., Washington 4, D.C. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sugar* (other than liquid), in bags, barrels, and boxes, from Houma, Matthews, and Supreme, La., to points in North Carolina and South Carolina.

HEARING: March 16, 1962, at the U.S. Court Rooms, Charlotte, N.C., before Examiner Lacy W. Hinely.

No. MC 59759 (Sub-No. 20), filed December 7, 1961. Applicant: JONES TRUCKING CO., a corporation, 500 West Edgar Road, Linden, N.J. Applicant's representative: Bert Collins, 140 Cedar Street, New York 6, N.Y. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses,* and in connection therewith, *equipment, materials* and *supplies* used in the conduct of such business, between Linden, N.J., on the one hand, and, on the other, points in Barnstable, Bristol, Plymouth, and Suffolk Counties, Mass. RESTRICTION: The proposed operation is to be under contract or contracts with Food Fair Stores, Inc.

HEARING: March 15, 1962, at 346 Broadway, New York, N.Y., before Examiner Alvin H. Schutrumpf.

No. MC 60580 (Sub-No. 25), filed November 27, 1961. Applicant: HIGHWAY EXPRESS LINES, INC., 236 North 23d Street, Philadelphia 3, Pa. Applicant's attorneys: V. Baker Smith, Harold S. Shertz, 226 South 16th Street, Philadelphia 9, Pa. 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 in bulk, commodities requiring special equipment, magazines and newspapers, and films and articles associated with the exhibition of motion pictures as described in the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 766), from the plant site of John Lucas Co., Inc., at Gibbsboro, N.J., to East Butler, Pa., and *rejected shipments of the above specified commodities* on return.

NOTE: Applicant states that it is authorized to control Clark Transfer, Inc., through ownership of all of its capital stock (MC-F-6466).

HEARING: March 16, 1962, in Room 300, U.S. Custom Building, Second and Chestnut Streets, Philadelphia, Pa., before Examiner Parks M. Low.

No. MC 61264 (Sub-No. 11), filed November 27, 1961. Applicant: PILOT FREIGHT CARRIERS, INC., P.O. Box 615, Winston-Salem, N.C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D.C. 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 by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in North Carolina and points in South Carolina, (2) between points in North Carolina and South Carolina, on the one hand, and, on the other, points in Virginia, and points in that part of Georgia, on and north of U.S. Highway 80, and (3) from Richmond, Va., to points in Georgia on and north of U.S. Highway 80.

NOTE: The applicant states that it is presently authorized to serve all points involved and the sole purpose of this application is to eliminate gateways between certain of the points.

HEARING: March 13, 1962, at the U.S. Court Rooms, Charlotte, N.C., before Examiner Lacy W. Hinely.

No. MC 65271 (Sub-No. 4), filed December 29, 1961. Applicant: LOUIS MAX CO., INC., 192 Water Street, Brooklyn, N.Y. Applicant's attorney: A. David Millner, 1060 Broad Street, Newark 2, N.J. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *New and used pianos, electrical home appliances,* including *radios, televisions, high fidelity sets, refrigerators, washers, freezers* and *driers,* and *home kitchen and home heating equipment* from New York, N.Y., to points in New Jersey and Connecticut and points in Bucks, Philadelphia, Delaware, and Montgomery Counties, Pa.; and *defective and damaged shipments* of the above-described commodities, on return.

HEARING: March 16, 1962, at 346 Broadway, New York, N.Y., before Examiner Alvin H. Schutrumpf.

No. MC 66756 (Sub-No. 8), filed October 16, 1961. Applicant: E. A. MYERS, doing business as NABBS SERVICE, Sabetha, Kans. Applicant's attorney: J. Max Harding, IBM Building, 605 12th Street (P.O. Box 2041), Lincoln 8, Nebr. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages,* from Bellville, Ill., to points in Kansas and Oklahoma, and *empty containers or other such incidental facilities,* used in transporting the above-described commodities, on return.

HEARING: March 26, 1962, at the Hotel Sheraton Fontenelle, Omaha, Nebr., before Examiner Armin G. Clement.

No. MC 70451 (Sub-No. 235), filed December 1, 1961. Applicant: WATSON BROS. TRANSPORTATION CO., INC., 1910 Harney Street, Omaha, Nebr. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* from Marshall, Macon, Moberly, and Carrollton, Mo., to points in Iowa, Minnesota, Nebraska, Kansas, Colorado, New Mexico, Arizona, and California.

HEARING: March 21, 1962, at the U.S. Court House and Custom House, 1114 Market Street, St. Louis, Mo., before Examiner Garland E. Taylor.

No. MC 71234 (Sub-No. 8), filed October 23, 1961. Applicant: THE GORE FREIGHT LINE, INCORPORATED, 641 Connecticut Avenue, South Norwalk, Conn. Applicant's representative: William D. Traub, 350 Fifth Avenue, New York 1, N.Y. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are dealt in or sold by retail mail order houses,* from Norwalk, Conn., and Springfield, Mass., to points in Connecticut; and (2) *Returned and repossessed shipments* of the same commodities, from points in Connecticut to Norwalk, Conn., and Springfield, Mass.

NOTE: Applicant states it is under common ownership with Riter's Transfer Co., Inc., a common carrier operating under Certificate No. MC-27845.

HEARING: March 13, 1962, at the Bond Hotel, Hartford, Conn., before Joint Board No. 22, or, if the Joint Board waives its right to participate, before Examiner William A. Royall.

No. MC 95540 (Sub-No. 386) (CORRECTION), filed November 8, 1961, published in FEDERAL REGISTER issue January 24, 1962, republished as corrected this issue. Applicant: WATKINS MOTOR LINES, INC., Albany Highway, Thomasville, Ga. Applicant's attorney: Joseph H. Blackshear, Gainesville, Ga. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods* from Charleston, S.C., and Savannah, Ga., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin.

NOTE: The purpose of this republication is to includue as destination states Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, and Nebraska, inadvertently omitted from original publication.

HEARING: Remains as assigned, February 27, 1962, at the Midland Hotel, Chicago, Ill., before Examiner Hugh M. Nicholson.

No. MC 95540 (Sub-No. 392), filed December 26, 1961. Applicant: WATKINS

MOTOR LINES, INC., Albany Highway, Thomasville, Ga. Applicant's attorney: Joseph H. Blackshear, Gainesville, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products, articles distributed by meat packinghouses*, and *frozen foods*, between Greeley, Denver, and Pueblo, Colo., on the one hand, and, on the other, points in New Mexico, Arizona, Nevada, and California.

NOTE: Common Control may be involved.

HEARING: March 13, 1962, at the Albany Hotel, Denver, Colo., before Examiner Charles B. Heinemann.

No. MC 95612 (Sub-No. 5), filed January 17, 1962. Applicant: M. W. LEAHY CO., INC., 10 White Street, Littleton, Mass. Applicant's attorney: Stanley J. Polak, 111 State Street, Boston 9, Mass. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prestressed and precast concrete products*, from Littleton, Mass., to points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, and New York.

NOTE: Applicant states the proposed operation will be performed under a continuing contract with San-Vel Concrete Corp. of Littleton, Mass.

HEARING: March 20, 1962, at the New Post Office and Court House Building, Boston, Mass., before Examiner Alvin H. Schutrumpf.

No. MC 100666 (Sub-No. 41), filed December 18, 1961. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7295, Shreveport, La. Applicant's attorney: Max G. Morgan, 443–54 American National Building, Oklahoma City 2, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition building materials* (made from wood fibers with adhesive binder), including *accessories principally clips and nails* of not to exceed 2 percent by weight from Arkadelphia, Ark., to points in Louisiana, Texas, Missouri, Oklahoma, Kansas, and Memphis, Tenn.

HEARING: March 27, 1962, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Laurence E. Masoner.

No. MC 100666 (Sub-No. 42), filed December 26, 1961. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7295, Shreveport, La. Applicant's attorney: Max G. Morgan, 443–54 American National Building, Oklahoma City 2, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition boards and sheets made from grinding wood and wood fiber with added adhesive binders including preservative*, from Crossett, Ark., to points in Louisiana, Oklahoma, Texas, Alabama, Georgia, Kentucky, Missouri, Mississippi, Tennessee, Florida, North Carolina, South Carolina, Colorado, Iowa, Kansas, Nebraska, Michigan, New Mexico, Minnesota, Wisconsin, Illinois, Indiana, and Ohio.

HEARING: March 26, 1962, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Laurence E. Masoner.

No. MC 103880 (Sub-No. 238), filed November 22, 1961. Applicant: PRODUCERS TRANSPORT, INC., 224 Buffalo Street, New Buffalo, Mich. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tall oil*, in bulk, in tank vehicles, from Savannah, Ga., to Chicago, Ill.

HEARING: March 22, 1962, at the Midland Hotel, Chicago, Ill., before Examiner Reece Harrison.

No. MC 104683 (Sub-No. 28), filed January 4, 1962. Applicant: L. L. MAJURE TRANSPORT CO., a corporation, 1301 B Street, Meridian, Miss. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, from points in Jackson County, Miss., to points in Alabama and Florida on and west of U.S. Highway 231, and points in Louisiana on and east of U.S. Highway 61.

HEARING: March 20, 1962, at the Robert E. Lee Hotel, Jackson, Miss., before Examiner Lawrence A. Van Dyke, Jr.

No. MC 105302 (Sub-No. 16), filed December 14, 1961. Applicant: CLESS G. DAVIS, doing business as QUEEN CITY TRANSPORT, 179 St. Paul Street, Burlington, Vt. Applicant's attorney: Albert F. Beasley, Investment Building, 15th and K Streets NW., Washington 5, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar, coal tar products, oil gas tar and water gas tar*, in bulk, in tank vehicles, between Portland, Maine, and points in Vermont.

HEARING: March 28, 1962, at the Washington County Court House, Montpelier, Vt., before Joint Board No. 133, or, if the Joint Board waives its right to participate, before Examiner Alvin H. Schutrumpf.

No. MC 105556 (Sub-No. 40), filed November 9, 1961. Applicant: HOUCK TRANSPORT COMPANY, a corporation, Box 559, Glendive, Mont. Applicant's attorney: Franklin S. Longan, Suite 319 Securities Building, Billings, Mont. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from points in Richland and Roosevelt Counties, Mont., to points in North Dakota, and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application, on return.

HEARING: March 15, 1962, at the Yellowstone County Court House, Billings, Mont., before Joint Board No. 84, or, if the Joint Board waives its right to participate, before Examiner Richard White.

No. MC 105813 (Sub-No. 53), filed November 17, 1961. Applicant: BELFORD TRUCKING CO., INC., 1299 Northwest 23d Street, Miami 42, Fla. Applicant's attorney: Sol H. Proctor, 1730 Lynch Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products and meat by-products, dairy products* and *articles distributed by meat packinghouses*, as defined by the Commission in Appendix I to Ex Parte MC–45, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Fergus Falls, Minn., and Denver, Colo., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and (2), (a) *meats, meat products and meat by-products, dairy products* and *articles distributed by meat packinghouses*, as defined by the Commission in Appendix I to Ex Parte MC–45, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and (b) *canned goods, fresh fruit and vegetables, frozen foods* and *chilled juice*, from points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, to Denver, Colo., Champaign and Chicago, Ill., Indianapolis, Ind., Davenport, Iowa, New Orleans, La., Detroit, Mich., Hopkins, Minn., St. Louis, Mo., Memphis, Tenn., and Milwaukee, Wis.

NOTE: Applicant states that no duplication of authority is sought. In view of Docket MC–F–7806, common control may be involved.

HEARING: March 15, 1962, at the Midland Hotel, Chicago, Ill., before Examiner Armin G. Clement.

No. MC 105813 (Sub-No. 58), filed January 29, 1962. Applicant: BELFORD TRUCKING CO., INC., 1299 Northwest 23d Street, Miami, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy and confectionery and ingredients thereof, chocolate, cocoa, coating, syrup*, and (2) *advertising, promotional and display materials, and premiums;* from points in Berks County, Pa., to points in Florida.

HEARING: February 12, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Gordon M. Callow.

No. MC 106236 (Sub-No. 13), filed December 29, 1961. Applicant: BLUE RIDGE TRANSPORTATION COMPANY, INC., 5120 Rutledge Pike, Knoxville, Tenn. Applicant's attorney: James C. Havron, Nashville Bank and Trust Building, Nashville, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Knoxville and Warcer (Knox County), Tenn., to points in North Carolina within an area bounded as follows: beginning at the intersection of the North Carolina-Tennessee State line and U.S. Highways 25 and 70, thence on U.S. Highways 25 and 70 to Asheville, thence on U.S. Highway 19 to the junction of North Carolina Highway 284, thence on North Carolina Highway 284 to the junction of the Tennessee-North Carolina State line, serving all points located on the highways specified above, and *empty containers or other such incidental facilities* (not specified) used in transporting

the above-specified commodities and *rejected shipments*, on return.

HEARING: March 14, 1962, at the Dinkler-Andrew Jackson Hotel, Nashville, Tenn., before Joint Board No. 8, or, if the Joint Board waives its right to participate, before Examiner Laurence E. Masoner.

No. MC 106398 (Sub-No. 191), filed November 20, 1961. Applicant: NATIONAL TRAILER CONVOY, INC., 1916 North Sheridan Road, Tulsa, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (including but not limited to utility trailers, camp trailers, mobile homes, and commercial or other adaptations of the foregoing), in initial movements, by truckaway service, from points in Pennsylvania (except Camp Hill, Chambersburg, Clarion, Clearfield, Irwin, Mansfield, Meadville, Montoursville, State College, and West Pittston), to points in the United States, including Alaska, but excluding Hawaii.

HEARING: March 14, 1962, in Room 300, U.S. Custom Building, Second and Chestnut Streets, Philadelphia, Pa., before Examiner Parks M. Low.

No. MC 106644 (Sub-No. 42), filed January 24, 1962. Applicant: SUPERIOR TRUCKING COMPANY, INC., 520 Bedford Place NE., Atlanta, Ga. Applicant's attorney: Reuben G. Crimm, Suite 693, 1375 Peachtree Street NE., Atlanta 9, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cotton gin machinery and cotton gin machinery parts*, from Prattville, Ala., and Columbus, Ga., to points in Arizona, California and New Mexico.

NOTE: Applicant states separate movement of parts contemplated as well as movement in the same vehicle with cotton gin machinery.

HEARING: February 26, 1962, at the Hotel Thomas Jefferson, Birmingham, Ala., before Examiner J. Thomas Schneider.

No. MC 107002 (Sub-No. 168), filed January 15, 1962. Applicant: W. M. CHAMBERS TRUCK LINE, INC., P.O. Box 547, Kenner, La. Applicant's attorney: Harold D. Miller, Jr., 700 Petroleum Building, Jackson, Miss. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Arkansas, Missouri, Illinois, Indiana, and Kentucky.

HEARING: March 13, 1962, at the Claridge Hotel, Memphis, Tenn., before Examiner Lawrence A. Van Dyke, Jr.

No. MC 107012 (Sub-No. 39) (AMENDMENT), filed November 13, 1961, published FEDERAL REGISTER issue January 24, 1962, amended January 23, 1962, republished as amended this issue. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. Applicant's representative: Charles H. Trayford, Room 3001, 220 East 42d Street, New York 17, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pianos and piano benches* (uncrated) from New York, N.Y., and points in Monroe County, N.Y., to points in Alabama, Alaska, Connecticut, Delaware, Florida, Georgia, Hawaii, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, and *rejected and returned pianos*, on return. Common control may be involved.

NOTE: The purpose of this republication is to change the origin point to "Monroe County", in lieu of "Warren County" as shown in previous publication.

HEARING: Remains as assigned March 9, 1962, at 346 Broadway, New York, N.Y., before Examiner Abraham J. Essrick.

No. MC 107107 (Sub-No. 190), filed November 27, 1961. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 65, Allapattah Station, Miami 42, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from points in Louisiana and Mississippi to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, North Dakota, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Vermont, West Virginia, Wisconsin, and the District of Columbia.

HEARING: March 21, 1962, at the Federal Office Building, 600 South Street, New Orleans, La., before Examiner Laurence A. Van Dyke, Jr.

No. MC 107151 (Sub-No. 19), filed December 26, 1961. Applicant: H. F. JOHNSON, INC., P.O. Box 1403, 1524 Lockwood Road, Billings, Mont. Applicant's attorney: Hugh Sweeney, Billings State Bank Building, Billings, Mont. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk in tank vehicles, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Wolf Point, Mont., and points within ten (10) miles thereof, to points in North Dakota, and *contaminated and other rejected shipments* from points of destination to points of origin.

HEARING: March 15, 1962, at the Yellowstone County Court House, Billings, Mont., before Joint Board No. 84, or, if the Joint Board waives its right to participate, before Examiner Richard White.

No. MC 107403 (Sub-No. 373), filed January 11, 1962. 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: *Dry chemicals*, in bulk, in special tank or hopper type vehicles, from Norristown, Pa., to points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia.

NOTE: Applicant states it "controls READER BROTHERS, INC., and EDWIN E. CLARK dba CLARKE BULK TRANSFER". It is further noted that applicant has contract carrier authority under MC 117637 and Subs 2 through 9 thereunder, therefore, dual operations may be involved.

HEARING: March 14, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Alfred B. Hurley.

No. MC 107403 (Sub-No. 374), filed January 11, 1962. 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: *Chemicals*, in bulk, in tank vehicles, from the site of the B. F. Goodrich Plant, 13 miles east of Fort Wayne, in Milan Township, Allen County, Ind., to points in Illinois, Michigan, Ohio, Wisconsin, and West Virginia.

NOTE: Applicant is authorized to control Reader Brothers, Inc., and Clarke Bulk Transfer. Under Permit No. MC 117637 applicant is authorized as a contract carrier; therefore dual operations may be involved.

HEARING: March 13, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Samuel Horwich.

No. MC 107500 (Sub-No. 62), filed November 13, 1961. Applicant: BURLINGTON TRUCK LINES, INC., 796 South Pearl Street, Galesburg, Ill. Applicant's attorney: R. J. Schreiber, 547 West Jackson Boulevard, Chicago 6, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Fly ash*, in bulk and also in bags, and *empty containers or other such incidental facilities* (not specified), used in transporting the commodity specified, serving the site of Yellowtail Dam, Mont., as an off-route point in connection with applicant's regular-route operations.

NOTE: Applicant states The Chicago, Burlington & Quincy Railroad Company owns and holds all of its capital stock.

HEARING: March 13, 1962, at the Yellowstone County Court House, Billings, Mont., before Joint Board No. 82, or, if the Joint Board waives its right to participate, before Examiner Richard White.

No. MC 108053 (Sub-No. 30), filed December 15, 1961. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 310, Fremont, Nebr. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Marshall, Macon, Moberly, and Carrollton, Mo., to points in Nebraska, Kansas, Colorado, New Mexico, Arizona, Utah, Wyoming, Montana, Idaho, Nevada, California, Oregon, and Washington.

HEARING: March 21, 1962, at the U.S. Court House and Custom House, 1114 Market Street, St. Louis, Mo., before Examiner Garland E. Taylor.

No. MC 109584 (Sub-No. 99), filed November 21, 1961. Applicant: ARIZONA PACIFIC TANK LINES, a corporation, 717 North 21st Avenue, Phoenix, Ariz.

Applicant's attorney: Arthur H. Glanz, 639 South Spring Street, Los Angeles 14, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat fats, edible and inedible*, in bulk, in tank vehicles, from points in Idaho to points in Stanislaus, Merced, Fresno, Tulare, and Kern Counties, Calif.; and (2) *Returned, rejected, and contaminated shipments* of the above-specified commodity, from points in Stanislaus, Merced, Fresno, Tulare, and Kern Counties, Calif., to points in Idaho.

NOTE: Applicant states it is a wholly owned subsidiary of Ringsby Truck Lines, Inc., MC 52709.

HEARING: March 26, 1962, at the Federal Building, Los Angeles, Calif., before Examiner Charles B. Heinemann.

No. MC 109637 (Sub-No. 192), filed November 30, 1961. Applicant: SOUTHERN TANK LINES, INC., 4107 Bells Lane, Louisville 11, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acetylene Chemicals*, liquid, in bulk, in tank vehicles, from the plant site of Air Reduction Chemical & Carbide Company at Calvert City, Ky., to Nutley and Bound Brook, N.J.

NOTE: Applicant states that it is "under common control with Alabama Tank Lines, Inc., Louisville, Ky., J. F. Beaird, Stockholder and Director of Applicant is also President, Stockholder and Director of Alabama Tank Lines, Inc., J. A. Gammon, Stockholder, President, and Director of Applicant, is also Executive Vice-President and Director of Alabama Tank Lines, Inc." (MC-F-6282).

HEARING: March 12, 1962, at 346 Broadway, New York, N.Y., before Examiner Alvin H. Schutrumpf.

No. MC 110193 (Sub-No. 43), filed January 18, 1962. Applicant: SAFEWAY TRUCK LINES, INC., 4625 West 55th Street, Chicago, Ill. Applicant's attorney: Howell Ellis, Suite 1210–12 Fidelity Building, 111 Monument Circle, Indianapolis 4, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Marshall, Macon, Milan, Carrollton, and Moberly, Mo., to points in New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Pennsylvania, Maryland, Delaware, and Ohio, and Washington, D.C.

HEARING: March 19, 1962, at the U.S. Court House and Custom House, 1114 Market Street, St. Louis, Mo., before Examiner Garland E. Taylor.

No. MC 110193 (Sub-No. 44), filed January 24, 1962. Applicant: SAFEWAY TRUCK LINES, INC., 4625 West 55th Street, Chicago, Ill. Applicant's attorney: Howell Ellis, Suite 1210–12 Fidelity Building, 111 Monument Circle, Indianapolis 4, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products*, and *frozen foods*, from Chester and Scranton, Pa., Wilmington, Del., and Baltimore, Md. to points in Kansas, Nebraska, Illinois, Iowa, Missouri, Indiana, Ohio and Minnesota.

HEARING: February 8, 1962 ,at the Midland Hotel, Chicago, Ill., before Examiner Joseph A. Reilly.

No. MC 110420 (Sub-No. 301) (CORRECTION), filed November 8, 1961, published in FEDERAL REGISTER, issue of January 17, 1962, and republished as corrected, this issue. Applicant: QUALITY CARRIERS, INC., Calumet Street, Burlington, Wis. Applicant's attorney: Paul F. Sullivan, 1821 Jefferson Place NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chocolate*, in bulk, in tank vehicles, from Mt. Joy, Pa., to points in Ohio, Michigan, Indiana, Illinois, and Wisconsin; (2) *table sauce*, in bulk, in tank vehicles, from Harbor Beach, Mich., to points in Ohio, Indiana, Illinois, Wisconsin, Iowa, Minnesota, Missouri, Kentucky, and Pennsylvania; (3) *liquid sugar*, in bulk, in tank vehicles, from Clinton, Iowa, to points in Wisconsin, Indiana, Nebraska, Minnesota, Michigan, Missouri, Illinois, Ohio, Arkansas, Kentucky, North Dakota, South Dakota, and Tennessee; (4) *grain neutral spirits*, in bulk, in tank vehicles, from Pekin, Ill., to Detroit, Mich.; and (5) *cocoa butter*, in bulk, in tank vehicles, from Milwaukee, Wis., to points in Pennsylvania, New York, New Jersey, Ohio, and Indiana.

NOTE: This republication corrects the errors regarding the operations proposed in Items (4) and (5), which, in the original publication designated the wrong routes in Item (4) and inadvertently omitted Item (5).

HEARING: February 28, 1962, at the Midland Hotel, Chicago, Ill., before Examiner Hugh M. Nicholson.

No. MC 111159 (Sub-No. 140), filed January 8, 1962. Applicant: MILLER TRANSPORTERS, LTD., P.O. Box 1123, Jackson, Miss. Applicant's attorney: Harold D. Miller, Jr., Suite 700 Petroleum Building, P.O. Box 141, Jackson, Miss. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids and chemicals*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Alabama, Georgia, Florida, Illinois, Indiana, Kentucky, Louisiana, Arkansas, Missouri, Ohio, Oklahoma, Mississippi, Virginia, West Virginia, North Carolina, South Carolina, and Texas.

HEARING: March 12, 1962, at the Claridge Hotel, Memphis, Tenn., before Examiner Lawrence A. Van Dyke, Jr.

No. MC 111545 (Sub-No. 49), filed January 18, 1962. Applicant: HOME TRANSPORTATION COMPANY, INC., 334 South Four Lane Highway, Route 3, Marietta, Ga. Applicant's attorney: Paul M. Daniell, Suite 214–217 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling and freezing machinery or equipment; materials, equipment and supplies used in and incidental to the installation of such cooling and freezing machinery or equipment*, from La Crosse, Wis., to points in Ohio, Pennsylvania, New York, New Jersey, West Virginia, Maryland, Delaware, Rhode Island, Connecticut, Massachusetts, Virginia, Kentucky, and New Hampshire.

HEARING: March 13, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Donald R. Sutherland.

No. MC 111812 (Sub-No. 139), filed November 6, 1961. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 747, Wilson Terminal Building, Sioux City, S. Dak. Applicant's attorney: Donald L. Stern, 924 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Meat, packinghouse products, and commodities used by packing-houses*, as defined in Appendix I of Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Omaha, Nebr., to points in Idaho, and Salt Lake City, Utah.

NOTE: Applicant states "Mrs. Jane A. Lewis, wife of applicant's president, holds 50 percent interest in Dakota Express, Inc.

HEARING: March 28, 1962, at the Hotel Sheraton Fontenelle, Omaha, Nebr., before Examiner Armin G. Clement.

No. MC 111851 (Sub-No. 4), filed December 7, 1961. Applicant: CHARLES H. McCREARY, INC., 605 Garfield Avenue, Newark, Ohio. Applicant's representative: Earl J. Thomas, Thomas Building, 5844–5850 North High Street, Worthington, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium chloride*, in bulk, in dump trucks and in vehicles especially designed and manufactured for the transportation of dry bulk, from Barberton, Ohio, to points in Maryland.

HEARING: March 12, 1962, at the New Post Office Building, Columbus, Ohio, before Examiner Charles J. Murphy.

No. MC 112497 (Sub-No. 181), filed December 1, 1961. Applicant: HEARIN TANK LINES, INC., 6440 Rawlins Street, Baton Rouge, La. Applicant's attorney: Harry C. Ames, Jr., Transportation Building, Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid (molten) sulphur*, in bulk, in tank vehicles, from McKamie, Ark., to West Monroe, La.

HEARING: March 29, 1962, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Joint Board No. 35, or, if the Joint Board waives its right to participate, before Examiner Laurence E. Masoner.

No. MC 112561 (Sub-No. 5), filed December 13, 1961. Applicant: B. & C. TRANSPORTATION, INC., 1214 Linwood Street SW., Canton, Ohio. Applicant's attorney: Richard H. Brandon, 808 Hartman Building, Columbus 15, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic* and *plastic articles* from points in Stark County, Ohio, to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to shipments transported in semi-trailers furnished by shippers; and (2) *materials, equipment* and *supplies*, used in the manufacture and shipping of plastic and

plastic articles, from the stated destination points to points in Stark County, Ohio, restricted as set forth above.

HEARING: March 15, 1962, at the New Post Office Building, Columbus, Ohio, before Examiner Charles J. Murphy.

No. MC 112750 (Sub-No. 79), filed November 6, 1961. Applicant: ARMORED CARRIER CORPORATION, 227-17 Northern Boulevard, Bayside, N.Y. Applicant's attorney: John P. McMahon, 44 East Broad Street, Columbus 15, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commercial papers, documents*, and *written instruments* (except coin, currency and negotiable securities) *as are used in the conduct of banks and banking institutions*, between Cleveland, Ohio, on the one hand, and, on the other, Detroit, Mich., (2) *Commercial papers, documents* and *written instruments* (except coin, currency and negotiable securities) *as are used in the conduct of banks and banking institutions*, between Cleveland, Ohio, on the one hand, and, on the other, Buffalo, N.Y., (3) *used business and accounting records and other working papers and audit media which are being used, processed, or tabulated in the normal course of business of the consignor or consignee*, between Cleveland, Ohio, on the one hand, and, on the other, Detroit, Mich., and (4) *used business and accounting records and other working papers and audit media which are being used, processed, or tabulated in the normal course of business of the consignor or consignee*, between Cleveland, Ohio, on the one hand, and, on the other, Pittsburgh, Pa.

HEARING: March 13, 1962, at the New Post Office Building, Columbus, Ohio, before Examiner Charles J. Murphy.

No. MC 112750 (Sub-No. 83), filed November 14, 1961. Applicant: ARMORED CARRIER CORPORATION, DeBevoise Building, 222-17 Northern Boulevard, Bayside, N.Y. Applicant's attorney: James K. Knudson, 1821 Jefferson Place NW., Washington 6, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents* and *written instruments* (except coin, currency, bullion and negotiable securities) *as are used in the conduct of the business of banks and banking institutions*, (1) between Chicago, Ill., and Minneapolis, Minn., on the one hand, and, on the other, points in Adams, Clark, Columbia, Crawford, Dodge, Grant, Green, Green Lake, Iowa, Jackson, Juneau, Jefferson, Kenosha, Lafayette, Lincoln, Marathon, Marquette, Monroe, Oconto, Portage, Richland, Sauk, Shawano, Vernon, Walworth, Waupaca, Waushara, and Wood Counties, Wis., (2) between St. Louis, Mo., on the one hand, and, on the other, points in Iowa and (3) between Minneapolis, Minn., on the one hand, and, on the other, points in Milwaukee and Dane Counties, Wis.

HEARING: March 12, 1962, at the Midland Hotel, Chicago, Ill., before Examiner Armin G. Clement.

No. MC 113267 (Sub-No. 46), filed December 11, 1961. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, Ill. Applicant's representative: Fred H. Figge 312 West Morris Street, Caseyville, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products, articles distributed by meat packinghouses, such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers*, and *foodstuffs*, moving in mechanically refrigerated vehicles, between points in Mississippi, restricted to traffic originating outside of Mississippi.

NOTE: Applicant states that its officers are officers and stockholders in Industrial Bus Lines, Inc. (MC-114168), Vandalia Bus Lines, Inc. (MC-2698), and that Oliver and Kathryn Anderson are officers and stockholders in Caseyville Bus Lines, Inc. (MC-110845).

HEARING: March 16, 1962, at the Robert E. Lee Hotel, Jackson, Miss., before Joint Board No. 97, or, if the Joint Board waives its right to participate, before Examiner Lawrence A. Van Dyke, Jr.

No. MC 113658 (Sub-No. 3), filed December 11, 1961. Applicant: SCOTT TRUCK LINE, INC., 1337 34th Street, Denver, Colo. Applicant's attorney: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver 3, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular and regular routes, transporting: *Advertising matter and such general merchandise as is dealt in by wholesale and retail grocery and food business houses, REGULAR ROUTES:* between Denver, Colo., and Chicago, Ill., and Imperial, Nebr., (1) from Denver, over U.S. Highway 6 to Sterling, Colo., thence over U.S. Highway 138 to junction U.S. Highway 30, thence over U.S. Highway to Aurora, Ill., thence over Illinois Highway 65 to junction U.S. Highway 34, thence over U.S. Highway 34 to Chicago, and return over the same route serving the intermediate and off-route points of Haxtun, Colo., and Lamar, Elsie, Madrid, Grant, Venango, and Champion, Nebr., (2) from Denver, over U.S. Highway 6 to Sterling, thence over U.S. Highway 6 to Imperial, and return over the same route. *IRREGULAR ROUTES: Meats, fresh and frozen*, from the site of the packing plant of National Food Stores, Inc., and Lansing and Detroit, Mich. RESTRICTION: The separate authorities contained herein shall not be tacked or joined, directly or indirectly, one to another, for the purpose of performing any through service.

NOTE: Applicant holds authority to conduct the above-described operations under Certificate No. MC 113658 (Sub-No. 2) dated June 21, 1960, containing the commodity description reading as follows: "Advertising matter and such general merchandise as is dealt in by wholesale and retail grocery and food business houses, restricted to shipments moving from, to, or between warehouses, and wholesale, retail, or chain outlets of grocery and food business houses". Applicant states it is the purpose of this application to remove the restriction in the commodity authorization.

HEARING: March 15, 1962, at the Albany Hotel, Denver, Colo., before Examiner Charles B. Heinemann.

No. MC 113678 (Sub-No. 14), filed January 2, 1962. Applicant: CURTIS, INC., 770 East 51st Street, Denver 16, Colo. Applicant's attorney: Duane W. Acklie, Box 2041, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Seabrook, N.J., to points in Colorado, New Mexico, California, Arkansas, Georgia, Utah, Idaho, and Wyoming, and *empty containers or other such incidental facilities* (not specified) used in transporting the above described commodities, on return.

HEARING: March 20, 1962, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Laurence E. Masoner.

No. MC 113678 (Sub-No. 16), filed January 18, 1962. Applicant: CURTIS, INC., 770 East 51st Street, Denver 16, Colo. Applicant's attorney: Duane W. Acklie, Box 2041, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Marshall, Macon, Moberly, and Carrollton, Mo., to points in Arizona, California, Colorado, Iowa, Minnesota, Kansas, Nebraska, and New Mexico.

HEARING: March 21, 1962, at the U.S. Court House and Custom House, 1114 Market Street, St. Louis, Mo., before Examiner Garland E. Taylor.

No. MC 113678 (Sub-No. 18), filed January 18, 1962. Applicant: CURTIS, INC., 770 East 51st Street, Denver 16, Colo. Applicant's attorney: Duane W. Acklie, Box 2041, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food preparations and foodstuffs*, in vehicles equipped with mechanical refrigeration, from Athens, Ala., Jackson, Bells, Humbolt, and Milan, Tenn., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin.

HEARING: March 16, 1962, at the Dinkler-Andrew Jackson, Hotel Nashville, Tenn., before Examiner Laurence E. Masoner.

No. MC 115830 (Sub-No. 11), filed November 6, 1961. Applicant: BABCOCK & LEE PETROLEUM TRANSPORTERS, INC., 1002 Third Avenue North, Billings, Mont. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, between points in Roosevelt and Richland Counties, Mont., on the one hand, and, on the other, points in North Dakota.

HEARING: March 15, 1962, at the Yellowstone County Court House, Billings, Mont., before Joint Board No. 84, or, if the Joint Board waives its right to participate, before Examiner Richard White.

No. MC 115830 (Sub-No. 13), filed January 19, 1962. Applicant: BABCOCK & LEE PETROLEUM TRANSPORTERS, INC., 1002 Third Avenue North, Billings,

Mont. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Billings, Mont., and points within five (5) miles thereof to points in South Dakota, and *rejected and contaminated shipments* of the above-specified commodities, on return.

NOTE: Applicant states Tim M. Babcock is the principal stockholder in applicant corporation and in Babcock & Lee Transportation, Inc., and Babcock & Lee Freight Lines, Inc.

HEARING: March 14, 1962, at the Yellowstone County Court House, Billings, Mont., before Joint Board No. 267, or, if the Joint Board waives its right to participate, before Examiner Richard White.

No. MC 116085 (Sub-No. 1) (AMENDMENT), filed August 21, 1961, published FEDERAL REGISTER issue October 25, 1961, amended November 22, 1961, republished as amended this issue. Applicant: FRISKNEY AND HARDING TRUCKING, INC., Box 3, Kendallville, Ind. Applicant's attorney: Donald W. Smith, Suite 511 Fidelity Building, Indianapolis 4, Ind. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printing paper* in rolls, (a) From the plant site of the Champion Paper Co. at Canton, N.C., the plant site of the International Paper Company at Springhill, La., the plant sites of the Mead Paper Co. at Dayton and Chillocothe, Ohio, the plant site of Nekoosa Edwards Paper Co. at Port Edwards, Wis., and the plant site of the Combined Locks Paper Co. at Combined Locks, Wis., to the plant sites of the National Carbon Coated Paper Company at Sturgis, Mich., (b) from the plant site of the Kalamazoo Paper Company at Kalamazoo, Mich., the Bowaters Southern Paper Company at Calhoun, Tenn., and the Combined Locks Paper Co. at Combined Locks, Wis., to the plant site of the Corinth Forms Paper Company (a wholly-owned division of the National Carbon Coated Paper Company), at Corinth, Miss., (2) *Safety paper* in rolls, from the plant site of Geo. LaMonte Co. at Nutley, N.J., to the plant sites of the National Carbon Coated Paper Company at Sturgis, Mich., (3) *Parafin wax* (except liquid parafin wax), in tank trucks, from the plant site of the Sun Oil Company at Marcus Hook, Pa., to the plant sites of the National Carbon Coated Paper Company at Sturgis, Mich., (4) *Petrolatum*, in drums, from Karns City, Pa., to the plant sites of the National Carbon Coated Paper Co. at Sturgis, Mich., (5) *Printed autographic register paper, autographic registers, sales books, deposit slips, sales slips* and *printed forms*, from the plant sites of the National Carbon Coated Paper Co. at Sturgis, Mich., to Albany, N.Y.; Lancaster, Philadelphia, Carlisle, and Pittsburgh, Pa., New Brunswick, Newark, N.J., and Englewood, N.J., transporting refused and rejected shipments of the aforementioned commodities on return movements, (6) *Printed autographic register paper, authgraphic registers, sales books, deposit slips, sales slips, printed forms*, and *the machinery and materials* used in the manufacture of the aforementioned commodities, from the plant site of the Corinth Forms Co. (a division of the National Carbon-Coated Paper Co.), at Corinth, Miss., to the plant sites of the National Carbon Coated Paper Co. at Sturgis, Mich., (7) *Returned and rejected printed autographic register paper, autographic registers, deposit slips, sales books, printed forms, news print* and *carbonized paper*, from Middlevillage, N.Y., and South Hackensack, N.J., to the plant sites of the National Carbon Coated Paper Co. at Sturgis, Mich.

NOTE: The purpose of this republication is to show applicant's correct name and also to broaden the scope of authority sought. Applicant also states all of the above transportation to be performed under a continuing contract with the National Carbon Paper Co.

HEARING: March 15, 1962, in Room 908, Indiana Public Service Commission, New State Office Building, 100 North Senate Avenue, Indianapolis, Ind., before Examiner Reece Harrison.

No. MC 116459 (Sub-No. 27), filed December 20, 1961. Applicant: RUSS TRANSPORT, INC., P.O. Box 8292, Chattanooga 11, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt and asphalt products*, in bulk, in tank vehicles, (1) from points in Washington County, Va., to points in Tennessee, Kentucky, North Carolina, West Virginia, and South Carolina, and (2) from points in Sullivan County, Tenn., to points in Virginia, West Virginia, North Carolina, Kentucky, and South Carolina, and *empty containers or other such incidental facilities* (not specified) used in transporting the commodity specified above, on return.

HEARING: March 13, 1962, at the Dinkler-Andrew Jackson Hotel, Nashville, Tenn., before Examiner Laurence E. Masoner.

No. MC 116702 (Sub-No. 17), filed October 12, 1961. Applicant: THADDEUS A. GORSKI, doing business as GORSKI BULK TRANSPORT, Box 700, Harrow, Ontario. Applicant's attorney: Eugene C. Ewald, Guardian Building, Detroit 26, Mich. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Urea*, in bags or in bulk, in hopper type equipment, equipped to unload bulk urea from the bottom (including air-suction), and equipped with racks to accommodate bagged urea in the same shipment if required, from points on the International Boundary between United States and Canada, at ports of entry at Detroit and Port Huron, Mich., and Buffalo, N.Y., to points in New York, Pennsylvania, Michigan, Ohio, Rhode Island, Illinois, Massachusetts, Connecticut, Vermont, New Jersey, and points in Kenosha, Racine and Milwaukee Counties, Wis., for the account of Monsanto Chemical Company.

HEARING: March 26, 1962, at the Detroit-Leland Hotel, Detroit, Mich., before Examiner Reece Harrison.

No. MC 116702 (Sub-No. 18), filed November 27, 1961. Applicant: THADDEUS A. GORSKI, doing business as GORSKI BULK TRANSPORT, Box 700, Harrow, Ontario, Canada. Applicant's attorney: Eugene C. Ewald, Guardian Building, Detroit 26, Mich. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings*, including *asphalt tile, composition tile, rubber tile, linoleum, rubber and plastic molding, tile adhesives, carpet underlay and related products*, together with *hard surface wall coverings, acoustic ceiling tile*, and *products incidental to the installation of these articles*, from Brooklyn N.Y., South Plainfield and Salem, N.J., Jeannette, Pa., Chicago, Ill., and L'Anse, Mich., to points in Michigan and Ohio.

HEARING: March 28, 1962, at the Detroit-Leland Hotel, Detroit, Mich., before Examiner Reece Harrison.

No. MC 116947 (Sub-No. 3), filed January 18, 1962. Applicant: HUGH H. SCOTT, doing business as SCOTT TRANSFER CO., 1000 Watkins Street NW., Atlanta 18, Ga. Applicant's attorney: R. J. Reynolds, Jr., Suite 1424–35, C & S National Bank Building, Atlanta 3, Ga. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from Avery Island and Weeks Island, La., and points within 15 miles of each of said origins, to points in Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee, and *pepper*, when shipped with salt, from Weeks Island, La., and points within 15 miles thereof, to points in Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee, and *damaged* and *rejected shipments*, on return.

HEARING: March 21, 1962, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Lacy W. Hinely.

No. MC 117025 (Sub-No. 12), filed October 16, 1961. Applicant: LE ROY HILT, 3751 Sumner Street, Lincoln, Nebr. Applicant's attorney: J. Max Harding, IBM Building, 605 South 12th Street, P.O. Box 2041, Lincoln 8, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Belleville, Ill., to points in Colorado, Wyoming, Montana, North Dakota, South Dakota, Minnesota, Nebraska, Missouri, and Iowa, and *empty containers and exempt commodities or other such incidental facilities* (not specified), used in transporting the commodities specified above, on return.

HEARING: March 27, 1962, at the Hotel Sheraton Fontenelle, Omaha, Nebr., before Examiner Armin G. Clement.

No. MC 117119 (Sub-No. 36), filed November 22, 1961. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. Applicant's attorney: John H. Joyce, 26 North College, Fayetteville, Ark., and A. Alvis Layne, Pennsylvania Building, Washington 4, D.C. Authority sought to operate as a common *carrier, by motor* vehicle, over irregular routes, transporting: *Frozen foods*, from Seabrook, N.J., to points in Colorado, New Mexico, California, Arkansas, Georgia, Utah, Idaho, and Wy-

oming, and *empty containers or other such incidental facilities,* used in transporting the above-described commodities, on return.

NOTE: Applicant states it has temporary control of the motor carrier properties and operating authorities of Pellham Transportation Co., Inc., MC 117904, under MC-F-7816.

HEARING: March 20, 1962, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Laurence E. Masoner.

No. MC 117119 (Sub-No. 37), filed November 22, 1961. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. Applicant's attorney: John H. Joyce, 26 North College, Fayetteville, Ark. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* from Montezuma, Ga., to points in Colorado, New Mexico, California, Arkansas, Utah, Idaho, and Wyoming, and *empty containers or other such incidental facilities* (not specified), used in transporting the above described commodities, on return.

HEARING: March 21, 1962, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Laurence E. Masoner.

No. MC 117119 (Sub-No. 44), filed December 29, 1961. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. Applicant's attorneys: John H. Joyce, 26 North College, Fayetteville, Ark., and A. Alvis Layne, Pennsylvania Building, Washington 4, D.C. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* from Salt Lake City, Ogden, and Provo, Utah, to points in Oklahoma, Arkansas, Louisiana, Texas, Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, Maryland, New Mexico, and Arizona, and *empty containers or other such incidental facilities* (not specified), used in transporting the above described commodities, on return.

HEARING: March 23, 1962, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Laurence E. Masoner.

No. MC 117119 (Sub-No. 45), filed January 17, 1962. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. Applicant's attorneys: John H. Joyce, 26 North College, Fayette, Ark., and A. Alvis Layne, Pennsylvania Building, Washington 4, D.C. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods* from Macon, Marshall, Carrollton, Moberly, Milan, and St. Joseph, Mo., to points in Texas, and *empty contdiners or other such incidental facilities* (not specified), used in transporting the commodities specified in this application, on return.

NOTE: Applicant states that it is authorized to lease the properties of Pellham Transportation Company, Inc., under MC-F-7816.

HEARING: March 22, 1962, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Laurence E. Masoner.

No. MC 117344 (Sub-No. 81), filed November 29, 1961. Applicant: THE MAXWELL CO., a corporation, 10380 Evendale Drive, Cincinnati 15, Ohio. Applicant's attorney: Herbert Baker, 50 West Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer solutions,* in bulk, in tank vehicles, from Cincinnati, Ohio, to points in Illinois, Indiana, and Kentucky, and *empty containers or other such incidental facilities* (not specified), used in transporting the above-specified commodities, on return.

HEARING: March 12, 1962, at the New Post Office Building, Columbus, Ohio, before Examiner Charles J. Murphy.

No. MC 117344 (Sub-No. 82), filed December 11, 1961. Applicant: THE MAXWELL CO., a corporation, 10380 Evendale Drive, Cincinnati 15, Ohio. Applicant's attorney: Herbert Baker, 50 West Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lacquers, paints, resins, varnishes, surface coating compounds,* and *molding compounds,* in bulk, in tank vehicles, from Cincinnati, Ohio, to points in Illinois and Wisconsin, and *empty containers or other such incidental facilities* (not specified), used in transporting the above-specified commodities, on return.

HEARING: March 14, 1962, at the New Post Office Building, Columbus, Ohio, before Examiner Charles J. Murphy.

No. MC 117823 (Sub-No. 5), filed January 4, 1962. Applicant: RALPH F. DUNKLEY, doing business as DUNKLEY DISTRIBUTING COMPANY, 240 California Avenue, Salt Lake City, Utah. Applicant's attorney: Lon Rodney Kump, 716 Newhouse Building, Salt Lake City 11, Utah. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* in less-than truckload shipments not to exceed 10,000 pounds when shipped in connection with frozen fruits, frozen vegetables and frozen berries, from points in Los Angeles, Orange, Ventura, San Bernardino, and Riverside Counties, Calif., to points in Utah, Wyoming, Montana, and points in Idaho south of the southern boundary of Idaho County.

HEARING: March 28, 1962, at the Federal Building, Los Angeles, Calif., before Examiner Charles B. Heinemann.

No. MC 118159 (Sub-No. 8), filed November 6, 1961. Applicant: EVERETT LOWRANCE, 4916 Jefferson Highway, P.O. Box 10216, New Orleans 21, La. Applicant's attorney: Harold R. Ainsworth, 2307 American Bank Building, New Orleans 12, La. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Houston, Texas, to points in Texas, New Mexico, Arizona, California, Colorado, Oklahoma, Missouri, Nebraska, Kansas, Minnesota, Utah, North Dakota, South Dakota, Wyoming, Iowa, Alabama, Arkansas, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Montana, Ohio, Oregon, Tennessee, Washington, West Virginia, and Wisconsin.

HEARING: March 30, 1962, at the Federal Office Building, 600 South Street, New Orleans, La., before Examiner Lawrence A. Van Dyke, Jr.

No. MC 118468 (Sub-No. 9), filed October 16, 1961. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Animal and poultry feed ingredients,* dry, in bulk and in bags, from Muscatine, Iowa to points in Illinois, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin.

HEARING: March 22, 1962, in Room 401, Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Armin G. Clement.

No. MC 118898 (Sub-No. 6), filed October 23, 1961. Applicant: T. P. TRUCKING COMPANY, INC., 1489 Grady Avenue, Yazoo City, Miss. Applicant's attorney: Rubel L. Phillips, Deposit Guaranty Bank Building, Jackson, Miss. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer,* dry, in bulk, and in packages, from Luling, La., to points in Alabama, Florida, Georgia, Mississippi, and Tennessee, RESTRICTION: The operations proposed herein will be limited to a transportation service to be performed under a continuing contract, or contracts, with Fireproof Products of Mississippi, Inc., Terry, Miss.

HEARING: March 14, 1962, at the Robert E. Lee Hotel, Jackson, Miss., before Examiner Lawrence A. Van Dyke, Jr.

No. MC 119507 (Sub-No. 9), filed December 14, 1961. Applicant: CRAUN TRANSPORTATION, INC., Emma Street, Bettsville, Ohio. Applicant's attorney: Taylor C. Burneson, 3430 LeVeque-Lincoln Tower, Columbus 15, Ohio. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Refractory products* from Maple Grove (near Garrettsville), Ohio, and points within 2 miles thereof, to points in Michigan (except points in the southeastern part of Michigan which are on or east of U.S. Highway 23 and on or south of Michigan Highway 59), points in Indiana (except Fort Wayne, Kokomo, and points in the Chicago, Ill., Commercial Zone as defined by the Commission), points in Wisconsin, and points in Mercer, Lawrence, Butler, Beaver, and Alleghany Counties, Pa.; and (2) *pallets, skids,* and *shipping containers* used in the transportation of refractory products, from points in the above-specified destination territory to Maple Grove, Ohio, and points within 2 miles thereof.

HEARING: March 15, 1962, at the New Post Office Building, Columbus, Ohio, before Examiner Charles J. Murphy.

No. MC 119519 (Sub-No. 14), filed December 12, 1961. Applicant: ALLEN RUSSELL, doing business as ALLEN

RUSSELL TRUCKING COMPANY, Franklin, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, from points in Rutherford and Davidson Counties, Tenn., and points in Simpson County, Ky., to Cincinnati and Lima, Ohio, and points within 50 miles of each.

HEARING: March 13, 1962 at the Dinkler-Andrew Jackson Hotel, Nashville, Tenn., before Examiner Laurence E. Masoner.

No. MC 119535 (Sub-No. 1), filed November 6, 1961. Applicant: MAURICE TUCKER, 959 Myrtlewood Drive, Jackson, Miss. Applicant's attorney: Rubel L. Phillips, Deposit Guaranty Bank Building, Jackson, Miss. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough and dressed lumber*, between points in Mississippi, Louisiana, and Texas.

HEARING: March 15, 1962, at the Robert E. Lee Hotel, Jackson, Miss., before Joint Board No. 246, or, if the Joint Board waives its right to participate, before Examiner Lawrence A. Van Dyke, Jr.

No. MC 119641 (Sub-No. 32), filed November 17, 1961. Applicant: RINGLE EXPRESS, INC., 405 South Grant Avenue, Fowler, Ind. Applicant's attorney: Robert C. Smith, 512 Illinois Building, Indianapolis 4, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete slabs, building or roofing, and accessories used in the installation thereof*, when moving at the same time and in the same vehicle therewith, from Arkadelphia, Ark., to points in Louisiana, Kansas, Oklahoma, and Texas, and *damaged and rejected shipments of commodities* specified above, on return.

HEARING: March 19, 1962, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Laurence E. Masoner.

No. MC 119680 (Sub-No. 1), filed November 22, 1961. Applicant: DELAWARE VALLEY TRUCKING COMPANY, INC., 15 Exchange Place, Jersey City, N.J. Applicant's representative: G. Donald Bullock, 211 East 51st Street, New York 22, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk products, margerine, fruit juices and fruit ades*, in containers, and *milk*, in containers, when moving in the same vehicles with milk products, margerine, fruit juices and fruit ades, in refrigerated equipment, from Camden, N.J., to points in New Castle County, Del., and *empty containers or other such incidental facilities*, used in transporting the above-described commodities, on return.

NOTE: (1) Applicant states the proposed operation is to be limited to a transportation service to be performed under a continuing contract, or contracts, with Sealtest Foods Division of National Dairy Products Corp. of Philadelphia, Pa. (2) Applicant further states that its president and principal stockholder is also president and principal stockholder of Ralph G. Smith, Inc., MC 60786.

HEARING: March 16, 1962, at Room 300, U.S. Custom Building, Second and Chestnut Streets, Philadelphia, Pa., before Examiner Parks M. Low.

No. MC 119777 (Sub-No. 6), filed January 16, 1962. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer 31, Madisonville, Ky. Applicant's attorney: Robert M. Pearce, 221 St. Clair Street, Frankfort, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities*, in bulk, between points in Marshall County, Ky., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Iowa, Kansas, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

HEARING: March 15, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner W. Elliott Neffen.

No. MC 119880 (Sub-No. 3), filed November 13, 1961. Applicant: DRUM TRANSPORT, INC., Box 2056, East Peoria, Ill. Applicant's attorney: Donald L. Stern, 924 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol, neutral spirits*, and *alcoholic liquors*, in bulk, in tank vehicles, between points in Maryland, Pennsylvania, Ohio, Indiana, and Kentucky, on the one hand, and, on the other, Seattle, Wash., and points in California.

HEARING: March 14, 1962, at the Midland Hotel, Chicago, Ill., before Examiner Armin G. Clement.

No. MC 123157 (Sub-No. 3), filed October 25, 1961. Applicant: G. L. GIBBONS AND LAWRENCE L. GIBBONS, a copartnership, doing business as CEMENT TRANSPORTERS, Rillito, Ariz. Applicant's attorney: A. Michael Bernstein, 1327 Guaranty Bank Building, Phoenix 12, Ariz. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Cement*, in bulk, and in bags, from the plant site of Phoenix Cement Company, at Clarkdale, Ariz., to Tex Nos Pas and Mexican Water, Ariz., and points between Tex Nos Pas and Mexican Water, on Indian Highway No. 1, traversing New Mexico for operating convenience only; from Clarkdale over U.S. Highway 278 and U.S. Highway 89 to Flagstaff, Ariz., and U.S. Highway 66 to Gallup, N. Mex., and Route 504, to Tex Nos Pas, Ariz., thence along Indiana Highway No. 1, to Mexican Water, Ariz., and return over the same route, serving all intermediate points.

HEARING: March 21, 1962, at the Arizona Corp. Commission, Phoenix, Ariz., before Joint Board No. 129, or, if the Joint Board waives its right to participate, before Examiner Charles B. Heinemann.

No. MC 123304 (Sub-No. 4) (AMENDMENT), filed November 13, 1961, published in FEDERAL REGISTER, issue of January 31, 1962, republished as amended, this issue. Applicant: SOUTHERN COURIERS, INC., 1316 North Carroll, Dallas, Tex. Applicant's attorney: Ewell H. Muse, Jr., Perry Brooks Building, Suite 415, Austin 1, Tex. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents*, and *written instruments*, such as are used in the business of banks and banking institutions (excluding coin, currency, bullion, and negotiable securities), between Dallas and Fort Worth, Tex., points in Oklahoma, points in Montgomery County, Kans., and points in McDonald County, Mo.

NOTE: The purpose of this republication is to add Fort Worth, Tex., and indicate the operation as nonradial rather than radial.

HEARING: Remains as assigned March 20, 1962, at the Federal Building, Oklahoma City, Okla., before Examiner Walter R. Lee.

No. MC 123372 (Sub-No. 5), filed September 18, 1961. Applicant: CARTAGE SERVICES, INC., 26380 Van Born Road, Dearborn, Mich. Applicant's representative: Larry Mason (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Bakery products*, between Michigan, on the one hand, and, on the other, points in Ohio, Indiana, and Illinois.

NOTE: Applicant states that the operation will be conducted under a continuing contract with Schafer's Bakeries, Inc.

HEARING: March 26, 1962, at the Detroit-Leland Hotel, Detroit, Mich., before Examiner Reece Harrison.

No. MC 123465 (Sub-No. 2), filed November 15, 1961. Applicant: EMILIEN LETARTE, doing business as ST. HYACINTHE EXPRESS, INC., 7625 Brouillette Street, St. Hyachinthe, Quebec, Canada. Applicant's attorney: Edward W. Free, Jr., 107 North Main Street, Barre, Vt. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Church pipe organs*, from ports of Entry on the International Boundary Line between the United States and Canada, to points in the United States, and *empty containers or other such incidental facilities* (not specified), used in transporting the commodities, specified above, on return.

HEARING: March 26, 1962, at the Washington County Court House, Montpelier, Vt., before Examiner Alvin H. Schutrumpf.

No. MC 123487 (Sub-No. 2), filed October 19, 1961. Applicant: HENRY HAMEL AND NORMAND E. HAMEL, doing business as, HAMEL MOTOR TRANSP. CO., R.D. 1, River Road, Allenstown, N.H. Applicant's attorney: Guy A. Swenson, Jr., 9 Capitol Street, Concord, N.H. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rough granite*, between Woodbury, Vt., and Concord, N.H.

HEARING: March 23, 1962, at the New Hampshire Public Service Commission, Concord, N.H., before Joint Board No. 132, or, if the Joint Board waives its right to participate, before Examiner Alvin H. Schutrumpf.

No. MC 123639 (Sub-No. 3), filed November 14, 1961. Applicant: J. B. MONTGOMERY, INC., 4916 Jackson

Street, Denver 16, Colo. Applicant's attorney: Charles W. Singer, 33 North La Salle Street, Chicago 2, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats* and *packinghouse products* as defined by the Commission, from Lexington, Nebr., to points in the United States (except Chicago, Ill., Denver, Colo., and points in Hawaii and Alaska), and *empty containers or other such incidental facilities* (not specified), used in transporting the above-specified commodities, on return.

HEARING: March 29, 1962, at the Hotel Sheraton Fontenelle, Omaha, Nebr., before Examiner Armin G. Clement.

No. MC 123870, filed August 14, 1961. Applicant: LEONARD F. MC CALLUM, doing business as MC CALLUM MOTORS, 114 Derry Road, Hudson, N.H. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled motor vehicles*, between points in Massachusetts, Connecticut, Rhode Island, Maine, New Hampshire, Vermont, and New York.

HEARING: March 22, 1962, at the New Hampshire Public Service Commission, Concord, N.H., before Examiner Alvin H. Schutrumpf.

No. MC 123878, filed September 1, 1961. Applicant: M. C. Tyler, doing business as TYLER TRUCK LINES, Kelley, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed ingredients*, from St. Louis, Mo., points in Illinois, including the Commercial Zone of Chicago, Ill., as defined by the Commission, to points in Iowa on and east of U.S. Highway 71 (except Eagle Grove, Iowa).

HEARING: March 22, 1962, in Room 401, Old Federal Office Building, Fifth and Court Avenue, Des Moines, Iowa, before Examiner Armin G. Clement.

No. MC 123905 (Sub-No. 1), filed October 16, 1961. Applicant: OLEN BURRAGE, 264 West Beacon Street, Philadelphia, Miss. Applicant's attorney: Herman Alford, Citizens Bank Building, Philadelphia, Miss. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, wood dimension stock* and *preservatively treated*, (2) *lumber, poles*, and *timbers*, from points in Neshoba and Newton Counties, Miss., to points in Tennessee, Kentucky, Illinois, Indiana, Alabama, Louisiana, Wisconsin, and Ohio and (3) *building material and supplies, when shipped with the lumber required for the construction of one house, on the bill of lading, to one consignee*, from points in Neshoba County, Miss., to points in Tennessee, Alabama, Louisiana, Arkansas, and Georgia, and *refused and rejected shipments* of (1), (2), and (3) above, on return.

HEARING: March 19, 1962, at the Robert E. Lee Hotel, Jackson, Miss., before Examiner Lawrence A. Van Dyke, Jr.

No. MC 123918, filed September 11, 1961. Applicant: RALPH WILLSON, 234 South Adams Street, Burlington, Iowa. Applicant's representative: F. L. Partridge, 214½ North Fourth Street, Burlington, Iowa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, limestone*, and *rock*, (1) from Spring Grove, Iowa, and points within five (5) miles thereof to points in Illinois, and (2) from Spring Grove, Iowa, and points within 50 miles thereof to points in Illinois.

NOTE: Applicant states these materials are to be transported to contractors at job sites.

HEARING: March 23, 1962, in Room 401, Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Joint Board No. 54, or, if the Joint Board waives its right to participate, before Examiner Armin G. Clement.

No. MC 123974, filed November 1, 1961. Applicant: E. J. GREEN, 150 Cedar Street, Imlay City, Mich. Applicant's attorney: John M. Veale, Guardian Building, Detroit 26, Mich. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk and dairy products*, and *empty containers or other such incidental facilities* used in transporting the above described commodities between Imlay City, Mich., on the one hand, and on the other, points in New York and Pennsylvania.

HEARING: March 29, 1962, at the Detroit-Leland Hotel, Detroit, Mich., before Examiner Reece Harrison.

No. MC 124012 (Sub-No. 1), filed December 4, 1961. Applicant: WAYNE R. WILLIAMS, doing business as W. R. WILLIAMS TRANSPORT, Morrisville, Vt. Applicant's attorney: Robert A. Magoon, Morrisville, Vt. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Cedar fencing* and *cedar furniture*, between Greensboro Bend, Vt., and Babylon and Massapequa, L.I., Paramus, N.J., Orange and Southington, Conn.; (1) from Greensboro Bend over Vermont Highway 16 to junction Vermont Highway 15, thence over Vermont Highway 15 to Morrisville, Vt., thence over Vermont Highway 100 to Waterbury, Vt., thence over U.S. Highway 2 to Burlington, Vt., thence over U.S. Highway 7 to Vergennes, Vt., thence over Vermont Highway 22A to Fairhaven, Vt., thence over U.S. Highway 4 to Glen Falls, N.Y., thence over U.S. Highway 9 to Albany, N.Y., thence over the Triborough Bridge and the Long Island Expressway to Babylon and Massapequa, and return over the same route, serving no intermediate points; (2) from Greensboro Bend over the above-described route to Suffern, N.Y., thence over New Jersey Highway 17 to Paramus, and return over the same route, serving no intermediate points; (3) from Greensboro Bend over the route described in (1) above, to Waterbury, Vt., thence over U.S. Highway 2 to Barre, Vt., thence over Vermont Highway 14 to White River Junction, Vt., thence over U.S. Highway 5 to New Haven, Conn., thence over the Connecticut Turnpike and Connecticut Highway 152 to Orange, and return over the same route, serving no intermediate points, and (4) from Greensboro Bend, over the route described above to Hartford, Conn., thence over U.S. Highway 6 to junction Connecticut Highway 10, thence over Connecticut Highway 10 to Southington, and return over the same route, serving no intermediate points.

HEARING: March 26, 1962, at the Washington County Court House, Montpelier, Vt., before Examiner Alvin H. Schutrumpf.

No. MC 124022, filed November 30, 1961. Applicant: PAUL CONTE, 1449 Chestnut Avenue, Gloucester, N.J. Applicant's attorney: Morris J. Winokur, Suite 1920, Two Penn Center Plaza, Pennsylvania Boulevard, at 15th Street, Philadelphia 2, Pa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated storm windows and uncrated storm doors, component parts and accessories* thereto, from Philadelphia, Pa., to points in New York, New Jersey, Delaware, Maryland, Virginia, and the District of Columbia, and *returned, refused and rejected shipments*, on return.

HEARING: March 15, 1962, at Room 300, U.S. Custom Building, Second and Chestnut Streets, Philadelphia, Pa., before Examiner Parks M. Low.

No. MC 124038 (Sub-No. 2), filed January 12, 1962. Applicant: CAROLINA TRANSPORT, INC., Statesville Road, P.O. Box 8123, Charlotte, N.C. Applicant's attorney: A. W. Flynn, Jr., 201–204 Jefferson Building, Greensboro, N.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New, used, and wrecked trucks, tractors, and trailers*, of the type commonly used by motor freight carriers in initial and secondary movements, in driveaway, haulaway and towaway service, between points in North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Tennessee.

HEARING: March 12, 1962, at the U.S. Court Rooms, Charlotte, N.C., before Examiner Lacy W. Hinely.

No. MC 124046 (Sub-No. 1), filed December 20, 1961. Applicant: VICTOR DE TIENNE, doing business as VICTOR DE TIENNE TRANSPORT CO., P.O. Box 698, Plains, Mont. Applicant's attorney: J. F. Meglen, 204–205 Behner Building, Billings, Mont. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Plains and Thompson Falls, Mont., to points in Illinois, Iowa, Minnesota, North Dakota, and South Dakota, and *contaminated, rejected, and exempt commodities* as specified above, on return.

HEARING: March 12, 1962, at the Yellowstone County Court House, Billings, Mont., before Examiner Richard White.

No. MC 124061, filed November 22, 1961. Applicant: RALPH WILLIAMS, doing business as NATCHEZ TRUCK SERVICE, Route 5, Box 123–C, Natchez, Miss. Applicant's attorney: Rubel L. Phillips, Deposit Guaranty Bank Building, Jackson, Miss. Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the Natchez-Adams County Port, near Natchez, Miss., on the one hand, and, on the other, points in Mississippi.

HEARING: March 14, 1962, at the Robert E. Lee Hotel, Jackson, Miss., before Joint Board No. 97, or, if the Joint Board waives its right to participate, before Examiner Lawrence A. Van Dyke, Jr.

No. MC 124062, filed November 22, 1961. Applicant: FRICK TRANSPORT, INC., Wawaka, Ind. Applicant's attorney: Donald W. Smith, Suite 511 Fidelity Building, Indianapolis 4, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Chicago, Ill., to (1) points in Indiana on and north of U.S. Highway 40 (except points in De Kalb, Steuben, Noble and LaGrange Counties, Ind.), (2) points in Paulding, Van Wert, Fulton, Putnam, Lucas, Wood, and Hancock Counties, Ohio and, (3) points in Ottawa, Kent, Ionia, Clinton, Ingham, Eaton, Barry, Allegan, Van Buren, Kalamazoo, Calhoun, Jackson, Hillsdale, Branch, St. Joseph, Cass, and Berrien Counties, Mich., and *empty containers or other such incidental facilities* (not specified), used in transporting the above described commodities, on return.

HEARING: March 21, 1962, at the Midland Hotel, Chicago, Ill., before Examiner Reece Harrison.

No. 124077, filed December 1, 1961. Applicant: A. C. MILLER, Rodney, Ontario, Canada. Applicant's attorney: Wilhelmina Boersma, 2850 Penobscot Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, (1) between ports of entry on the International Boundary Line between the United States and Canada at or near Detroit and Port Huron, Mich., and Buffalo, N.Y., on the one hand, and, on the other, points in New York, Pennsylvania, Ohio, Indiana, and Louisville, Ky., and (2) from ports of entry on the International Boundary Line between the United States and Canada at or near Detroit and Port Huron, Mich., to points in Michigan (except Detroit, Mich., and points in the Detroit, Mich., Commercial Zone, as defined by the Commission).

NOTE: Applicant states he is presently engaged in the above operation as a contract carrier by motor vehicle and by this application is seeking to convert his authority to that of a common carrier by motor vehicle.

HEARING: March 29, 1962, at the Detroit-Leland Hotel, Detroit, Mich., before Examiner Reece Harrison.

No. MC 124117, filed December 21, 1961. Applicant: EARL FREEMAN, doing business as MID-TENN EXPRESS, Route No. 1, Unionville, Tenn. Applicant's attorney: Walter Harwood, Nashville Trust Building, Nashville 3, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* and *related advertising materials* from St. Louis, Mo., Peoria, Ill., Louisville, Ky., and Detroit, Mich. to points in Tennessee on and west of U.S. Highway 27 and east of the western traversal of the Mississippi River (excluding Nashville and Chattanooga, Tenn., and their commercial zones), and only *empty containers or other such incidental facilities* (not specified), used in transporting the commodities specified in this application, on return.

HEARING: March 14, 1962, at the Dinkler-Andrew Jackson Hotel, Nashville, Tenn., before Examiner Laurence E. Masoner.

No. MC 124150, filed January 15, 1962. Applicant: GEORGE T. SHAFLEY, doing business as FILM EXPRESS, 500 H Street NW., Washington, D.C. Applicant's attorney: Chester A. Zyblut, 1700 K Street NW., Washington 6, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motion picture film, and related matter incidental to motion picture film*, in express service, and *rejected shipments*, (1) (a) between Washington, D.C., New York, N.Y., and Philadelphia, Pa., (b) between Washington, D.C., Pittsburgh, Pa., and Cleveland, Ohio, and (c) between Washington, D.C., and Charlotte, N.C., and (2) between Washington, D.C., points in Montgomery, Baltimore, Frederick, Washington, and Allegheny Counties, Md., Jefferson and Berkeley Counties, W. Va., Franklin and Adams Counties, Pa., and Augusta, Franklin, Spottsylvania, Lancaster, Orange, Culpeper, Fauquier, Warren, Loudon, Fairfax, Prince William, Henrico, and Norfolk Counties, Va.

HEARING: March 19, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Frank J. Mahoney.

No. MC 124157, filed January 18, 1962. Applicant: GERMAIN FAUCHER, 177 12th Avenue, Drummondville, Quebec, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Corning glass tubes for fluorescent lights*, crated in boxes and loaded on pallets, from Central Falls, R.I., to the Port of Entry on the International Boundary between the United States and Canada located at Derby Line, Vt.; from Central Falls over Rhode Island Highway 114 to junction with Rhode Island Highway 116, thence over Rhode Island Highway 116 to junction with Rhode Island Highway 146, thence over Rhode Island Highway 146 to the Rhode Island-Massachusetts State line, thence over Massachusetts Highway 146 to junction with Interstate Highway 90, thence over Interstate Highway 90 to junction with U.S. Highway 5, thence over U.S. Highway 5 to the Port of Entry on the International Boundary between the United States and Canada at Derby Line, serving no intermediate or off-route points, and *empty containers or other such incidental facilities*, used in transporting the above-described commodities, on return.

NOTE: Applicant states the proposed operation is restricted to traffic destined to Drummondville, Province of Quebec, Canada.

HEARING: March 28, 1962, at the Washington County Court House, Montpelier, Vt., before Joint Board No. 353, or, if the Joint Board waives its right to participate before Examiner Alvin H. Schutrumpf.

No. MC 124158, filed January 17, 1962. Applicant: ROBERT W. BORNHOFT AND A. R. MEAD, doing business as, B & M AGRICULTURAL SERVICE, Route No. 2, Harrisburg, Ark. Applicant's attorney: Louis Tarlowski, Rector Building, Little Rock, Ark. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Potash*, in bulk and in sacks, from points in New Mexico to points in Jackson, Poinsett, Craighead, Mississippi, and Cross Counties, Ark.; and (2) *soybean meal*, in bulk and in sacks, from points in Jackson, Poinsett, Craighead, Mississippi, and Cross Counties, Ark., to points in Texas and New Mexico.

HEARING: March 28, 1962, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Laurence E. Masoner.

No. MC 124165, filed January 22, 1962. Applicant: REGINALD HATHAWAY, Melbourne, Ontario, Canada. Applicant's attorney: S. Harrison Kahn, 1110-14 Investment Building, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors, farm machinery, egg grading equipment*, and *poultry equipment*, from Ports of Entry along the St. Clair River along the International Boundary Line between the United States and Canada, to points in Michigan.

NOTE: The transportation proposed herein is restricted to the transportation of property in international commerce from the Dominion of Canada to designated points in the United States.

(2) *Tractors, farm machinery, egg grading equipment*, and *poultry equipment*, from points in Michigan, Indiana, Illinois, Iowa, and Pennsylvania, to Ports of Entry on the International Boundary Line between the United States and Canada along the Niagara, Detroit, and St. Clair Rivers.

NOTE: The transportation proposed is restricted to the transportation of property in international commerce from points in the United States, as indicated, to the Dominion of Canada.

HEARING: March 30, 1962, at the Detroit-Leland Hotel, Detroit, Mich., before Examiner Reece Harrison.

MOTOR CARRIERS OF PASSENGERS

No. MC 1002 (Sub-No. 17), filed January 29, 1962. Applicant: ASBURY PARK-NEW YORK TRANSIT CORPORATION, Lake Avenue, Asbury Park, N.J. Applicant's attorney: Edward W. Currie, 123 Main Street, Matawan, N.J. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, between Lincroft, N.J., and Holmdel, N.J.; from junction of Lincroft Road and Newman Springs Road in Lincroft, over Newman Springs Road to

junction Monmouth County Highway 520 (also known as Holmdel to Red Bank Road); thence over Monmouth County Highway to junction New Jersey Highway 34 in Holmdel, and return over the same route serving all intermediate points.

NOTE: Applicant states it is affiliated through common ownership with Rollo Transit Corp. (MC 1137), and also Coastal Cities Coach Company (MC 29682).

HEARING: February 19, 1962, at the State Office Building, Room 212, 1100 Raymond Boulevard, Newark, N.J., before Joint Board No. 119.

No. MC 3647 (Sub-No. 319), filed January 16, 1962. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, 180 Boyden Avenue, Maplewood, N.J., Applicant's attorney: Richard Fryling (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle; over regular routes, transporting: *Passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, between points in Wayne Township, N.J.: Beginning at the junction of Paterson-Hamburg Turnpike and Church Lane, over Church Lane to junction of Church Lane and Douglas Way, and return over the same route, serving all intermediate points.

NOTE: Applicant states it presently has authority to operate over Church Lane with closed doors in connection with its seasonal express service to New York, N.Y., during the period from May 15th to September 30th, inclusive of each year. It is requested that the existing closed door restriction of the applicant on Church Lane between Paterson-Hamburg Turnpike and Douglas Way be lifted for the purpose of serving intermediate points.

HEARING: March 12, 1962, at the State Office Building, Room 212, 1100 Raymond Boulevard, Newark, N.J., before Joint Board No. 119.

No. MC 61016 (Sub-No. 17), filed January 22, 1962. Applicant: PETER PAN BUS LINES, INC., 144 Bridge Street, Springfield, Mass. Applicant's representative: William L. Mobley, 1694 Main Street, Springfield 3, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in special round-trip operations, beginning and ending at Springfield, Chicopee, Holyoke, Northampton, and West Springfield, Mass., and extending to Taconic Raceway, Pownal, Vt.

HEARING: March 21, 1962, at the New Post Office and Court House Building, Boston, Mass., before Joint Board No. 187, or, if the Joint Board waives its right to participate, before Examiner Alvin H. Schutrumpf.

No. MC 62296 (Sub-No. 3), filed November 24, 1961. Applicant: HOMER V. WERNER, doing business as WERNER BUS LINES, Paradise and Chester Avenues, Phoenixville, Pa. Applicant's attorney: Robert H. Shertz, 2107 Fidelity-Philadelphia Trust Building, Philadelphia 9, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operation, from Reading, Pa., and Conshohocken, Pa., and points in Pennsylvania on U.S. Highway 422 between Reading and Pottstown, Pa., to Atlantic City, N.J., and the Garden State Race Track in Camden County, N.J., and return.

HEARING: March 12, 1962, in Room 300, U.S. Custom Building, Second and Chestnut Streets, Philadelphia, Pa., before Joint Board No. 67, or, if the Joint Board waives its right to participate, before Examiner Parks M. Low.

No. MC 85028 (Sub-No. 7), filed December 18, 1961. Applicant: BERKSHIRE STREET RAILWAY COMPANY, a corporation, 1277 East Street, Pittsfield, Mass., Applicant's attorney: Edward N. Gadsby, Williamstown, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express*, *mail*, and *newspapers*, in the same vehicle with passengers, in seasonal operations during the racing season, between Great Barrington, Mass., and the Taconic Racing and Breeding Association Track at Pownal, Vt., from Main and Silver Streets in Great Barrington over U.S. Highway 7 through Stockbridge and Lenox, Mass., to Pittsfield, Mass., thence over Massachusetts Highway 9 to junction Massachusetts Highway 8, thence over Massachusetts Highway 8 through Cheshire and Adams, Mass., to North Adams and junction Massachusetts Highway 2, thence over Massachusetts Highway 2 to junction U.S. Highway 7 at Williamstown, Mass., thence over U.S. Highway 7 to Pownal, Vt., and thence over town roads to the race track of the Taconic Racing and Breeding Association (also from Lee, Mass., over U.S. Highway 20 to connect with the above route at Lenox, Mass.); and return over the above route, serving the intermediate points of Stockbridge, Lee, Lenox, Pittsfield, Cheshire, Adams, North Adams, and Williamstown, Mass.

HEARING: March 27, 1962, at the Washington County Court House, Montpelier, Vt., before Joint Board No. 187, or, if the Joint Board waives its right to participate, before Examiner Alvin H. Schutrumpf.

No. MC 96007 (Sub-No. 15), filed January 2, 1962. Applicant: KENNETH HUDSON, INC., doing business as HUDSON BUS LINES, 70 Union Street, Medford, Mass. Applicant's attorney: James H. Sullivan, 52 Maple Street, Danvers, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Passengers and their baggage and newspapers*, over designated REGULAR ROUTES between points in New Hampshire (Nashua, Salem Depot, Canobie Lake Park) and points in Massachusetts (Lawrence, Lowell, Medford, Arlington, Haverhill, and Ayer); and over IRREGULAR ROUTES from points in Middlesex and Suffolk Counties, Mass., to points in Massachusetts, New Hampshire, Rhode Island, Connecticut, and Maine, and return, the authority to be exactly the same as set forth in the Certificate in MC 96007, dated February 4, 1954, except that whereas under the existing authority the transportation over regular routes, of passengers and their baggage, and newspapers, between Nashua, N.H., and Lawrence, Mass., is restricted to "during the season extending from May 1st to November 30th, inclusive, of each year", applicant now requests that "the restrictive limitation as to dates from May 1st to November 30th, inclusive, of each year be amended so as to read 'when events are scheduled at Rockingham Park or Canobie Lake Park, Salem, N.H.'".

HEARING: March 19, 1962, at the New Post Office and Court House Building, Boston, Mass., before Examiner Alvin H. Schutrumpf.

No. MC 124108, filed December 21, 1961. Applicant: LOUIS MORGILLO, 179 Valley Street, New Haven, Conn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, between New Haven, Conn., and New York, N.Y.

HEARING: March 15, 1962, at the Bond Hotel, Hartford, Conn., before Examiner William A. Royall.

No. MC 124138, filed January 8, 1962. Applicant: SANTIAGO SAITTA, doing business as, SAITTA'S TAXI, Norwich Road, Colchester, Conn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, and *their baggage*, in the same vehicle with passengers, between Colchester, Conn., and New York City, N.Y.

HEARING: March 16, 1962, at the Bond Hotel, Hartford, Conn., before Examiner William A. Royall.

No. MC 124145, filed January 12, 1962. Applicant: THOMAS N. NcINTIRE, JR., 130 West High Street, Elkton, Md. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, and *their baggage* in the same vehicle with passengers, in round-trip charter operations beginning and ending at points in Cecil County, Md., and extending to points in Maryland, Delaware, New Jersey, Pennsylvania, Virginia, and Washington, D.C.

HEARING: March 15, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner John B. Mealy.

No. MC 124152, filed January 16, 1962. Applicant: LAKE REGION COACH CO., INC., 730 Madison Avenue, Paterson, N.J. Applicant's attorney: Edward F. Bowes, 1060 Broad Street, Newark 2, N.J. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, Between Paterson, N.J., and Carbondale, Pa.; from Paterson beginning at the City Hall on Ellison Street, over Ellison Street to junction Straight Street, thence over Straight Street to junction Haledon Avenue, thence over Haledon Avenue to junction Pompton Road, thence over Pompton Road to junction Paterson-Hamburg Turnpike, thence over Paterson-Hamburg Turnpike to junction Riverdale Avenue, thence over Riverdale Avenue to junction New Jersey Highway 23, thence over New Jer-

sey Highway 23 to junction New Jersey Highway 517 at Franklin, N.J., thence over New Jersey Highway 517 to junction Alternate New Jersey Highway 517 at Sparta, N.J., thence over Alternate New Jersey Highway 517 to junction U.S. Highway 206 at Newton, N.J., thence over U.S. Highway 206 to junction U.S. Highway 6 at Milford, Pa., thence over U.S. Highway 6 to Carbondale, and return over the same route, serving all intermediate points.

NOTE: Common control may be involved.

HEARING: March 13, 1962, at the State Office Building, Room 212, 1100 Raymond Boulevard, Newark, N.J., before Joint Board No. 67.

APPLICATIONS FOR BROKERAGE LICENSES

MOTOR CARRIERS OF PROPERTY

No. MC 12770, filed September 25, 1961. Applicant: BEKINS VAN & STORAGE CO., a corporation, 4118 North Central Avenue, Phoenix, Ariz. For a license (BMC 4) to engage in operations as a *broker* at points in Arizona, in arranging for transportation in interstate or foreign commerce, by motor vehicle, of *Household Goods* as defined by the Commission, between points in the United States.

HEARING: March 23, 1962, at the Arizona Corporation Commission, Phoenix, Ariz., before Joint Board No. 240, or, if the Joint Board waives its right to participate, before Examiner Charles B. Heinemann.

MOTOR CARRIERS OF PASSENGERS

No. MC 12784, filed December 4, 1961. Applicant: DONALD MITCHELL MARKS AND SAM H. MARKS, a partnership, doing business as AQUA-LAND COMPANY, 244 Brighton Beach Avenue, Brooklyn 35, N.Y. Applicant's attorney: George I. Kaplan, 231 Brighton Beach Avenue, Brooklyn 35, N.Y. For a license (BMC 5) to engage in operations as a *broker* at Brooklyn, N.Y., in arranging for transportation in interstate or foreign commerce, by motor vehicle, of *passengers and their baggage,* both as individuals and in groups, between points in New York and Vermont.

HEARING: March 13, 1962, at 346 Broadway, New York, N.Y., before Examiner Alvin H. Schrutrumpf.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 2990 (Sub-No. 18), filed January 25, 1962. Applicant: BLUE ARROW TRANSPORT LINES, INC., 525 Burton Street SW., Grand Rapids, Mich. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the site of the plant of the Eastman Kodak Company at Oak Brook, Ill., as an off-route point in connection with applicant's presently authorized regular route operations.

NOTE: Applicant states no service shall be rendered between the named plant site, on the one hand, and on the other, points in Lake and Porter Counties, Ind., nor between the named plant site on the one hand, and, on the other, points in Illinois.

No. MC 49304 (Sub-No. 8), filed January 29, 1962. Applicant: JAMES E. BOWMAN, doing business as BOWMAN TRUCKING CO., P.O. Box 6, Stephens City, Va. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lime* and *limestone products* (other than open hearth limestone) from Middletown, Va., and points within six (6) miles thereof, to points in Ohio; and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified above, on return.

No. MC 104896 (Sub-No. 7), filed January 23, 1962. Applicant: WOMELDORF, INC., P.O. Box 232, Lewistown, Pa. Applicant's attorney: V. Baker Smith, 2107 Fidelity-Philadelphia Trust Building, Philadelphia 9, Pa. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Baby supplies,* from the plant site of Gerber Products Company, Rochester, N.Y., to points in New Jersey, Pennsylvania, and points in the New York, N.Y., Commercial Zone, as defined by the Commission.

MOTOR CARRIERS OF PASSENGERS

No. MC 1501 (Sub-No. 255), filed December 18, 1961. Applicant: THE GREYHOUND CORPORATION, 140 South Dearborn Street, Chicago 3, Ill. Applicant's attorney: Robert J. Bernard, 140 South Dearborn Street, Chicago 3, Ill. 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 Florida Highway 95-A and Florida Highway 95-A, from North Junction U.S. Highway 29 and Florida Highway 95-A over U.S. Highway 29 to South junction U.S. Highway 29 and Florida Highway 95-A and return, over the same route, serving all intermediate points.

NOTE: Applicant is presently authorized to conduct operations in No. MC 1501, Sheet No. 18, between Pensacola, Fla., and Flomaton, Ala., over Florida Highway 95-A (formerly U.S. Highway 29). Applicant advises that if and when authority is granted to conduct operations over the above-described segment of highway, its present operations conducted over that portion of Florida Highway 95-A between the junctions above named, will be abandoned.

No. MC 1501 (Sub-No. 262), filed January 24, 1962. Applicant: THE GREYHOUND CORPORATION, Room 1500, 140 South Dearborn Street, Chicago 3, Ill. Applicant's attorney: Robert J. Bernard, 140 South Dearborn Street, Chicago 3, Ill. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers,* in the same vehicle with passengers, between Sioux Falls, S. Dak., and Council Bluffs, Iowa; from Sioux Falls over Interstate Highway No. 29 and return, over the same route, serving all intermediate points.

No. MC 1501 (Sub-No. 263), filed January 29, 1962. Applicant: THE GREYHOUND CORPORATION, 140 South Dearborn Street, Chicago, Ill. Applicant's attorney: Robert J. Bernard (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their hand baggage,* in the same vehicle with passengers, in special operations, from Milwaukee, Wis., to Fox Lake, Zion, and McHenry, Ill., and return.

NOTE: Applicant states the proposed operations are for social activities. Applicant further states common control may be involved.

No. MC 123916 (Sub-No. 4), filed January 26, 1962. Applicant: BRENTON B. HOLTER AND DALLAS L. SHULL, a partnership, doing business as GROVE CITY BUS LINES, R.D. No. 4, Grove City, Pa. Applicant's attorney: S. Harrison Kahn, 1110-14 Investment Building, Washington, D.C. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *Passengers and their baggage,* and *express, mail,* and *newspapers* in the same vehicle with passengers, (1) Between Union City, Pa., and Rouseville, Pa.; from Union City over Pennsylvania Highway 8 via Titusville, Pa., to Rouseville, and return over the same route, serving all intermediate points, (2) Between Erie, Pa., and Union City, Pa.; from Erie over Pennsylvania Highway 97 to Waterford, Pa., thence over Pennsylvania Highway 97 to Union City, and return over the same route, serving all intermediate points, and (3) Between Rouseville, Pa., and Oil City, Pa.; from Rouseville over Pennsylvania Highway 8 to Oil City and return over the same route, serving all intermediate points.

NOTICE OF FILING OF PETITIONS

No. MC 30319 (Sub-No. 23) (PETITION FOR REOPENING AND RECONSIDERATION FOR THE PURPOSE OF MODIFYING RESTRICTIONS AT RUNGE, NORDEIM AND YORKTOWN, TEXAS), filed January 12, 1962. Petitioner: SOUTHERN PACIFIC TRANSPORT COMPANY, Houston, Tex. Petitioner's attorney: Edwin N. Bell, 1600 Esperson Building, Houston 2, Tex. By petition filed January 12, 1962, petitioner advises that the route involved in the subject petition runs between Kenedy and Cuero, Tex., over Texas Highway 72 to its junction with U.S. Highway 87, and that this petition concerns the intermediate points of Runge, Nordheim, and Yorktown, Tex. The Certificate MC 30319 (Sub-No. 23), is subject to several restrictions, including the following: "1. The service to be performed shall be limited to that which is auxiliary to or supplemental of rail service of the Texas and New Orleans Railroad Company, hereinafter called the Railroad. "2. The carriers shall not render any service to or from any point not a station of the line of the railroad." The instant petition seeks the removal of the above restrictions, and the substitution there-

for of restrictions reading as follows: "1. The service to be performed shall be limited to that which is auxiliary to or supplemental of rail service of Southern Pacific Company in Texas and Louisiana, hereinafter called the Railroad, except at Sublime, Hallettsville, Chapell Hill, Runge, Nordheim, and Yorktown, Tex. "2. The carrier shall not render any service to or from any point not a station on the line of the railroad except Cold Spring, Tex., and except the site of the Southern Production Company near Pledger, Tex., and the site of the Freeport Sulphur Plant near Damon, Tex., and except Sublime, Hallettsville, Chappell Hill, Runge, Nordheim, and Yorktown." Any person or persons desiring to oppose petitioner's proposal, may, within 30 days from the date of this publication in the FEDERAL REGISTER, file an appropriate pleading.

No. MC 35628 and Subs 1, 6, 11, 86, 109, 111, 118, 121, 134, 141, 154, 155, 156, 159, 163, 166, 169, 171, 174, 176, 179, 181, 184, 187, 199, 206, 207, 209, 210, 211, 213, 214, 218, 219, 220, 221, and 233 (PETITION FOR MODIFICATION OF CERTIFICATES), filed January 4, 1962. Petitioner: INTERSTATE MOTOR FREIGHT SYSTEM, Grand Rapids, Mich. Petitioner's attorney: Leonard D. Verdier, Jr., Michigan Trust Building, Grand Rapids 2, Mich. Petitioner's above-numbered Certificates are subject to an exception which, in effect, prohibits the transportation of *dangerous inflammables*. Sub 11, excludes the transportation of *inflammables*. The subject petition requests the deletion of these exceptions and requests reopening of the proceedings to the extent required to accomplish such modification. Any person or persons desiring to oppose petitioner's proposal, may, within 30 days from the date of this publication in the FEDERAL REGISTER, file an appropriate pleading.

No. MC 123408 (Sub-No. 2) (PETITION FOR WAIVER OF RULE 1.101(e) AND FOR LEAVE TO FILE PETITION SEEKING MODIFICATION OF AUTHORITY IN PERMIT), filed December 27, 1961. Petitioner: FOOD HAULERS, INC., Elizabeth, N.J. Petitioner's representative: Bert Collins, 140 Cedar Street, New York 6, N.Y. By petition filed December 27, 1961, petitioner advises that it succeeded, pursuant to a proceeding in MC-FC 64272, to the rights described in Permit MC 123408 (Sub-No. 2), covering the transportation of: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business, between specified points in New Jersey and New York subject to a restriction reading: "The operations described herein are limited to a transportation service to be performed under special and individual contracts or agreements with persons (as defined in section 203(a) of the Interstate Commerce 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 above." The subject petition seeks the removal of the above restriction and the substitution thereof of a restricted reading: "RESTRICTION: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Wakefern Food Corporation, Elizabeth, N.J." Any person or persons desiring to oppose petitioner's proposal, may, within 30 days from the date of this publication in the FEDERAL REGISTER, file an appropriate pleading.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 3005 (Sub-No 8), filed January 30, 1962. Applicant: CHICAGO KANSAS CITY FREIGHT LINE, INC., 1048 North Monroe Avenue, Kansas City, Mo. Applicant's attorney: Wentworth E. Griffin, 1012 Baltimore Building, Kansas City 5, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities, including household goods and office furniture* (but excluding commodities of unusual size or value, Classes A and B explosives, commodities in bulk, and those requiring special equipment); (1) between points within a 50 mile radius of Springfield, Ill., and (2) between points within a 50 mile radius of Springfield, Ill., on the one hand, and, on the other, points in Illinois.

NOTE: The application is directly related to an application filed under section 5 of the Act, No. MC-F-8058, published in the FEDERAL REGISTER, issue of January 31, 1962.

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-8061. Authority sought for control and merger by CALIFORNIA MOTOR TRANSPORT CO., 235 Broadway, San Diego 1, Calif., of the operating rights and property of J. CHRISTENSON CO., 2500 Poplar Street, Oakland 7, Calif., and for acquisition by CITY TRANSIT SYSTEMS, and in turn by JESSE L. HAUGH, both of San Diego, Calif., of control of such rights and property through the transaction. Applicants' attorneys and representative respectively: Berol, Loughran, and Geernaert, 100 Bush Street, San Francisco 4, Calif., Waldo K. Greiner, 235 Broadway, San Diego 1, Calif., and Willard S. Johnson, P.O. Box 1147, Walnut Creek, Calif. Operating rights sought to be controlled and merged: Operations under the Second Proviso of section 206(a)(1) of the Interstate Commerce Act, in the State of California, as more specifically described in No. MC-97414 (Sub-No. 6). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-8062. Authority sought for purchase by GAULT TRANSPORTATION, INC., 379 Main Street, Wareham, Mass., of the operating rights and property of THE COLLINS TRANSPORTATION CO., INC., 7 Perry Avenue, Taunton, Mass., and for acquisition by JOHN M. NEWKIRK, North Road, West Yarmouth, Mass., of control of such rights and property through the purchase. Applicants' attorney: Harry C. Ames, Jr., 529 Transportation Building, Washington 6, D.C. Operating rights sought to be transferred: *Liquid petroleum products*, as a *common carrier* over irregular routes between points in Rhode Island and points in Massachusetts on, south, and east of U.S. Highway 202, and *liquid petroleum products*, in tank trucks, from Braintree, Mass., to Keene and Manchester, N.H., and Norwich, Conn., and from Providence, East Providence, Pawtucket, and Tiverton, R.I., to points in Connecticut, on and east of Connecticut Highway 32. Vendee is authorized to operate as a *common carrier* in Rhode Island, Massachusetts, Connecticut, and New York. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-8063. Authority sought for purchase by CARL H. BEHNKE, an individual, doing business as BEHNKE, 77 South Monroe Street, Battle Creek, Mich., of the operating rights of ARVILLA M. NEWKIRK, an individual, doing business as REE NEWKIRK TRUCK LINE, 376 Orleans Street, Otsego, Mich. Applicants' attorney: L. F. Richardson, 608 Michigan National Tower, Lansing, Mich. Operating rights sought to be transferred: *Paper products* and *waste paper*, as a *contract carrier* over regular routes from Otsego, Mich., to Chicago, Ill., serving the intermediate and off-route points of Cicero, Ill., and Michigan City and South Bend, Ind., restricted to delivery of paper products only, *waste paper*, from Chicago, Ill., to Otsego, Mich., serving the intermediate and off-route points of Cicero, Ill., and Michigan City and South Bend, Ind., restricted to pick-up only, and from Fort Wayne, Ind., to Otsego, Mich., serving no intermediate points, and *paper products*, from Otsego, Mich., to Fort Wayne, Ind., serving the intermediate point of Elkhart, Ind., restricted to delivery only. Vendee is authorized to operate as a *contract carrier* in Michigan, Indiana, Ohio, Minnesota, and Illinois. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-8064. Authority sought for purchase by WITTE TRANSPORTATION COMPANY, 2481 North Cleveland Avenue, St. Paul 13, Minn., of a portion of the operating rights and certain property of HINES TRANSFER, INC., 209 North Broadway, Ellsworth, Wis., and for acquisition by H. G. McNEELY, 425 East Eighth Street, St. Paul, Minn., of control of such rights and property through the purchase. Applicants' representative: Salvatore F. Caruso, 2481 North Cleveland Avenue, St. Paul 13, Minn. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*

over irregular routes between points in the Towns of El Paso, Hartland, Salem, Ellsworth, and Rock Elm, Pierce County, Wis., on the one hand, and, on the other, Minneapolis, St. Paul, South St. Paul, Newport, Hastings, and Red Wing, Minn., between points in the Towns of Durand, Waterville, Lima, Rock Elm, Union, Peru, Eau Galle, Canton, Maxville, Wis., on the one hand, and, on the other, St. Paul, South St. Paul, Minneapolis, and Newport, Minn., and from Minneapolis, St. Paul, South St. Paul, Newport, and Red Wing, Minn., to points in the Town of Frankfort in Pepin County, Wis., *agricultural commodities* and *livestock*, from points in Frankfort, Wis., to Minneapolis, St. Paul, South St. Paul, Newport, and Red Wing, Minn., *livestock, agricultural commodities* and *wood*, from points in Rock Elm, Spring Lake, Union, Maiden Rock, Ellsworth, Waterville, Eau Galle, Wis., to St. Paul, South St. Paul, Minneapolis, Hastings, and Red Wing, Minn., and *agricultural implements, feed, seed, coal* and *farm supplies*, from St. Paul, South St. Paul, Minneapolis, Hastings, and Red Wing, Minn., to points in the Wisconsin Towns specified immediately above. Vendee is authorized to operate as a *common carrier* in Wisconsin, Minnesota, and North Dakota. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-8065. Authority sought for control by TRUCKING ENTERPRISES, INC., Room 2900, 744 Broad Street, Newark, N.J., of TREDWAY'S EXPRESS, INC., 512 Myrtle Avenue, Boonton, N.J. Applicants' attorney: Bernard F. Flynn, Jr., York-Flynn Building, East Blackwell Street, Dover, N.J. Operating rights sought to be controlled: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier* over irregular routes, between New York, N.Y., on the one hand, and, on the other, points in New Jersey, between points in New Jersey, and between New York, N.Y., Secaucus, Hillside, Hoboken, Newark, Carlstadt, North Bergen, Wehawken, and Jersey City, N.J., on the one hand, and, on the other, points in Warren and Sussex Counties, N.J., and *radio equipment*, from Boonton, N.J., to Philadelphia, Pa. TRUCKING ENTERPRISES, INC., holds no authority from this Commission. However, it is affiliated with NEW JERSEY FORWARDING COMPANY, 80-86 Commercial Street, Newark, N.J., which is authorized to operate as a *common carrier* in New Jersey, New York, and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-8067. Authority sought for merger into COLONIAL MOTOR FREIGHT LINE, INCORPORATED, East College Drive, High Point, N.C., of the operating rights and property of WILKINSON TRUCKING COMPANY, INC., 214 West Tremont Street, Charlotte, N.C., and for acquisition by R. L. HONBARRIER, East College Drive, High Point, N.C., of control of such rights and property through the transaction. Applicants' attorney: Francis W. McInerny, Macdonald, and McInerny, 1000 Sixteenth Street NW., Suite 602 Solar Building, Washington 6, D.C. Operating rights sought to be merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier* over irregular routes, between Charlotte, N.C., and points within one mile of Charlotte, on the one hand, and, on the other, Augusta, Ga., and points in that part of North Carolina, South Carolina, and Tennessee, within 150 miles of Charlotte, N.C. COLONIAL MOTOR FREIGHT LINE, INCORPORATED is authorized to operate as a *common carrier* in North Carolina, Maryland, Virginia, 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. 62-1228; Filed, Feb. 6, 1962; 8:47 a.m.]

[Notice 591]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 2, 1962.

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

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

No. MC-FC 64636. By order of January 26, 1962, the Transfer Board approved the transfer to Fountain's Garage, Inc., New Haven, Conn., of Certificate No. MC 116899, issued April 14, 1958, to Edward J. Fountain, doing business as Fountain's Garage; New Haven, Conn., authorizing the transportation, over irregular routes, of wrecked and disabled trailers designed to be drawn by passenger automobiles and wrecked, disabled and repossessed motor vehicles, between points in Connecticut, on the one hand, and, on the other, points in Rhode Island, Massachusetts, New York, and New Jersey. Bernard J. Virshup, 157 Church Street, New Haven, Conn., attorney for applicants.

No. MC-FC 63692. By order of January 26, 1962, the Transfer Board approved the transfer to Momsen Trucking Co., a corporation, Highways 18 and 71 North, Spencer, Iowa, of a portion of the operating rights in Certificate No. MC 111557 and subnumbers thereto, issued to Karl E. Momsen, doing business as Momsen Trucking Co., Highways 18 and 71, North, Spencer, Iowa, authorizing the transportation of: Specific commodities of a general nature, from and to, or between points as specified in Arkansas, Illinois, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin; and general commodities, excluding household goods, commodities in bulk, and other specified commodities, from and to, or between points as specified in Illinois, Iowa, Kansas, Minnesota, Missouri, and Nebraska.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 62-1229; Filed, Feb. 6, 1962; 8:47 a.m.]

[Ex Parte No. MC-30]

CINCINNATI, OHIO, COMMERCIAL ZONE

Order Denying Petition

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D.C., on the 24th day of January A.D. 1962.

It appearing that on September 10, 1940, the Commission, division 5, made and filed its report, 26 M.C.C. 49, in the above-entitled proceeding, determining the zone adjacent to and commercially a part of Cincinnati, Ohio, as thereafter modified by said division in reports in 41 M.C.C. 227 and 46 M.C.C. 733;

It further appearing that by petition filed July 29, 1960, A.B.&C. Motor Freight, Inc., of Augusta, Ky., and 11 other motor carriers, and Shillito's Department Stores, of Cincinnati, Ohio, seek to extend the eastern limits of the Cincinnati, Ohio, commercial zone as defined (25 F.R. 8699);

It further appearing that said petition has been the subject of a formal hearing and a recommended order by the hearing officer to which exceptions were filed;

And it further appearing that investigation of the matters and things involved in this proceeding has been made and said division, on the date hereof has made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby made a part hereof;

It is ordered, That said petition be, and it is hereby, denied, for the reasons stated in said report.

By the Commission, Division 1.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 62-1230; Filed, Feb. 6, 1962; 8:47 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 2, 1962.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 37537: *Peat to southern territory.* Filed by O. W. South, Jr., Agent (No. A4149), for interested rail carriers. Rates on peat, noibn, ground or not ground, in carloads, from Gulf, south Atlantic and Virginia ports (Import), to points in southern territory, also adjacent points in official-southern border territory.

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

Tariff: Supplement 13 to Southern Freight Association tariff I.C.C. S-137.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 62-1226; Filed, Feb. 6, 1962; 8:47 a.m.]

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