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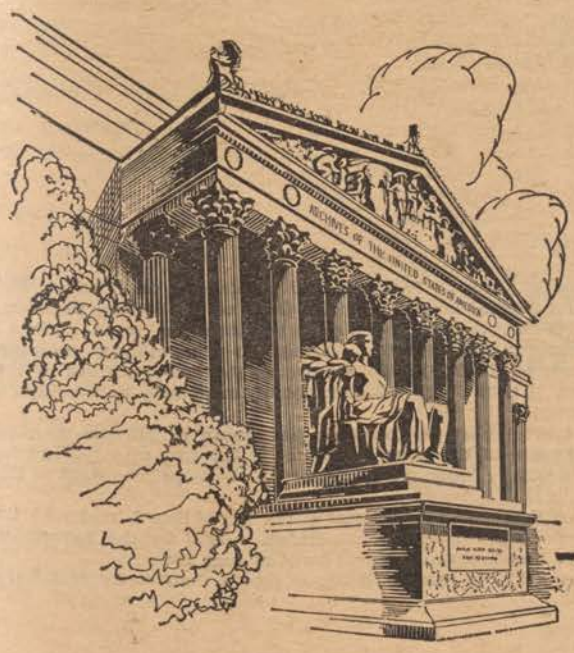

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1968, and specifies how they are affected.

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Miscellaneous Amendments

Part 213 is amended to bring the listing of the positions in Schedule A and Schedule B up to date. Having expired by their own terms, §§ 213.3175, 213.3193, 213.3196, and 213.3256 are revoked in their entirety, and the following subparagraphs are revoked.

§ 213.3108 Department of the Navy.

(a) *General.* * * *
(6) [Revoked]

* * * * *

§ 213.3110 Department of Justice.

(a) *General.* * * *
(4) [Revoked]

* * * * *

§ 213.3114 Department of Commerce.

* * * * *

(i) *Office of the Assistant Secretary for Domestic and International Business.*
* * *

(3) [Revoked]

* * * * *

§ 213.3156 Commission on Civil Rights.

* * * * *

(b) [Revoked]

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 68-10703; Filed, Sept. 4, 1968; 8:50 a.m.]

Title 7—AGRICULTURE

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

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Subpart A—Regulations

FEES AND CHARGES FOR THE INSPECTION OF CERTAIN AGRICULTURAL AND VEGETABLE SEEDS FOR QUALITY

Pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.), the provisions of 7 CFR Part 68 are amended by adopting a new section 68.42b prescribing fees for the inspection of certain agricultural and vegetable seeds.

Statement of considerations. The Agricultural Marketing Act of 1946 provides for the collection of fees which are reasonable and cover the cost of the service rendered. This new provision of the regulations establishes the hourly base rate for seed inspection at $8 per hour, which includes average salary of employees assigned to the service, supervisory and clerical support, standby time, rent, equipment, and other overhead costs. The new rate also includes the cost of the recent general salary increases for Federal employees, including an average 5 percent increase effective July 1, 1968. The fee for testing will be based on the time actually required to make the test subject to the establishment of a minimum and a maximum fee. The former fee schedules provided different flat rates for each kind of seed tested.

Section 68.42b is adopted as follows:

§ 68.42b Fees and charges for the inspection of agricultural and vegetable seeds.

(a) The fee for each germination, purity, and noxious-weed seed test shall be at the rate of $8 per hour, in increments of 15 minutes or any part thereof, but not less than $4 for any test and not more than the maximum fee as specified in the following table, except that no maximum is applicable to especially difficult tests such as 400-seed separations for kind or variety; mottled seed counts of sweetclover; or noxious-weed seed examinations of bluegrasses for annual bluegrass, wheatgrasses for quackgrass, and sudangrass for johnsongrass; or to tests of certain kinds or varieties of seeds as indicated in the table.

MAXIMUM FEES

Name of seed	Germination	Purity	Purity and germination	Noxious-weed seeds	Purity and noxious-weed seeds	Germination, purity, and noxious-weed seeds
AGRICULTURAL SEEDS						
Alfalfa	$8.00	$6.00	$12.00	$8.00	$12.00	$18.00
Alfilaria			[1] 8.00			
Alyceclover	8.00	10.00	16.00	8.00	16.00	22.00
Bahiagrass			[1] 8.00			
Barley	8.00	8.00	14.00	8.00	14.00	20.00
Barrelclover	8.00	6.00	12.00	8.00	14.00	18.00
Bean:						
Adzuki	8.00	6.00	12.00	4.00	8.00	14.00
Field	10.00	4.00	12.00	4.00	6.00	14.00
Mung	8.00	6.00	12.00	4.00	8.00	14.00
Beet:						
Field	10.00	6.00	14.00	4.00	8.00	16.00
Sugar	10.00	6.00	14.00	4.00	8.00	16.00
Beggarweed	10.00	8.00	16.00	6.00	12.00	20.00
Bentgrass:						
Colonial	8.00	12.00	18.00	8.00	18.00	24.00
Creeping	8.00	12.00	18.00	8.00	18.00	24.00
Velvet	8.00	12.00	18.00	8.00	18.00	24.00
Bermudagrass:						
Common	10.00	16.00	24.00	8.00	22.00	30.00
Giant	10.00	16.00	24.00	8.00	22.00	30.00
Bluegrass:						
Bulbous	10.00	10.00	18.00	8.00	16.00	24.00
Canada	8.00	12.00	18.00	12.00	22.00	28.00
Glaucantha	8.00	12.00	18.00	12.00	22.00	28.00
Kentucky	8.00	12.00	18.00	12.00	22.00	28.00
Nevada	8.00	10.00	16.00	8.00	16.00	22.00
Rough	8.00	12.00	18.00	12.00	26.00	32.00
Texas	8.00	8.00	14.00	8.00	14.00	20.00
Wood	8.00	12.00	18.00	12.00	22.00	28.00
Bluestem:						
Big			[1] 8.00			
Little			[1] 8.00			
Sand			[1] 8.00			
Yellow			[1] 8.00			
Brome:						
Field	8.00	10.00	16.00	8.00	16.00	22.00
Mountain	10.00	8.00	16.00	6.00	12.00	20.00
Smooth	8.00	10.00	16.00	8.00	16.00	22.00
Broomcorn	8.00	6.00	14.00	6.00	10.00	18.00
Buckwheat	8.00	6.00	14.00	6.00	10.00	18.00
Buffalograss			[1] 8.00			
Buffelgrass			[1] 8.00			
Bur-clover:						
California	8.00	6.00	12.00	8.00	12.00	18.00
Spotted	8.00	6.00	12.00	8.00	12.00	18.00
Burnet, little	8.00	6.00	12.00	6.00	10.00	16.00
Buttonclover	8.00	6.00	12.00	8.00	12.00	18.00
Canarygrass	8.00	6.00	12.00	6.00	10.00	16.00
Canarygrass, reed	8.00	12.00	18.00	6.00	16.00	22.00
Carpetgrass	8.00	10.00	16.00	10.00	18.00	24.00
Castorbean	10.00	4.00	12.00	4.00	6.00	14.00
Chess, soft	8.00	10.00	16.00	8.00	16.00	22.00
Chickpea	10.00	4.00	12.00	4.00	6.00	14.00

See footnote at end of table.

MAXIMUM FEES—Continued

Name of seed	Germination	Purity	Purity and germination	Noxious-weed seeds	Purity and noxious-weed seeds	Germination, purity, and noxious-weed seeds
AGRICULTURAL SEEDS—continued						
Clover:						
Alsike	$8.00	$8.00	$14.00	$6.00	$12.00	$18.00
Berseem	8.00	6.00	12.00	6.00	10.00	16.00
Cluster	8.00	8.00	14.00	8.00	14.00	20.00
Crimson	8.00	6.00	12.00	8.00	12.00	18.00
Hop, large	8.00	8.00	14.00	8.00	14.00	20.00
Hop, small	8.00	6.00	12.00	8.00	12.00	18.00
Kenya	8.00	6.00	12.00	6.00	10.00	16.00
Ladino	8.00	6.00	12.00	8.00	12.00	18.00
Lappa	8.00	6.00	12.00	6.00	10.00	16.00
Persian	8.00	8.00	14.00	6.00	12.00	18.00
Red	8.00	6.00	12.00	8.00	12.00	18.00
Rose	8.00	6.00	12.00	6.00	10.00	16.00
Strawberry	8.00	6.00	12.00	6.00	10.00	16.00
Sub	8.00	6.00	12.00	6.00	10.00	16.00
White	8.00	8.00	14.00	8.00	14.00	20.00
Corn:						
Field	8.00	6.00	12.00	4.00	8.00	14.00
Pop	8.00	6.00	12.00	4.00	8.00	14.00
Cotton	8.00	6.00	12.00	6.00	10.00	16.00
Cowpea	10.00	8.00	14.00	4.00	10.00	16.00
Crested dogtail	8.00	8.00	14.00	8.00	14.00	20.00
Crotolaria:						
Lance	10.00	6.00	14.00	6.00	10.00	20.00
Showy	10.00	6.00	14.00	6.00	10.00	20.00
Slender leaf	10.00	6.00	14.00	6.00	10.00	20.00
Striped	10.00	6.00	14.00	6.00	10.00	20.00
Sunn	10.00	6.00	14.00	6.00	10.00	20.00
Crownvetch	8.00	6.00	14.00	6.00	10.00	18.00
Dallisgrass	10.00	16.00	24.00	8.00	22.00	30.00
Dichondra	8.00	8.00	14.00	8.00	14.00	20.00
Dropseed, sand	8.00	6.00	14.00	8.00	12.00	18.00
Emmer	8.00	6.00	12.00	6.00	10.00	16.00
Fescue:						
Chewings	8.00	10.00	16.00	8.00	16.00	22.00
Hair	8.00	10.00	16.00	8.00	16.00	22.00
Hard	8.00	10.00	16.00	8.00	16.00	22.00
Meadow	8.00	10.00	16.00	8.00	16.00	22.00
Red	8.00	10.00	16.00	8.00	16.00	22.00
Sheep	8.00	10.00	16.00	8.00	16.00	22.00
Tall	8.00	10.00	16.00	10.00	18.00	24.00
Flax	8.00	8.00	14.00	8.00	14.00	20.00
Grama:						
Blue			[1] 8.00			
Side-oats			[1] 8.00			
Guar	8.00	6.00	12.00	6.00	10.00	16.00
Guineagrass	8.00	16.00	22.00	10.00	24.00	30.00
Hardinggrass	8.00	6.00	12.00	6.00	10.00	16.00
Hemp	8.00	4.00	10.00	4.00	6.00	12.00
Indiangrass, yellow			[1] 8.00			
Indigo, hairy	8.00	6.00	12.00	6.00	10.00	16.00
Japanese lawngrass	8.00	16.00	22.00	6.00	20.00	26.00
Johnsongrass	10.00	8.00	16.00	8.00	16.00	22.00
Kudzu	8.00	6.00	12.00	6.00	10.00	16.00
Lentil	8.00	6.00	12.00	6.00	10.00	16.00
Lespedeza:						
Korean	8.00	12.00	18.00	12.00	22.00	28.00
Sericea	8.00	8.00	14.00	10.00	16.00	22.00
Siberian	8.00	10.00	16.00	10.00	18.00	24.00
Striate	8.00	10.00	16.00	10.00	18.00	24.00
Lovegrass:						
Sand	8.00	8.00	14.00	8.00	14.00	22.00
Weeping	8.00	8.00	14.00	8.00	14.00	22.00
Lupine:						
Blue	10.00	6.00	14.00	4.00	8.00	16.00
White	10.00	6.00	14.00	4.00	8.00	16.00
Yellow	10.00	6.00	14.00	4.00	8.00	16.00
Manilagrass	8.00	16.00	22.00	6.00	20.00	26.00
Meadow foxtail	8.00	10.00	16.00	6.00	14.00	20.00
Medick, black	8.00	6.00	12.00	8.00	12.00	18.00

See footnote at end of table.

MAXIMUM FEES—Continued

Name of seed	Germination	Purity	Purity and germination	Noxious-weed seeds	Purity and noxious-weed seeds	Germination, purity, and noxious-weed seeds
AGRICULTURAL SEEDS—continued						
Millet:						
Browntop	$10.00	$8.00	$16.00	$8.00	14.00	$22.00
Foxtail	8.00	6.00	12.00	6.00	10.00	16.00
Japanese	8.00	8.00	14.00	8.00	14.00	20.00
Pearl	8.00	6.00	12.00	6.00	10.00	16.00
Proso	8.00	6.00	12.00	6.00	10.00	16.00
Molassesgrass			[1] 8.00			
Mustard:						
India	8.00	6.00	12.00	6.00	10.00	16.00
Black	8.00	6.00	12.00	6.00	10.00	16.00
White	8.00	6.00	12.00	6.00	10.00	16.00
Napiergrass	8.00	6.00	12.00	6.00	10.00	16.00
Oat	8.00	8.00	14.00	8.00	14.00	20.00
Oatgrass, tall	8.00	12.00	18.00	8.00	18.00	24.00
Orchardgrass	8.00	14.00	20.00	10.00	22.00	28.00
Panicgrass:						
Blue	8.00	8.00	14.00	8.00	14.00	20.00
Green	8.00	12.00	18.00	8.00	18.00	24.00
Peanut	10.00	6.00	14.00	4.00	8.00	16.00
Pea, field	10.00	4.00	12.00	4.00	6.00	14.00
Rape:						
Annual	8.00	6.00	14.00	8.00	14.00	20.00
Bird	8.00	6.00	14.00	8.00	14.00	20.00
Turnip	8.00	6.00	14.00	8.00	14.00	20.00
Winter	8.00	6.00	14.00	8.00	14.00	20.00
Redtop	8.00	10.00	16.00	8.00	16.00	22.00
Rescuegrass	10.00	8.00	16.00	6.00	14.00	20.00
Rhodesgrass			[1] 8.00			
Rice	10.00	6.00	14.00	6.00	10.00	18.00
Ricegrass, Indian	10.00	6.00	14.00	6.00	10.00	18.00
Roughpea	8.00	6.00	14.00	6.00	10.00	18.00
Rye	8.00	10.00	16.00	10.00	18.00	24.00
Ryegrass:						
Annual	8.00	6.00	14.00	10.00	14.00	22.00
Perennial	8.00	6.00	14.00	10.00	14.00	22.00
Wimmera	8.00	6.00	14.00	10.00	14.00	22.00
Safflower	8.00	4.00	10.00	4.00	6.00	12.00
Sainfoin	8.00	6.00	14.00	6.00	10.00	18.00
Sesame	8.00	6.00	14.00	6.00	10.00	18.00
Sesbania	8.00	6.00	14.00	6.00	10.00	18.00
Smilo	8.00	6.00	14.00	6.00	10.00	18.00
Sorghum	8.00	6.00	12.00	6.00	10.00	16.00
Sorghum-sudangrass hybrid	8.00	6.00	12.00	6.00	10.00	16.00
Sorghum almum	8.00	8.00	14.00	8.00	14.00	20.00
Sorgrass	8.00	8.00	14.00	8.00	14.00	20.00
Sourclover	8.00	6.00	12.00	8.00	12.00	18.00
Soybean	10.00	4.00	12.00	4.00	6.00	14.00
Spelt	8.00	6.00	12.00	6.00	10.00	16.00
Sudangrass	8.00	8.00	14.00	8.00	14.00	20.00
Sunflower	8.00	4.00	10.00	4.00	6.00	12.00
Sweetclover:						
White	8.00	8.00	14.00	8.00	14.00	20.00
Yellow	8.00	8.00	14.00	8.00	14.00	20.00
Sweet vernalgrass	8.00	8.00	14.00	6.00	12.00	18.00
Switchgrass	8.00	8.00	14.00	6.00	12.00	18.00
Timothy	8.00	6.00	12.00	8.00	12.00	18.00
Tobacco			[1] 8.00			
Trefoil:						
Big	8.00	8.00	14.00	8.00	14.00	20.00
Birdsfoot	8.00	8.00	14.00	8.00	14.00	20.00
Vaseygrass	8.00	12.00	18.00	8.00	18.00	24.00
Veldtgrass	8.00	12.00	18.00	8.00	18.00	24.00
Velvetbean	10.00	4.00	12.00	4.00	6.00	14.00
Velvetgrass	8.00	12.00	18.00	8.00	18.00	24.00
Vetch:						
Common	8.00	8.00	14.00	6.00	12.00	18.00
Hairy	8.00	8.00	14.00	6.00	12.00	18.00
Hungarian	8.00	8.00	14.00	6.00	12.00	18.00
Monantha	8.00	6.00	12.00	6.00	10.00	16.00
Narrowleaf	8.00	8.00	14.00	6.00	12.00	18.00

MAXIMUM FEES—Continued

Name of seed	Germination	Purity	Purity and germination	Noxious-weed seeds	Purity and noxious-weed seeds	Germination, purity, and noxious-weed seeds
AGRICULTURAL SEEDS—continued						
Vetch—Continued						
Purple	$8.00	$8.00	$14.00	$6.00	$12.00	$18.00
Woollypod	8.00	8.00	14.00	6.00	12.00	18.00
Wheat:						
Common	8.00	6.00	12.00	6.00	10.00	16.00
Club	8.00	6.00	12.00	6.00	10.00	16.00
Durum	8.00	6.00	12.00	6.00	10.00	16.00
Polish	8.00	6.00	12.00	6.00	10.00	16.00
Poulard	8.00	6.00	12.00	6.00	10.00	16.00
Wheatgrass:						
Beardless	8.00	10.00	16.00	6.00	14.00	20.00
Crested, fairway	8.00	10.00	16.00	6.00	14.00	20.00
Crested, standard	8.00	10.00	16.00	6.00	14.00	20.00
Intermediate	8.00	10.00	16.00	6.00	14.00	20.00
Pubescent	8.00	10.00	16.00	6.00	14.00	20.00
Siberian	8.00	10.00	16.00	6.00	14.00	20.00
Slender	8.00	10.00	16.00	6.00	14.00	20.00
Tall	8.00	10.00	16.00	6.00	14.00	20.00
Western	10.00	10.00	18.00	6.00	14.00	22.00
Wild-rye:						
Canada	8.00	8.00	14.00	6.00	12.00	18.00
Russian	8.00	8.00	14.00	6.00	12.00	18.00
VEGETABLE SEEDS						
Artichoke	8.00	6.00	12.00	6.00	10.00	16.00
Asparagus	8.00	6.00	12.00	6.00	10.00	16.00
Asparagusbean	10.00	4.00	12.00	4.00	6.00	14.00
Bean:						
Garden	10.00	4.00	12.00	4.00	6.00	14.00
Lima	10.00	4.00	12.00	4.00	6.00	14.00
Runner	10.00	4.00	12.00	4.00	6.00	14.00
Beet	10.00	6.00	14.00	6.00	10.00	18.00
Broadbean	10.00	4.00	12.00	4.00	6.00	14.00
Broccoli	8.00	6.00	12.00	6.00	10.00	16.00
Brussels sprouts	8.00	6.00	12.00	6.00	10.00	16.00
Burdock, great	8.00	6.00	12.00	6.00	10.00	16.00
Cabbage	8.00	6.00	12.00	6.00	10.00	16.00
Cabbage, Chinese	8.00	6.00	12.00	6.00	10.00	16.00
Cabbage, tronchuda	8.00	6.00	12.00	6.00	10.00	16.00
Canteloupe (see Muskmelon)						
Cardoon	8.00	8.00	14.00	6.00	11.00	18.00
Carrot	8.00	8.00	14.00	8.00	14.00	20.00
Cauliflower	8.00	6.00	12.00	6.00	10.00	16.00
Celeriac	8.00	8.00	12.00	6.00	14.00	16.00
Chard, Swiss	10.00	6.00	14.00	6.00	10.00	18.00
Chicory	8.00	8.00	14.00	8.00	14.00	20.00
Chives	8.00	6.00	12.00	8.00	12.00	18.00
Citron	8.00	4.00	10.00	4.00	6.00	12.00
Collards	8.00	6.00	12.00	6.00	10.00	16.00
Corn, sweet	10.00	4.00	12.00	4.00	6.00	14.00
Cornsalad	8.00	8.00	14.00	8.00	14.00	20.00
Cowpea	10.00	6.00	14.00	4.00	8.00	16.00
Cress:						
Garden	8.00	6.00	12.00	8.00	12.00	18.00
Upland	8.00	6.00	12.00	8.00	12.00	18.00
Water	8.00	8.00	14.00	8.00	14.00	20.00
Cucumber	8.00	4.00	10.00	4.00	6.00	12.00
Dandelion	8.00	8.00	14.00	8.00	14.00	20.00
Eggplant	8.00	6.00	14.00	6.00	10.00	18.00
Endive	8.00	8.00	14.00	8.00	14.00	20.00
Kale	8.00	6.00	12.00	6.00	10.00	16.00
Chinese	8.00	6.00	12.00	6.00	10.00	16.00
Siberian	8.00	6.00	12.00	6.00	10.00	16.00
Kohlrabi	8.00	6.00	12.00	6.00	10.00	16.00
Leek	8.00	6.00	12.00	8.00	12.00	18.00
Lettuce	8.00	6.00	12.00	6.00	10.00	16.00
Muskmelon	8.00	4.00	10.00	4.00	6.00	12.00
Mustard, India	8.00	6.00	12.00	6.00	10.00	16.00
Mustard, spinach	8.00	6.00	14.00	6.00	10.00	16.00
Okra	8.00	6.00	14.00	6.00	10.00	18.00
Onion	8.00	6.00	12.00	8.00	12.00	18.00
Onion, Welsh	8.00	6.00	12.00	8.00	12.00	18.00
Pak-choi	8.00	6.00	12.00	6.00	10.00	16.00
Parsley	8.00	8.00	14.00	8.00	14.00	20.00
Parsnip	8.00	8.00	14.00	8.00	14.00	20.00
Pea	10.00	4.00	12.00	4.00	6.00	14.00
Pepper	8.00	6.00	14.00	6.00	10.00	18.00
Pumpkin	8.00	4.00	10.00	4.00	6.00	12.00
Radish	8.00	6.00	14.00	6.00	10.00	18.00
Rhubarb	10.00	4.00	12.00	4.00	6.00	14.00
Rutabaga	8.00	6.00	12.00	6.00	10.00	16.00
Salsify	8.00	6.00	14.00	6.00	10.00	18.00
Sorrel	8.00	6.00	14.00	6.00	10.00	18.00
Soybean	10.00	4.00	12.00	4.00	6.00	14.00
Spinach	8.00	6.00	12.00	4.00	8.00	14.00
Spinach, New Zealand	10.00	6.00	14.00	4.00	8.00	16.00
Squash	8.00	4.00	10.00	4.00	6.00	12.00
Tomato	8.00	6.00	14.00	6.00	10.00	18.00
Tomato, husk	8.00	6.00	14.00	6.00	10.00	18.00
Turnip	8.00	6.00	12.00	6.00	10.00	16.00
Watermelon	8.00	4.00	10.00	4.00	6.00	12.00

[1] The $8.00 hourly rate is applicable to all types of tests listed for this seed, subject to the requirement of a minimum fee of $4.00, with no limit as to the maximum fee.

(b) Sampling, sealing, checkweighing, checkloading, inspection of condition of containers, and any similar services shall be at the rate of $8 per hour, with a 2-hour minimum commencing when the official sampler or inspector arrives at the inspection point on or after the appointed time and terminating when the sampler or inspector leaves the premises. This same rate applies regardless of the hour of the day or the location of the plant where the service is rendered.

The facts needed for establishment of these fees and charges for services and the amount thereof are known by the Consumer and Marketing Service. It is therefore found upon good cause that notice and other public rule making procedures are not necessary under the administrative procedure provisions of 5 U.S.C. 553.

This section of the regulations shall become effective 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of August 1968.

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

[F.R. Doc. 68-10574; Filed, Sept. 4, 1968; 8:45 a.m.]

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

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 811, Amdt. 10]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements, Quotas, and Quota Deficits for 1968

Basis and purposes and bases and considerations. This amendment is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended), hereinafter referred to as the "Act". The purpose of this amendment to Sugar Regulation 811 (32 F.R. 18083), as amended, is to determine and prorate or allocate additional deficits in quotas established pursuant to the Act and to reallocate deficits previously prorated.

Section 204(a) of the Act provides that the Secretary shall from time to time determine whether any area or country will be unable to fill its quota or the proration of a deficit. On the basis of the quota established for Puerto Rico for the calendar year 1968 a finding was heretofore made (33 F.R. 9529) that Puerto Rico was unable to fill its quota by 615,000 short tons, raw value, and accordingly a quota deficit was determined for Puerto Rico of 615,000 tons. On the basis of the latest available information it is herein found that Puerto Rico will be unable to fill its quota by an additional 10,000 short tons, raw value. Therefore,

a total deficit is herein determined in the 1968 quota for Puerto Rico of 625,000 short tons, raw value. Nicaragua notified the Department prior to August 1, 1968 that it would be able to supply sugar to fill only such quota as may be established pursuant to section 202 of the Sugar Act. Accordingly, Nicaragua will be unable to fill deficit prorations previously made to it of 15,520 short tons, raw value.

The additional deficit determined for Puerto Rico of 10,000 short tons, raw value, and the deficit proration previously made to Nicaragua of 15,520 short tons, raw value, which total 25,520 short tons, raw value, are herein prorated to Western Hemisphere countries listed in section 202(c)(3)(A) of the Act, which are able to supply such additional sugar, on the basis of published quotas most recently in effect. None of the deficits are herein prorated to the Republic of the Philippines since it has previously notified the Department that it cannot supply any sugar in excess of its statutory quota. The Secretary hereby determines that the French West Indies will be unable to supply sugar in excess of its previously established quota of 87,680 short tons, raw value, and thus no additional proration of deficit will be made to that country nor to Panama and Nicaragua since they have notified the Secretary of their inability to supply additional sugar.

On the basis of evidence submitted by Panama prior to August 1 and pursuant to section 202(d)(4) it is determined that the amount of short fall in the quota for Panama (33 F.R. 9529) was due to crop disaster and that the quota for future years will not be subject to reduction by reason of such short fall. In regard to Nicaragua, a determination relative to crop disaster or other force majeure must await the receipt of substantiating date.

By virtue of the authority vested in the Secretary of Agriculture by the Act, Part 811 of this chapter is hereby amended by amending §§ 811.61, 811.62, and 811.63 as follows:

1. Section 811.61 is amended by amending subparagraph (a)(2) to read as follows:

§ 811.61 Quotas for domestic areas.

(a) * * *

(2) It is hereby determined pursuant to section 204(a) of the Act that for the calendar year 1968 the Domestic Beet Sugar Area, Puerto Rico and the Virgin Islands will be unable by 147,667, 625,000, and 15,000 short tons, raw value, respectively, to fill the quota established for such areas in subparagraph (1) of this paragraph. Pursuant to section 204(b) of the Act the determination of such deficits shall not affect the quotas established in subparagraph (1) of this paragraph.

* * * * *

2. Section 811.62 is amended by adding a new subparagraph (a)(5) to read as follows:

§ 811.62 Proration and allocation of deficits and quotas in effect.

(a) * * *

(5) The additional deficit in the Puerto Rican quota, determined in subparagraph (a)(2) § 811.61 of 10,000 short tons, raw value, and the previous prorated deficit to Nicaragua of 15,520 short tons, raw value, totaling 25,520 short tons, raw value, are herein prorated to Western Hemisphere countries named in section 202(c)(3)(A) of the Act, which are able to supply such additional sugar, on the basis of published quotas most recently in effect.

* * * * *

4. Section 811.62 is amended by amending paragraph (c) to read as follows:

§ 811.63 Quotas for foreign countries.

* * * * *

(c) For the calendar year 1968, the prorations to individual foreign countries pursuant to section 202 of the Act are shown in columns (1) and (2) of the following table. Deficit prorations and allocations previously established are shown in column (3). In column (4) the additional deficit in the quota for Puerto Rico, of 10,000 short tons, raw value, and the previously prorated deficit to Nicaragua of 15,520 short tons, raw value, are herein prorated pursuant to subparagraph (a)(5) of § 811.62 of this part.

Countries	Basic quotas (1)	Temporary quotas and prorations pursuant to sec. 202(d) [1] (2)	Previous deficit prorations and allocation (3)	New deficit prorations (4)	Total quotas and prorations (5)
	(Short tons, raw value)				
Mexico	229,730	246,544	134,804	5,081	616,159
Dominican Republic	224,678	241,127	216,721	5,676	688,202
Brazil	224,678	241,122	131,841	4,970	602,611
Peru	179,207	192,325	105,159	3,964	480,655
British West Indies	89,752	74,183	47,341	1,757	213,033
Ecuador	32,691	35,083	19,183	723	87,680
French West Indies	28,233	23,337	14,893	0	66,463
Argentina	27,639	29,662	16,219	611	74,131
Costa Rica	26,450	28,385	15,520	585	70,940
Nicaragua	26,450	28,385	15,520	−15,520	54,835
Colombia	23,775	25,515	13,950	526	63,766
Guatemala	22,289	23,922	13,080	493	59,784
Panama	16,643	17,863	3,304	0	37,810
El Salvador	16,346	17,544	9,592	362	43,844
Haiti	12,482	13,395	7,325	276	33,478
Venezuela	11,293	12,118	6,627	250	30,288
British Honduras	6,538	5,404	3,450	128	15,520
Bolivia	2,675	2,869	1,569	59	7,172
Honduras	2,675	2,869	1,569	59	7,172
Australia	106,989	87,853	7,128	----------	201,970
Republic of China	44,579	36,605	2,970	----------	84,154
India	42,796	35,141	2,851	----------	80,788
South Africa	31,503	25,868	2,099	----------	59,470
Fiji Islands	23,478	19,279	1,564	----------	44,321
Thailand	9,807	8,053	−17,860	----------	0
Mauritius	9,807	8,053	653	----------	18,513
Malagasy Republic	5,052	4,149	337	----------	9,538
Swaziland	3,864	3,173	258	----------	7,295
Ireland	5,351	0	0	----------	5,351
Total	1,487,450	1,489,826	777,667	10,000	3,764,943

[1] Proration of the quotas withheld from Cuba and Southern Rhodesia.

* * * * *

(Secs. 201, 202, 204, and 403; Stat. 923, as amended, 924, as amended, and 7 U.S.C. 1111, 1112, 1114, and 1115)

Effective date. This action establishes a deficit of 10,000 short tons, raw value, and reprorates a previously allocated deficit of 15,520 short tons, raw value, and prorates such quantities to Western Hemisphere countries with sugar quotas in effect that are able to supply additional sugar. To permit such countries for which larger quotas or prorations are hereby established to plan and to market in an orderly manner the larger quantity of sugar, it is essential at this time that all persons selling and purchasing sugar for consumption in the continental United States be promptly informed of the changes in marketing opportunities. Therefore, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable and contrary to the public interest and this amendment shall be effective when filed for public inspection in the Office of the Federal Register.

Signed at Washington, D.C., on August 30, 1968.

ORVILLE L. FREEMAN,
Secretary of Agriculture.

[F.R. Doc. 68-10729; Filed, Aug. 30, 1968; 4:31 p.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 255]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.555 Valencia Orange Regulation 255.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon

the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 3, 1968.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 6, 1968, through September 12, 1968, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 450,000 cartons;

(iii) District 3: Unlimited movement.

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

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

Dated: September 4, 1968.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 68–10631; Filed, Sept. 4, 1968; 11:21 a.m.]

[Lemon Reg. 335, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such lemons as will provide, in the interest of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b)(1)(ii) of § 910.635 (Lemon Regulation 335, 33 F.R. 12031) are hereby amended to read as follows:

§ 910.635 Lemon Regulation 335.

* * * * *

(b) *Order.* (1) * * *

(ii) District 2: 265,050 cartons;

* * * * *

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

Dated: August 30, 1968.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 68–10695; Filed, Sept. 4, 1968; 8:49 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1968-Crop Soybean Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1968-Crop Soybean Loan and Purchase Program

This annual crop year supplement, together with the General Regulations Governing Price Support for the 1964 and Subsequent Crops (Revision 1) (31 F.R. 5941), and any amendments thereto, and the 1966 and Subsequent Crops Soybean Supplement (31 F.R. 6013), and any amendments thereto, contain the provisions for price support loans and purchases for the 1968 crop of soybeans.

Sec.
1421.2965 Availability.
1421.2966 Warehouse charges.
1421.2967 Maturity of loans.
1421.2968 Support rates, premiums, and discounts.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070 as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 203, 301, 401, 63 Stat. 1054; 7 U.S.C. 1446(d), 1447, 1421.

§ 1421.2965 Availability.

A producer desiring a price support loan must request a loan on his eligible soybeans on or before June 30, 1969. To obtain price support through a sale to CCC, a producer must give the appropriate ASCS county office notice of his intent to sell his eligible soybeans to CCC on or before July 31, 1969.

§ 1421.2966 Warehouse charges.

Subject to the provisions of § 1421.2958, the schedules of deductions set forth in this section shall apply to soybeans stored in an approved warehouse (i) operating under the Uniform Grain Storage Agreement, or (ii) operated by an Eastern common carrier.

(a) *Warehouses approved under the Uniform Grain Storage Agreement.*

SCHEDULE OF DEDUCTIONS FOR STORAGE CHARGES FOR MATURITY DATE OF JULY 31, 1969

Storage start date: [1]	Deduction (cents per bushel)
Prior to Aug. 16, 1968	13
Aug. 16–Sept. 12, 1968	12
Sept. 13–Oct. 10, 1968	11
Oct. 11–Nov. 7, 1968	10
Nov. 8–Dec. 5, 1968	9
Dec. 6, 1968–Jan. 2, 1969	8
Jan. 3–Jan. 30, 1969	7
Jan. 31–Feb. 27, 1969	6
Feb. 28–Mar. 27, 1969	5
Mar. 28–Apr. 24, 1969	4
Apr. 25–May 22, 1969	3
May 23–June 19, 1969	2
June 20–July 31, 1969	1

[1] All dates inclusive.

(b) *Warehouses operated by Eastern common carriers.* (1) Eligible soybeans stored in the following approved Eastern common carrier warehouses may be placed under loan or offered for sale to CCC:

(i) Canadian National Railway Co., Portland Elevator, Warehouse Code 9–2101, Portland, Maine.

(ii) Pennsylvania Railroad Co., Canton Elevator, Warehouse Code 9–2151, Baltimore, Md.

(2) Schedule of deductions for storage charges:

Maturity date of July 31, 1969: [1]	Deduction (cents per bushel) [2]
Prior to Aug. 16, 1968	18
Aug. 16–Sept. 4, 1968	17
Sept. 5–Sept. 24, 1968	16
Sept. 25–Oct. 14, 1968	15
Oct. 15–Nov. 3, 1968	14
Nov. 4–Nov. 23, 1968	13
Nov. 24–Dec. 13, 1968	12
Dec. 14, 1968–Jan. 2, 1969	11
Jan. 3–Jan. 22, 1969	10
Jan. 23–Feb. 11, 1969	9
Feb. 12–Mar. 3, 1969	8
Mar. 4–Mar. 23, 1969	7
Mar. 24–Apr. 12, 1969	6
Apr. 13–May 2, 1969	5
May 3–May 22, 1969	4
May 23–June 11, 1969	3
June 12–July 1, 1969	2
July 2–July 31, 1969	1

[1] Storage commence date, all dates inclusive.

[2] If producer presents evidence that elevation charges were prepaid, the storage deduction shall be reduced by 3 cents per bushel on soybeans stored in the Portland Elevator, or 2¼ cents per bushel on soybeans stored in the Canton Elevator.

§ 1421.2967 Maturity of loans.

Loans mature on demand but not later than July 31, 1969.

§ 1421.2968 Support rates, premiums and discounts.

Farm-stored soybean loans shall be made at the basic county support rate for the county in which the soybeans were produced, adjusted only for the Weed Control discount where applicable. The support rate for warehouse-storage loans and for soybeans acquired under a loan or by purchase shall be the basic support rate for the county in which the soybeans were produced adjusted by the applicable premiums and discounts prescribed in paragraphs (b) and (c) of this section. Settlement of loans and purchases shall be made as provided in § 1421.72 of the General Regulations.

(a) *Basic county support rates.* Basic county support rates for the classes Green Soybeans and Yellow Soybeans grading No. 2 and containing from 13.8 to 14.0 percent moisture are as follows:

ALABAMA

County	Rate per bushel	County	Rate per bushel
Autauga	$2.48	Houston	$2.48
Baldwin	2.55	Jackson	2.49
Barbour	2.48	Jefferson	2.49
Bibb	2.48	Lamar	2.47
Blount	2.50	Lauderdale	2.48
Bullock	2.48	Lawrence	2.48
Butler	2.48	Lee	2.48
Calhoun	2.49	Limestone	2.48
Chambers	2.48	Lowndes	2.48
Cherokee	2.49	Macon	2.48
Chilton	2.48	Madison	2.49
Choctaw	2.50	Marengo	2.50
Clarke	2.52	Marion	2.47
Clay	2.50	Marshall	2.49
Cleburne	2.49	Mobile	2.55
Coffee	2.48	Monroe	2.52
Colbert	2.47	Montgomery	2.48
Conecuh	2.51	Morgan	2.48
Coosa	2.48	Perry	2.48
Covington	2.50	Pickens	2.48
Crenshaw	2.48	Pike	2.48
Cullman	2.49	Randolph	2.50
Dale	2.48	Russell	2.48
Dallas	2.48	St. Clair	2.49
De Kalb	2.49	Shelby	2.48
Elmore	2.48	Sumter	2.48
Escambia	2.52	Talladega	2.50
Etowah	2.49	Tallapoosa	2.48
Fayette	2.47	Tuscaloosa	2.48
Franklin	2.47	Walker	2.48
Geneva	2.48	Washington	2.52
Greene	2.48	Wilcox	2.50
Hale	2.48	Winston	2.48
Henry	2.48		

ARIZONA

County	Rate per bushel
All counties	$2.36

ARKANSAS

County	Rate per bushel	County	Rate per bushel
Arkansas	$2.53	Lee	$2.54
Ashley	2.51	Lincoln	2.53
Baxter	2.49	Little River	2.46
Benton	2.43	Logan	2.46
Boone	2.45	Lonoke	2.52
Bradley	2.50	Madison	2.44
Calhoun	2.49	Marion	2.47
Carroll	2.44	Miller	2.46
Chicot	2.52	Mississippi	2.53
Clark	2.48	Monroe	2.54
Clay	2.52	Montgomery	2.46
Cleburne	2.49	Nevada	2.47
Cleveland	2.51	Newton	2.45
Columbia	2.48	Ouachita	2.48
Conway	2.48	Perry	2.48
Craighead	2.53	Phillips	2.54
Crawford	2.45	Pike	2.46
Crittenden	2.54	Poinsett	2.53
Cross	2.54	Polk	2.45
Dallas	2.49	Pope	2.48
Desha	2.54	Prairie	2.53
Drew	2.52	Pulaski	2.50
Faulkner	2.49	Randolph	2.51
Franklin	2.46	St. Francis	2.54
Fulton	2.50	Saline	2.48
Garland	2.47	Scott	2.45
Grant	2.50	Searcy	2.48
Greene	2.52	Sebastian	2.45
Hempstead	2.46	Sevier	2.45
Hot Spring	2.48	Sharp	2.50
Howard	2.45	Stone	2.49
Independence	2.51	Union	2.49
Izard	2.50	Van Buren	2.49
Jackson	2.52	Washintgon	2.44
Jefferson	2.52	White	2.51
Johnson	2.47	Woodruff	2.53
Lafayette	2.46	Yell	2.47
Lawrence	2.51		

CALIFORNIA

County	Rate per bushel
All counties	$2.36

DELAWARE

County	Rate per bushel	County	Rate per bushel
Kent	$2.50	Sussex	$2.51
New Castle	2.49		

FLORIDA

County	Rate per bushel	County	Rate per bushel
Escambia	$2.51	Walton	$2.47
Okaloosa	2.47	All other counties	2.45
Santa Rosa	2.49		

GEORGIA

County	Rate per bushel
All counties	$2.49

ILLINOIS

County	Rate per bushel	County	Rate per bushel
Adams	$2.53	Lee	$2.53
Alexander	2.53	Livingston	2.56
Bond	2.55	Logan	2.56
Boone	2.53	McDonough	2.53
Brown	2.53	McHenry	2.54
Bureau	2.53	McLean	2.56
Calhoun	2.53	Macon	2.56
Carroll	2.53	Macoupin	2.55
Cass	2.54	Madison	2.54
Champaign	2.56	Marion	2.54
Christian	2.56	Marshall	2.55
Clark	2.55	Mason	2.54
Clay	2.54	Massac	2.49
Clinton	2.53	Menard	2.54
Coles	2.56	Mercer	2.53
Cook	2.57	Monroe	2.53
Crawford	2.54	Montgomery	2.55
Cumberland	2.56	Morgan	2.55
De Kalb	2.55	Moultrie	2.56
De Witt	2.56	Ogle	2.53
Douglas	2.56	Peoria	2.54
Du Page	2.56	Perry	2.52
Edgar	2.56	Piatt	2.56
Edwards	2.51	Pike	2.53
Effingham	2.56	Pope	2.50
Fayette	2.56	Pulaski	2.51
Ford	2.56	Putnam	2.53
Franklin	2.51	Randolph	2.53
Fulton	2.53	Richland	2.53
Gallatin	2.50	Rock Island	2.53
Greene	2.54	St. Clair	2.54
Grundy	2.56	Saline	2.50
Hamilton	2.51	Sangamon	2.56
Hancock	2.53	Schuyler	2.53
Hardin	2.50	Scott	2.54
Henderson	2.53	Shelby	2.56
Henry	2.53	Stark	2.54
Iroquois	2.56	Stephenson	2.51
Jackson	2.53	Tazewell	2.55
Jasper	2.55	Union	2.53
Jefferson	2.52	Vermillion	2.56
Jersey	2.53	Wabash	2.51
Jo Daviess	2.51	Warren	2.53
Johnson	2.51	Washington	2.53
Kane	2.55	Wayne	2.52
Kankakee	2.56	White	2.50
Kendall	2.56	Whiteside	2.53
Knox	2.54	Will	2.56
Lake	2.55	Williamson	2.51
La Salle	2.56	Winnebago	2.52
Lawrence	2.52	Woodford	2.55

INDIANA

County	Rate per bushel	County	Rate per bushel
Adams	$2.51	Dearborn	$2.48
Allen	2.52	Decatur	2.50
Bartholomew	2.50	De Kalb	2.52
Benton	2.56	Delaware	2.50
Blackford	2.50	Dubois	2.49
Boone	2.51	Elkhart	2.52
Brown	2.50	Fayette	2.50
Carroll	2.52	Floyd	2.48
Cass	2.51	Fountain	2.55
Clark	2.48	Franklin	2.49
Clay	2.52	Fulton	2.52
Clinton	2.52	Gibson	2.51
Crawford	2.48	Grant	2.50
Daviess	2.51	Greene	2.52
		Hamilton	2.51

INDIANA—Continued

County	Rate per bushel	County	Rate per bushel
Hancock	$2.50	Perry	$2.48
Harrison	2.48	Pike	2.50
Hendricks	2.51	Porter	2.56
Henry	2.50	Posey	2.50
Howard	2.51	Pulaski	2.54
Huntington	2.51	Putnam	2.52
Jackson	2.50	Randolph	2.50
Jasper	2.55	Ripley	2.48
Jay	2.50	Rush	2.50
Jefferson	2.48	St. Joseph	2.53
Jennings	2.48	Scott	2.48
Johnson	2.50	Shelby	2.50
Knox	2.52	Spencer	2.48
Kosciusko	2.52	Starke	2.54
Lagrange	2.53	Steuben	2.52
Lake	2.57	Sullivan	2.53
La Porte	2.54	Switzerland	2.48
Lawrence	2.51	Tippecanoe	2.53
Madison	2.50	Tipton	2.52
Marion	2.51	Union	2.50
Marshall	2.52	Vanderburgh	2.50
Martin	2.51	Vermillion	2.55
Miami	2.50	Vigo	2.54
Monroe	2.51	Wabash	2.50
Montgomery	2.52	Warren	2.55
Morgan	2.51	Warrick	2.49
Newton	2.57	Washington	2.48
Noble	2.53	Wayne	2.50
Ohio	2.48	Wells	2.51
Orange	2.49	White	2.54
Owen	2.51	Whitley	2.53
Parke	2.53		

IOWA

Adair	$2.46	Jefferson	$2.49
Adams	2.45	Johnson	2.49
Allamakee	2.46	Jones	2.49
Appanoose	2.47	Keokuk	2.49
Audubon	2.46	Kossuth	2.46
Benton	2.49	Lee	2.50
Black Hawk	2.47	Linn	2.49
Boone	2.47	Louisa	2.50
Bremer	2.46	Lucas	2.47
Buchanan	2.48	Lyon	2.44
Buena Vista	2.46	Madison	2.46
Butler	2.47	Mahaska	2.48
Calhoun	2.46	Marion	2.48
Carroll	2.46	Marshall	2.49
Cass	2.45	Mills	2.44
Cedar	2.50	Mitchell	2.46
Cerro Gordo	2.46	Monona	2.44
Cherokee	2.45	Monroe	2.47
Chickasaw	2.45	Montgomery	2.44
Clarke	2.46	Muscatine	2.50
Clay	2.46	O'Brien	2.45
Clayton	2.47	Osceola	2.45
Clinton	2.50	Page	2.44
Crawford	2.45	Palo Alto	2.46
Dallas	2.47	Plymouth	2.44
Davis	2.48	Pocahontas	2.46
Decatur	2.46	Polk	2.48
Delaware	2.48	Pottawattamie	2.44
Des Moines	2.50	Poweshiek	2.49
Dickinson	2.45	Ringgold	2.45
Dubuque	2.48	Sac	2.46
Emmet	2.46	Scott	2.50
Fayette	2.47	Shelby	2.45
Floyd	2.46	Sioux	2.44
Franklin	2.47	Story	2.48
Fremont	2.44	Tama	2.49
Greene	2.46	Taylor	2.45
Grundy	2.48	Union	2.45
Guthrie	2.46	Van Buren	2.49
Hamilton	2.47	Wapello	2.48
Hancock	2.46	Warren	2.47
Hardin	2.48	Washington	2.49
Harrison	2.44	Wayne	2.47
Henry	2.49	Webster	2.47
Howard	2.49	Winnebago	2.46
Humboldt	2.45	Winneshiek	2.46
Ida	2.46	Woodbury	2.44
Iowa	2.45	Worth	2.46
Jackson	2.49	Wright	2.47
Jasper	2.50		

KANSAS

County	Rate per bushel	County	Rate per bushel
Allen	$2.42	Lyon	$2.40
Anderson	2.42	Marion	2.40
Atchison	2.44	Marshall	2.41
Bourbon	2.43	McPherson	2.39
Brown	2.43	Miami	2.43
Butler	2.40	Mitchell	2.38
Chase	2.39	Montgomery	2.40
Chautauqua	2.39	Morris	2.40
Cherokee	2.42	Nemaha	2.42
Clay	2.40	Neosho	2.41
Cloud	2.39	Osage	2.41
Coffey	2.41	Ottawa	2.39
Cowley	2.39	Phillips	2.36
Crawford	2.42	Pottawatomie	2.42
Dickinson	2.40	Reno	2.38
Doniphan	2.44	Republic	2.39
Douglas	2.42	Rice	2.38
Elk	2.40	Riley	2.42
Ellsworth	2.38	Rooks	2.36
Franklin	2.42	Russell	2.38
Geary	2.40	Saline	2.39
Greenwood	2.41	Sedgwick	2.39
Harper	2.38	Shawnee	2.42
Harvey	2.39	Sumner	2.38
Jackson	2.43	Wabaunsee	2.41
Jefferson	2.43	Washington	2.40
Jewell	2.38	Wilson	2.40
Johnson	2.43	Woodson	2.41
Kingman	2.38	Wyandotte	2.44
Labette	2.41	All other counties	2.37
Leavenworth	2.44		
Lincoln	2.39		
Linn	2.43		

KENTUCKY

Adair	$2.46	Hardin	$2.47
Allen	2.46	Harlan	2.47
Anderson	2.47	Harrison	2.47
Ballard	2.50	Hart	2.46
Barren	2.46	Henderson	2.49
Bath	2.47	Henry	2.46
Bell	2.47	Hickman	2.50
Boone	2.46	Hopkins	2.47
Bourbon	2.47	Jackson	2.47
Boyd	2.47	Jefferson	2.48
Boyle	2.47	Jessamine	2.47
Bracken	2.46	Johnson	2.47
Breathitt	2.47	Kenton	2.46
Breckinridge	2.47	Knott	2.47
Bullitt	2.47	Knox	2.47
Butler	2.46	Larue	2.46
Caldwell	2.47	Laurel	2.47
Calloway	2.47	Lawrence	2.47
Campbell	2.46	Lee	2.47
Carlisle	2.50	Leslie	2.47
Carroll	2.46	Letcher	2.47
Carter	2.47	Lewis	2.47
Casey	2.46	Lincoln	2.47
Christian	2.47	Livingston	2.49
Clark	2.47	Logan	2.47
Clay	2.47	Lyon	2.47
Clinton	2.46	McCracken	2.49
Crittenden	2.49	McCreary	2.47
Cumberland	2.46	McLean	2.48
Daviess	2.49	Madison	2.47
Edmonson	2.46	Magoffin	2.47
Elliott	2.47	Marion	2.46
Estill	2.47	Marshall	2.48
Fayette	2.47	Martin	2.47
Fleming	2.47	Mason	2.47
Floyd	2.47	Meade	2.47
Franklin	2.47	Menifee	2.47
Fulton	2.50	Mercer	2.47
Gallatin	2.46	Metcalfe	2.46
Garrard	2.47	Monroe	2.46
Grant	2.46	Montgomery	2.47
Graves	2.48	Morgan	2.47
Grayson	2.47	Muhlenberg	2.47
Green	2.46	Nelson	2.46
Greenup	2.47	Nicholas	2.47
Hancock	2.48	Ohio	2.47

KENTUCKY—Continued

County	Rate per bushel	County	Rate per bushel
Oldham	$2.46	Simpson	$2.47
Owen	2.46	Spencer	2.48
Owsley	2.47	Taylor	2.46
Pendleton	2.46	Todd	2.47
Perry	2.47	Trigg	2.47
Pike	2.47	Trimble	2.46
Powell	2.47	Union	2.49
Pulaski	2.47	Warren	2.46
Robertson	2.47	Washington	2.47
Rockcastle	2.47	Wayne	2.47
Rowan	2.47	Webster	2.48
Russell	2.46	Whitley	2.47
Scott	2.47	Wolfe	2.47
Shelby	2.47	Woodford	2.48

LOUISIANA

Parish	Rate per bushel	Parish	Rate per bushel
Caldwell	$2.48	Richland	$2.49
East Carroll	2.50	Tensas	2.48
Franklin	2.48	Union	2.48
Madison	2.49	West Carroll	2.50
Morehouse	2.50	All other parishes	2.47
Ouachita	2.49		

MARYLAND

County	Rate per bushel	County	Rate per bushel
Anne Arundel	$2.51	Prince Georges	$2.51
Baltimore	2.51	Queen Annes	2.50
Calvert	2.51	St. Marys	2.50
Caroline	2.50	Somerset	2.50
Cecil	2.50	Talbot	2.50
Charles	2.50	Wicomico	2.51
Dorchester	2.50	Worcester	2.50
Harford	2.51	All other counties	2.49
Howard	2.51		
Kent	2.50		

MICHIGAN

Allegan	$2.45	Lapeer	$2.46
Arenac	2.44	Lenawee	2.51
Barry	2.45	Livingston	2.47
Bay	2.44	Macomb	2.47
Berrien	2.50	Macosta	2.43
Branch	2.49	Midland	2.43
Calhoun	2.47	Monroe	2.52
Cass	2.50	Montcalm	2.44
Clare	2.43	Muskegon	2.43
Clinton	2.45	Newaygo	2.43
Eaton	2.46	Oakland	2.47
Genesee	2.46	Oceana	2.43
Gladwin	2.43	Ottawa	2.44
Gratiot	2.44	Saginaw	2.44
Hillsdale	2.50	St. Clair	2.46
Huron	2.44	St. Joseph	2.49
Ingham	2.47	Sanilac	2.45
Ionia	2.45	Shiawassee	2.45
Isabella	2.43	Tuscola	2.45
Jackson	2.48	Van Buren	2.47
Kalamazoo	2.46	Washtenaw	2.49
Kent	2.44	Wayne	2.50

MINNESOTA

Aitkin	$2.40	Crow Wing	$2.40
Anoka	2.45	Dakota	2.47
Becker	2.39	Dodge	2.48
Benton	2.43	Douglas	2.42
Big Stone	2.43	Faribault	2.48
Blue Earth	2.49	Fillmore	2.48
Brown	2.48	Freeborn	2.48
Carlton	2.42	Goodhue	2.47
Carver	2.46	Grant	2.42
Cass	2.40	Hennepin	2.46
Chippewa	2.45	Houston	2.48
Chisago	2.45	Hubbard	2.38
Clay	2.39	Isanti	2.44
Clearwater	2.38	Jackson	2.46
Cottonwood	2.46	Kanabec	2.43

MINNESOTA—Continued

County	Rate per bushel	County	Rate per bushel
Kandiyohi	$2.45	Red Lake	$2.37
Kittson	2.36	Redwood	2.46
Lac Qui Parle	2.45	Renville	2.46
Le Sueur	2.49	Rice	2.48
Lincoln	2.44	Rock	2.45
Lyon	2.45	Roseau	2.36
McLeod	2.46	Scott	2.47
Mahnomen	2.38	Sherburne	2.44
Marshall	2.36	Sibley	2.47
Martin	2.47	Stearns	2.43
Meeker	2.45	Steele	2.48
Mille Lacs	2.43	Stevens	2.43
Morrison	2.41	Swift	2.43
Mower	2.48	Todd	2.41
Murray	2.45	Traverse	2.42
Nicollet	2.49	Wabasha	2.47
Nobles	2.46	Wadena	2.39
Norman	2.38	Waseca	2.48
Olmsted	2.48	Washington	2.46
Otter Tail	2.39	Watonwan	2.48
Pennington	2.37	Wilkin	2.40
Pine	2.43	Winona	2.47
Pipestone	2.44	Wright	2.45
Polk	2.37	Yellow Medicine	2.46
Pope	2.43		
Ramsey	2.46		

MISSISSIPPI

Adams	$2.53	Leflore	$2.55
Alcorn	2.51	Lincoln	2.53
Amite	2.53	Madison	2.53
Benton	2.53	Marshall	2.54
Bolivar	2.56	Montgomery	2.53
Calhoun	2.53	Panola	2.55
Carroll	2.53	Prentiss	2.51
Claiborne	2.53	Quitman	2.56
Coahoma	2.56	Sharkey	2.55
Copiah	2.53	Sunflower	2.56
De Soto	2.55	Tallahatchie	2.56
Franklin	2.53	Tate	2.55
Grenada	2.54	Tishomingo	2.51
Holmes	2.53	Tunica	2.56
Hinds	2.53	Warren	2.54
Humphreys	2.55	Washington	2.55
Issaquena	2.54	Wilkinson	2.53
Itawamba	2.51	Yalobusha	2.54
Jefferson	2.53	Yazoo	2.54
Lafayette	2.53	All other counties	2.52
Lee	2.51		

MISSOURI

Adair	$2.48	Douglas	$2.45
Andrew	2.45	Dunklin	2.55
Atchison	2.45	Franklin	2.48
Audrain	2.50	Gasconade	2.47
Barry	2.43	Gentry	2.45
Barton	2.43	Greene	2.44
Bates	2.44	Grundy	2.46
Benton	2.45	Harrison	2.45
Bollinger	2.51	Henry	2.44
Boone	2.48	Hickory	2.45
Buchanan	2.45	Holt	2.45
Butler	2.52	Howard	2.47
Caldwell	2.45	Howell	2.46
Callaway	2.48	Iron	2.47
Camden	2.46	Jackson	2.44
Cape Girardeau	2.53	Jasper	2.43
Carroll	2.46	Jefferson	2.48
Carter	2.48	Johnson	2.44
Cass	2.44	Knox	2.50
Cedar	2.43	Laclede	2.45
Chariton	2.47	Lafayette	2.44
Christian	2.44	Lawrence	2.43
Clark	2.51	Lewis	2.52
Clay	2.45	Lincoln	2.50
Clinton	2.45	Linn	2.47
Cole	2.47	Livingston	2.46
Cooper	2.47	McDonald	2.43
Crawford	2.47	Macon	2.48
Dade	2.43	Madison	2.48
Dallas	2.45	Maries	2.46
Daviess	2.45	Marion	2.52
De Kalb	2.45	Mercer	2.46
Dent	2.46	Miller	2.46
		Mississippi	2.55

MISSOURI—Continued

County	Rate per bushel	County	Rate per bushel
Moniteau	$2.47	St. Charles	$2.49
Monroe	2.50	St. Clair	2.44
Montgomery	2.49	St. Francois	2.48
Morgan	2.46	St. Louis	2.49
New Madrid	2.55	Ste. Genevieve	2.48
Newton	2.43	Saline	2.46
Nodaway	2.45	Schuyler	2.48
Oregon	2.47	Scotland	2.49
Osage	2.47	Scott	2.54
Ozark	2.45	Shannon	2.46
Pemiscot	2.55	Shelby	2.50
Perry	2.50	Stoddard	2.54
Pettis	2.46	Stone	2.44
Phelps	2.46	Sullivan	2.47
Pike	2.52	Taney	2.45
Platte	2.45	Texas	2.46
Polk	2.45	Vernon	2.43
Pulaski	2.46	Warren	2.48
Putnam	2.47	Washington	2.47
Ralls	2.52	Wayne	2.50
Randolph	2.48	Webster	2.45
Ray	2.45	Worth	2.45
Reynolds	2.47	Wright	2.45
Ripley	2.50		

NEBRASKA

Adams	$2.37	Merrick	$2.37
Antelope	2.38	Nance	2.37
Boone	2.38	Nemaha	2.41
Boyd	2.37	Nuckolls	2.38
Burt	2.42	Otoe	2.42
Butler	2.40	Pawnee	2.41
Cass	2.41	Pierce	2.39
Cedar	2.40	Platte	2.39
Clay	2.38	Polk	2.39
Colfax	2.40	Richardson	2.41
Cuming	2.41	Saline	2.40
Dakota	2.41	Sarpy	2.42
Dixon	2.41	Saunders	2.42
Dodge	2.42	Seward	2.39
Douglas	2.42	Stanton	2.40
Fillmore	2.39	Thayer	2.39
Gage	2.40	Thurston	2.41
Hall	2.37	Washington	2.41
Hamilton	2.37	Wayne	2.40
Jefferson	2.40	Webster	2.37
Johnson	2.41	York	2.38
Knox	2.39	All other counties	2.36
Lancaster	2.40		
Madison	2.39		

NEW JERSEY

Atlantic	$2.46	Mercer	$2.46
Burlington	2.47	Middlesex	2.46
Camden	2.48	Monmouth	2.46
Cape May	2.46	Ocean	2.46
Cumberland	2.48	Salem	2.49
Gloucester	2.49	Somerset	2.45
Hunterdon	2.45	Warren	2.45

NEW MEXICO

All counties	$2.36

NEW YORK

All counties	$2.38

NORTH CAROLINA

Beaufort	$2.53	Gates	$2.53
Bertie	2.53	Granville	2.49
Bladen	2.49	Greene	2.52
Brunswick	2.49	Halifax	2.52
Camden	2.53	Harnett	2.50
Carteret	2.52	Hertford	2.53
Chatham	2.50	Hoke	2.49
Chowan	2.53	Hyde	2.53
Columbus	2.49	Johnston	2.51
Craven	2.52	Jones	2.51
Cumberland	2.49	Lee	2.50
Currituck	2.53	Lenoir	2.51
Dare	2.53	Martin	2.53
Duplin	2.50	Moore	2.49
Durham	2.50	Nash	2.52
Edgecombe	2.53	New Hanover	2.49
Franklin	2.51	Northampton	2.52

NORTH CAROLINA—Continued

County	Rate per bushel	County	Rate per bushel
Onslow	$2.50	Scotland	$2.49
Orange	2.49	Tyrrell	2.53
Pamlico	2.52	Vance	2.50
Pasquotank	2.53	Wake	2.51
Pender	2.49	Warren	2.51
Perquimans	2.53	Washington	2.53
Pitt	2.52	Wayne	2.51
Randolph	2.49	Wilson	2.52
Robeson	2.49	All other counties	2.48
Sampson	2.50		

NORTH DAKOTA

Barnes	$2.35	Pembina	$2.35
Cass	2.36	Sargent	2.34
Cavalier	2.34	Steele	2.35
Grand Forks	2.36	Towner	2.34
Griggs	2.34	Traill	2.36
Nelson	2.34	Walsh	2.35
Ramsey	2.34	All other counties	2.33
Ransom	2.34		
Richland	2.36		

OHIO

Adams	$2.47	Licking	$2.50
Allen	2.54	Logan	2.53
Ashland	2.51	Lorain	2.52
Ashtabula	2.51	Lucas	2.55
Athens	2.47	Madison	2.50
Auglaize	2.53	Mahoning	2.50
Belmont	2.48	Marion	2.53
Brown	2.47	Medina	2.50
Butler	2.48	Meigs	2.46
Carroll	2.49	Mercer	2.52
Champaign	2.52	Miami	2.51
Clark	2.50	Monroe	2.47
Clermont	2.48	Montgomery	2.49
Clinton	2.48	Morgan	2.48
Columbiana	2.49	Morrow	2.52
Coshocton	2.49	Muskingum	2.49
Crawford	2.53	Noble	2.48
Cuyahoga	2.51	Ottawa	2.55
Darke	2.51	Paulding	2.53
Defiance	2.53	Perry	2.48
Delaware	2.51	Pickaway	2.49
Erie	2.54	Pike	2.47
Fairfield	2.49	Portage	2.50
Fayette	2.48	Preble	2.49
Franklin	2.50	Putnam	2.54
Fulton	2.54	Richland	2.52
Gallia	2.46	Ross	2.48
Geauga	2.51	Sandusky	2.54
Greene	2.49	Scioto	2.47
Guernsey	2.49	Seneca	2.53
Hamilton	2.48	Shelby	2.52
Hancock	2.54	Stark	2.49
Hardin	2.54	Summit	2.50
Harrison	2.49	Trumbull	2.50
Henry	2.54	Tuscarawas	2.49
Highland	2.47	Union	2.52
Hocking	2.48	Van Wert	2.53
Holmes	2.50	Vinton	2.47
Huron	2.53	Warren	2.48
Jackson	2.47	Washington	2.47
Jefferson	2.49	Wayne	2.50
Knox	2.50	Williams	2.53
Lake	2.51	Wood	2.55
Lawrence	2.46	Wyandot	2.53

OKLAHOMA

Adair	$2.42	Nowata	$2.38
Cherokee	2.41	Ottawa	2.41
Choctaw	2.40	Pittsburgh	2.38
Craig	2.40	Pushmataha	2.40
Delaware	2.43	Rogers	2.38
Haskell	2.40	Sequoyah	2.42
Latimer	2.41	Tulsa	2.38
Le Flore	2.43	Wagoner	2.41
Mayes	2.41	Washington	2.38
McCurtain	2.43	All other counties	2.37
McIntosh	2.39		
Muskogee	2.40		

PENNSYLVANIA

All counties	$2.44

SOUTH CAROLINA

County	Rate per bushel	County	Rate per bushel
Abbeville	$2.50	Greenwood	$2.50
Aiken	2.50	Hampton	2.52
Allendale	2.52	Horry	2.49
Anderson	2.49	Jasper	2.52
Bamberg	2.52	Kershaw	2.50
Barnwell	2.51	Lancaster	2.49
Beaufort	2.52	Laurens	2.50
Berkeley	2.51	Lee	2.50
Calhoun	2.51	Lexington	2.50
Charleston	2.52	Marion	2.49
Cherokee	2.50	Marlboro	2.49
Chester	2.49	McCormick	2.50
Chesterfield	2.49	Newberry	2.50
Clarendon	2.51	Oconee	2.49
Colleton	2.52	Orangeburg	2.51
Darlington	2.49	Pickens	2.49
Dillon	2.49	Richland	2.51
Dorchester	2.52	Saluda	2.50
Edgefield	2.50	Spartanburg	2.49
Fairfield	2.50	Sumter	2.51
Florence	2.49	Union	2.50
Georgetown	2.50	Williamsburg	2.50
Greenville	2.49	York	2.49

SOUTH DAKOTA

Aurora	$2.36	Jerauld	$2.36
Beadle	2.36	Kingsbury	2.37
Bon Homme	2.38	Lake	2.38
Brookings	2.39	Lincoln	2.41
Brule	2.36	Marshall	2.36
Charles Mix	2.36	McCook	2.38
Clark	2.36	Miner	2.37
Clay	2.39	Minnehaha	2.40
Codington	2.38	Moody	2.39
Davison	2.36	Roberts	2.38
Day	2.36	Sanborn	2.36
Deuel	2.41	Turner	2.39
Douglas	2.36	Union	2.41
Grant	2.41	Yankton	2.38
Hamlin	2.38	All other counties	2.35
Hanson	2.37		
Hutchinson	2.38		

TENNESSEE

Anderson	$2.44	Lake	$2.51
Benton	2.47	Lauderdale	2.51
Blount	2.44	Lewis	2.45
Campbell	2.45	Lincoln	2.48
Carroll	2.48	Loudon	2.44
Carter	2.44	McMinn	2.45
Cheatham	2.45	McNairy	2.48
Chester	2.49	Macon	2.47
Claiborne	2.45	Madison	2.49
Clay	2.47	Marion	2.47
Cocke	2.44	Monroe	2.44
Coffee	2.47	Moore	2.48
Crockett	2.50	Morgan	2.44
Cumberland	2.45	Obion	2.50
Decatur	2.47	Overton	2.45
Dickson	2.45	Polk	2.44
Dyer	2.51	Putnam	2.45
Fayette	2.50	Roane	2.44
Fentress	2.45	Scott	2.45
Franklin	2.48	Sequatchie	2.47
Gibson	2.50	Sevier	2.44
Giles	2.47	Shelby	2.51
Grainger	2.44	Stewart	2.47
Greene	2.44	Sullivan	2.45
Hamblen	2.44	Sumner	2.47
Hamilton	2.47	Tipton	2.51
Hancock	2.45	Trousdale	2.47
Hardeman	2.49	Unicoi	2.44
Hardin	2.47	Union	2.44
Hawkins	2.45	Van Buren	2.45
Haywood	2.50	Warren	2.45
Henderson	2.48	Washington	2.44
Henry	2.48	Weakley	2.49
Hickman	2.45	White	2.45
Jefferson	2.44	All other counties	2.46
Johnson	2.45		
Knox	2.44		

TEXAS

County	Rate per bushel	County	Rate per bushel
Bowie	$2.44	All other counties	$2.41
Lamar	2.42		
Red River	2.43		

VIRGINIA

Accomack	$2.51	Mecklenburg	$2.50
Amelia	2.50	Middlesex	2.51
Brunswick	2.52	Nansemond	2.54
Caroline	2.51	New Kent	2.51
Charles City	2.51	Newport News City	2.51
Chesapeake City	2.54	Northampton	2.51
Chesterfield	2.51	Northumberland	2.51
Dinwiddie	2.52	Nottoway	2.50
Essex	2.51	Powhatan	2.50
Gloucester	2.51	Prince George	2.52
Goochland	2.50	Richmond	2.51
Greensville	2.52	Southampton	2.53
Hampton City	2.51	Surrey	2.54
Hanover	2.52	Sussex	2.52
Henrico	2.51	Virginia Beach	2.54
Isle of Wight	2.54	Warwick	2.51
James City	2.51	Westmoreland	2.51
King and Queen	2.51	York	2.51
King George	2.51	All other counties	2.49
King William	2.51		
Lancaster	2.51		
Lunenburg	2.50		
Mathews	2.51		

WEST VIRGINIA

All counties $2.45

WISCONSIN

Adams	$2.44	Marquette	$2.45
Barron	2.42	Milwaukee	2.49
Brown	2.43	Monroe	2.44
Buffalo	2.43	Oconto	2.43
Burnett	2.41	Oneida	2.41
Calumet	2.44	Outagamie	2.43
Chippewa	2.42	Ozaukee	2.48
Clark	2.42	Pepin	2.43
Columbia	2.47	Pierce	2.43
Crawford	2.46	Polk	2.42
Dane	2.48	Portage	2.43
Dodge	2.48	Price	2.41
Door	2.42	Racine	2.50
Douglas	2.41	Richland	2.46
Dunn	2.43	Rock	2.50
Eau Claire	2.43	Rush	2.41
Fond du Lac	2.46	St. Croix	2.42
Grant	2.47	Sauk	2.46
Green	2.49	Sawyer	2.41
Green Lake	2.45	Shawano	2.43
Iowa	2.47	Sheboygan	2.46
Jackson	2.44	Taylor	2.41
Jefferson	2.49	Trempealeau	2.43
Juneau	2.44	Vernon	2.45
Kenosha	2.51	Walworth	2.50
Kewaunee	2.42	Washburn	2.41
La Crosse	2.44	Washington	2.48
Lafayette	2.48	Waukesha	2.49
Langlade	2.42	Waupaca	2.43
Lincoln	2.41	Waushara	2.44
Manitowoc	2.44	Winnebago	2.44
Marathon	2.42	Wood	2.43
Marinette	2.42		

(b) *Premium*—(1) *Low moisture.*

Percent	Cents per bushel
12.2 or less	+4
12.3 through 12.7	+3
12.8 through 13.2	+2
13.3 through 13.7	+1
13.8 through 14.0	0

(2) *Low foreign material.*

Percent	Cents per bushel
1.0 percent or less	+2

(c) *Discounts*—(1) *Class.*

Class	Cents per bushel
Black	−25
Brown	−25
Mixed	−25

(2) *Test weight per bushel.*

Pounds	Cents per bushel
53.0 through 53.9	− ½
52.0 through 52.9	−1
51.0 through 51.9	−1½
50.0 through 50.9	−2
49.0 through 49.9	−2½

(3) *Splits.*

Percent	Cents per bushel
20.1 through 25.0	− ½
25.1 through 30.0	−1
30.1 through 35.0	−1½
35.1 through 40.0	−2

(4) *Damaged kernels.*[1]

Heat percent	Total percent	Cents per bushel
0.6 through 0.7	3.1 through 4.0	− ½
0.8 through 1.0	4.1 through 5.0	−1
1.1 through 1.5	5.1 through 6.0	−1½
1.6 through 2.1	6.1 through 7.0	−2
2.2 through 3.0	7.1 through 8.0	−2½

[1] Use column which yields the higher applicable discount.

(5) *Foreign material.*

Percent	Cents per bushel
2.1 through 2.5	−1
2.6 through 3.0	−2
3.1 through 3.5	−3
3.6 through 4.0	−4
4.1 through 4.5	−5
4.6 through 5.0	−6

(6) *Weed control laws.*

	Cents per bushel
(Where required by § 1421.74)	−10

(7) *Other factors.* Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of the soybeans, such as (but not limited to) moisture, musty, stained, sour, purple mottled, and heating. Such discounts will be established not later than the time delivery of soybeans to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at ASCS county offices approximately one month prior to the loan maturity date.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on August 28, 1968.

E. A. JAENKE,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 68-10694; Filed, Sept. 4, 1968; 8:45 a.m.]

[CCC Grain Price Support Regs., 1968 Crop Peanut Farm-Stored Loan and Purchase Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1968 Crop Farm-Stored Peanut Loan and Purchase Program

The "General Regulations Governing Price Support for the 1964 and Subsequent Crops of Grain and Similarly Handled Commodities (Revision 1) (31 F.R. 5941) and any amendments thereto (hereinafter referred to as "the general regulations") and the 1967 and Subsequent Crops Peanut Farm-Stored Loan and Purchase Supplement (32 F.R. 12744) and any amendments thereto (hereinafter referred to as "the continuing supplement"), which contain regulations of a general nature with respect to price support operations, are further supplemented for the 1968 crop of peanuts as follows:

Sec.
1421.3626 Purpose.
1421.3627 Availability.
1421.3628 Maturity of loans.
1421.3629 Price support rates.

AUTHORITY: The provisions of this subpart issued under secs. 4 and 5, 62 Stat. 1070, as amended; secs. 101, 401, 403, 405, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1441, 1421, 1423, 1425.

§ 1421.3626 Purpose.

This supplement, together with the applicable provisions of the general regulations and the provisions of the continuing supplement, apply to farm-stored loans and purchases for the 1968 crop of peanuts.

§ 1421.3627 Availability.

(a) *Farm-stored loans.* Producers must request a loan on 1968 crop eligible peanuts on or before April 30, 1969.

(b) *Purchases.* Producers desiring to offer eligible peanuts not under loan for purchase must notify the ASCS county office on or before May 31, 1969, of their intent to sell.

§ 1421.3628 Maturity of loans.

Unless demand is made earlier, farm-stored loans on farmers' stock peanuts will mature on May 31, 1969.

§ 1421.3629 Price support rates.

(a) *Loan rate.* Subject to the discounts specified in paragraph (b) of this section, the loan rates for farmers' stock peanuts placed under farm-store loan shall be the following rates by types per ton:

Type	Dollars per ton
Virginia*	$254
Runner	227
Southeast Spanish	246
Southwest Spanish	236
Valencia (suitable for cleaning and roasting)	254

*Bradford Big Boy (50 percent of price for Virginia type, $127).

(b) *Location adjustments to support prices.* The loan rates specified in paragraph (a) of this section shall be subject to the following discounts for farmers' stock peanuts placed under a farm-stored loan in the States specified where peanuts are not customarily shelled or crushed:

State	Dollars per ton
Arizona	$25
Arkansas	10
California	33
Louisiana	7
Mississippi	20
Missouri	10
Tennessee	25

(c) *Settlement values.* The support prices, premiums, and discounts for use in computing the settlement value, under § 1421.3622(b) of the continuing supplement, of peanuts acquired by CCC under loan or purchase shall be those specified in § 1446.44 the 1968-crop peanut warehouse storage loan and sheller purchase supplement, 33 F.R. 11897, including the location adjustments specified therein for peanuts delivered to CCC in States where peanuts are not customarily shelled or crushed.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on August 28, 1968.

E. A. JAENKE,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 68-10693; Filed, Sept. 4, 1968; 8:49 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 22,061]

PART 526—LIMITATIONS ON RATE OF RETURN

Rates of Return on Certificate Accounts, Notice Accounts and Regular Accounts

AUGUST 30, 1968.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amending Part 526 of the regulations for the Federal Home Loan Bank System (12 CFR Part 526) hereby determines to amend said part for the following purposes:

(1) To revoke the limitation of 50 percent of total withdrawable accounts on the issuance of certificate accounts and notice accounts, which limitation is contained in § 526.4(d) and § 526.5(c);

(2) To substitute for the limitation of 50 percent of total withdrawable accounts a limitation on the issuance of certificate accounts and notice accounts when the member institution's "weighted average rate" of return on withdrawable accounts is more than 5 percent; and

(3) To prohibit the increase by a member institution of the rate of return on regular accounts if such increase would cause the institution to exceed a "weighted average rate" of return on withdrawable accounts of 5 percent.

Resolved further that, for such purposes, the Federal Home Loan Bank Board hereby amends Part 526 of the regulations for the Federal Home Loan Bank System (12 CFR Part 526) as follows, effective October 1, 1968:

§ 526.4 [Amended]

1. In § 526.4, paragraph (d) is revoked.

§ 526.5 [Amended]

2. In § 526.5, paragraph (c) is revoked.

3. New § 526.6 is added to read as follows:

§ 526.6 Average rate limitation.

(a) *Issuance of certificate and notice accounts.* A member institution may not advertise or pay a rate of return, higher than the maximum rate prescribed for regular accounts, on certificate accounts or notice accounts issued at a time when the institution's weighted average rate, as of the last day of the preceding calendar month, is more than 5 percent. For the purpose of this section, the term "weighted average rate" means the rate obtained by—

(1) Multiplying the total outstanding balance of each class of withdrawable accounts (other than such accounts which may receive an additional return after a prescribed period of time of not less than 3 years) by the announced rate applicable to such class of accounts;

(2) Adding the products resulting from the calculations made pursuant to subparagraph (1) of this paragraph; and

(3) Dividing the amount obtained pursuant to subparagraph (2) of this paragraph by the total outstanding balance of all withdrawable accounts (other than such accounts which may receive an additional return after a prescribed period of time of not less than 3 years).

(b) *Increase in rate of return on regular accounts.* No member institution shall increase the rate of return on regular accounts unless after giving effect to such increase the institution's weighted average rate (determined in accordance with paragraph (a) of this section and substituting the proposed increased rate on regular accounts for the announced rate) would not exceed 5 percent as of the last day of the calendar month preceding such increase.

(Sec. 4, 80 Stat. 823; 2 U.S.C. 1425b)

Resolved further that, since affording notice and public procedure on the above amendments would delay the amendments from becoming effective for a period of time and since it is in the public interest for such amendments to become effective promptly, the Board hereby finds that notice and public procedure on said amendments are contrary to the public interest under the provisions of § 508.12 of the general regulations of the Federal Home Loan Bank Board or 5 U.S.C. 553(b), and publication of said amendments for the period specified in § 508.14 of the general regulations of the Federal Home Loan Bank Board and 5 U.S.C. 553(d) prior to the effective date of said amendments would

in the opinion of the Board likewise be contrary to the public interest for the same reason and the Board hereby so finds, and the Board hereby provides that said amendments shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JOSEPH F. SCHRAM, *Assistant Secretary.*

[F.R. Doc. 68-10731; Filed, Sept. 4, 1968; 8:51 a.m.]

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 22,062]

PART 545—OPERATIONS

Certificate Accounts

AUGUST 30, 1968.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration of it of the advisability of amending Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) hereby determines to amend such part for the following purposes:

1. This amendment will revoke paragraph (h) of § 545.3–1 which contains a limitation on the issuance of certificate accounts by Federal savings and loan associations.

2. Such revocation is prompted by the fact that the Board, contemporaneously herewith, is adopting an amendment of Part 569 of the rules and regulations for Insurance of Accounts (12 CFR Part 569) and Part 526 of the rules and regulations for the Federal Home Loan Bank System (12 CFR Part 526) to add a limitation on the issuance of certificate accounts and notice accounts which is more liberal than the limitation in said § 545.3–1(h), and is in substitution therefor.

Resolved further that, for the foregoing purposes, the Federal Home Loan Bank Board hereby amends Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) by revoking paragraph (h) of § 545.3–1, effective October 1, 1968.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48, Comp., p. 1071)

Resolved further that, since the amendment herein made is a liberalization, the Board hereby finds that notice and public procedure thereon are unnecessary under the provisions of § 508.12 of the general regulations of the Federal Home Loan Bank Board or 5 U.S.C. 553 (b), and publication of said amendment for the period specified in § 508.14 of the general regulations of the Federal Home Loan Bank Board and 5 U.S.C. 553(d) prior to the effective date of said amendment is unnecessary, and the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JOSEPH F. SCHRAM, *Assistant Secretary.*

[F.R. Doc. 68-10732; Filed, Sept. 4, 1968; 8:52 a.m.]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 22,063]

PART 569—LIMITATIONS ON RATE OF RETURN

Rates of Return on Certificate Accounts, Notice Accounts and Regular Accounts

AUGUST 30, 1968.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amending Part 569 of the rules and regulations for Insurance of Accounts (12 CFR Part 569) hereby determines to amend said part for the following purposes:

(1) To revoke the limitation of 50 percent of total withdrawable accounts on the issuance of certificate accounts and notice accounts, which limitation is contained in § 569.4(d) and § 569.5(c);

(2) To substitute for the limitation of 50 percent of total withdrawable accounts a limitation on the issuance of certificate accounts and notice accounts when the insured institution's "weighted average rate" of return on withdrawable accounts is more than 5 percent; and

(3) To prohibit the increase by an insured institution of the rate of return on regular accounts if such increase would cause the institution to exceed a "weighted average rate" of return on withdrawable accounts of 5 percent.

Resolved further that, for such purposes, the Federal Home Loan Bank Board hereby amends Part 569 of the rules and regulations for Insurance of Accounts (12 CFR Part 569) as follows, effective October 1, 1968:

§ 569.4 [Amended]

1. In § 569.4, paragraph (d) is revoked.

§ 569.5 [Amended]

2. In § 569.5, paragraph (c) is revoked.

3. New § 569.6 is added to read as follows:

§ 569.6 **Average rate limitation.**

(a) *Issuance of certificate and notice accounts.* An insured institution may not advertise or pay a rate of return, higher than the maximum rate prescribed for regular accounts, on certificate accounts or notice accounts issued at a time when the institution's weighted average rate, as of the last day of the preceding calendar month, is more than 5 percent. For the purpose of this section, the term "weighted average rate" means the rate obtained by

(1) Multiplying the total outstanding balance of each class of withdrawable accounts (other than such accounts which may receive an additional return after a prescribed period of time of not less than 3 years) by the announced rate applicable to such class of accounts;

(2) Adding the products resulting from the calculations made pursuant to subparagraph (1) of this paragraph; and

(3) Dividing the amount obtained pursuant to subparagraph (2) of this paragraph by the total outstanding balance of all withdrawable accounts (other than such accounts which may receive an additional return after a prescribed period of time of not less than 3 years).

(b) *Increase in rate of return on regular accounts.* No insured institution shall increase the rate of return on regular accounts unless after giving effect to such increase the institution's weighted average rate (determined in accordance with paragraph (a) of this section and substituting the proposed increased rate on regular accounts for the announced rate) would not exceed 5 percent as of the last day of the calendar month preceding such increase.

(Sec. 4, 80 Stat. 823; 12 U.S.C. 1425b)

Resolved further that, since affording notice and public procedure on the above amendments would delay the amendments from becoming effective for a period of time and since it is in the public interest for such amendments to become effective promptly, the Board hereby finds that notice and public procedure on said amendments are contrary to the public interest under the provisions of § 508.12 of the general regulations of the Federal Home Loan Bank Board or 5 U.S.C. 553(b), and publication of said amendments for the period specified in § 508.14 of the general regulations of the Federal Home Loan Bank Board and 5 U.S.C. 553(d) prior to the effective date of said amendments would in the opinion of the Board likewise be contrary to the public interest for the same reason and the Board hereby so finds, and the Board hereby provides that said amendments shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JOSEPH F. SCHRAM, *Assistant Secretary.*

[F.R. Doc. 68-10733; Filed, Sept. 4, 1968; 8:52 a.m.]

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

[No. 22,059]

PART 584—REGULATED ACTIVITIES

Transactions With Affiliates

AUGUST 29, 1968.

Resolved that the Federal Home Loan Bank Board determines that it is advisable to amend § 584.3(d) of the regulations for Savings and Loan Holding Companies (12 CFR 584.3(d)) for the following reasons:

1. The approvals given in subparagraphs (1) and (3) of § 584.3(d) terminate by their terms on August 31, 1968 and are being deleted as no longer applicable. By reason of such deletions, it is intended to alert subsidiary insured institutions that after August 31, 1968, they must obtain prior written approval

from the Federal Savings and Loan Insurance Corporation before making any payments under agreements or understandings referred to in § 584.3(a)(6)(ii) and extensions or renewals of such agreements and understandings.

2. Changes of an editorial nature are advisable to clarify the remaining portion of § 584.3(d).

Resolved further that, since this amendment is merely editorial and clarifying in nature and imposes no additional burden, the Board finds that notice and public procedure hereon are unnecessary and that it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

Resolved further that, in consideration of the foregoing, the Board hereby amends § 584.3(d) of the regulations for Savings and Loan Holding Companies (12 CFR 584.3(d)) by revoking subparagraphs (1) and (3) and by revising the remaining portions of paragraph (d) as set forth below, effective September 1, 1968:

§ 584.3 Transactions with affiliates.

* * * * *

(d) *Interim approval by the Corporation.* The Corporation hereby approves without application each renewal or extension of agreements or understandings referred to in paragraph (a)(6)(ii) of this section if—

(1) The agreement or understanding was in existence on February 14, 1968, and terminates on or before September 5, 1968; and

(2) The extension or renewal terminates in not more than 1 year from the date of termination of the original agreement or understanding; and

(3) The extension or renewal does not impose a substantially greater financial burden upon the subsidiary insured institution than the original understanding or agreement.

* * * * *

(Sec. 402, 48 Stat. 1256, as amended, 12 U.S.C. 1725; P.L. 90-255, 82 Stat. 5, 12 U.S.C. 1730a. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[F.R. Doc. 68-10734; Filed, Sept. 4, 1968; 8:52 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 68-WE-28-AD, Amdt. 39-649]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8 Series 62 and 63 Airplanes

Pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), an airworthiness directive (AD) was adopted on August 22, 1968, and made effective by telegram immediately as to all known U.S. operators of McDonnell Douglas Model DC-8 Series airplanes equipped with Hydro-Air No. 42-053-1A antiskid control boxes.

Telegraphic issuance of this directive was necessitated by reports that there have been intermittent brake release failures during landings at high ground speeds on McDonnell Douglas Model DC-8 series 62 and 63 airplanes due to antiskid control box in-op light logic card malfunctions. Since this condition is likely to exist or develop in other airplanes of the same model, the telegraphic airworthiness directive required either the deactivation of the antiskid control box in-op light logic card and replacement of its function with an existing aircraft relay, or the installation of an appropriate placard in the aircraft.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of the McDonnell Douglas Model DC-8 series 62 and 63 aircraft by individual telegrams dated August 22, 1968. Since these conditions still exist, the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

MCDONNELL DOUGLAS. Applies to all Model DC-8 Series 62 and 63 Airplanes.

Compliance required within the next 35 hours' time in service after the effective date of this AD, unless already accomplished.

To eliminate possible intermittent brake release at high ground speeds due to antiskid control box in-op light logic card malfunction, either deactivate the antiskid in-op light logic card as follows:

(1) Disconnect wire No. G13AA24 from terminal 18 on terminal strip No. S3-192 and end cap coil and stow, and

(2) Add the following wires:

(a) One routed from terminal board No. S3-192, Terminal 18 to the antiskid control relay No. R2-300, Terminal A3.

(b) One routed from antiskid control relay No. R2-300, Terminal A2 to Terminal X2; or

Install a placard stating: "Operation Limitation—Antiskid in-op performance field lengths must be used for all aircraft operations," in view of the pilot until the modification has been completed.

Reference McDonnell Douglas Wiring Diagram No. 32-3-0. The modification location is in the accessory compartment adjacent to the antiskid control box. This modification replaces the function of the antiskid control box in-op light logic card by using available contacts on the existing aircraft antiskid control relay No. R2-300 to accomplish the same function.

This limitation affects only the aircraft operation and does not require that the antiskid system be made inoperative. The placard limitation may be removed upon completion of the modification described above. (McDonnell Douglas Alert Service Bulletin No. A32-135 DC-8 SC 2090, covers this same modification.)

This amendment becomes effective immediately for all persons except those to whom it was made effective immediately by telegram dated August 22, 1968.

(Secs. 313(a), 601, 603, Federal Aviation act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Los Angeles, Calif., on August 27, 1968.

A. E. HORNING,
Acting Director, Western Region.

[F.R. Doc. 68-10673; Filed, Sept. 4, 1968; 8:47 a.m.]

[Docket No. 68-EA-88, Amdt. 39-648]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an Airworthiness Directive which will amend AD 65-4-4 as it pertains to the inspection and retirement of the main gear uplock hydraulic cylinder on Canadair CL-44D4 type airplanes.

Canadair Limited had issued Service Bulletin No. CL-44D4-381, dated February 12, 1965, revised March 28, 1967, which ensures positive pneumatic actuation of the uplock mechanism in case of failure of the hyraulic cylinder, thereby ensuring ability to extend the landing gear. The hydraulic actuator, however, is still being used as the primary means of actuation, and is accumulating the same amount of time as previously. Failures of the cylinder have continued to occur, with the resultant loss of all hydraulic pressure and consequent safety hazard, but at accumulated operating times only as low as 6,142 hours. The proposed amendment to AD 65-4-4 will increase the cylinder retirement time from 3,500 to 5,000 hours, providing some relief to operators of the aircraft.

Since the subject proposal relaxes the present inspection and retirement requirements and imposes no additional burden on any person, notice and public procedure herein are impractical and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 65-4-4 as follows:

AD 65-4-4 is amended by deleting the language of paragraph (f) and inserting in lieu thereof:

(f) For those airplanes on which Canadair Service Bulletin No. CL-44D4-381, revised March 28, 1967, has been incorporated, the requirements of Pars. (a) and (b) are modified to require compliance with Par. (c) on a one-time basis only, and compliance with Par. (d) prior to the accumulation of 5,000 hours total time in service. For such aircraft, compliance with Par. (e) is required prior to the accumulation of 5,000 hours' time in service. The inspection, replacement and retirement requirements of this AD may be

discontinued when a modification to ensure positive operation of the uplock mechanism, with no remaining hazard of hydraulic or other failure, approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, is installed on the aircraft.

This amendment is effective September 7, 1968.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., on August 26, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

[F.R. Doc. 68-10674; Filed, Sept. 4, 1968; 8:47 a.m.]

[Airspace Docket No. 68-WE-69]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to change the effective hours of the Everett, Wash., control zone.

The operation of the control tower at Paine Field, Wash., which is presently being operated by the U.S. Air Force, will be assumed by the FAA approximately October 1, 1968. The control zone is currently designated as a full time zone; however, the USAF plans to reduce the hours of operation to 16 hours daily on September 20, 1968. Therefore, it is necessary to reduce the hours in which the control zone is effective to coincide with the operation of the tower.

Since this action must become effective on September 20, 1968, notice and public procedure thereon are impracticable, and for that reason this action will become effective in less than 30 days.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended as hereinafter set forth:

In § 71.171 (33 F.R. 2080) the description of the Everett, Wash., control zone is amended by adding: "This control zone is effective from 0700 to 2300 hours local time daily."

Effective date. This amendment shall become effective 0001 P.s.t., September 20, 1968.

Issued in Los Angeles, Calif., on August 20, 1968.

ARVIN O. BASNIGHT,
Director, Western Region.

[F.R. Doc. 68-10676; Filed, Sept. 4, 1968; 8:47 a.m.]

[Airspace Docket No. 68-WE-71]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to change the effective time of the Fort Lewis, Wash., control zone.

The Commanding Officer, Fort Lewis, Wash., has reduced the hours of operation of the control tower at Gray AAF, Fort Lewis, Wash.; therefore, action is taken herein to amend the description of the control zone to coincide with the hours of operation of the control tower.

Since this action is less restrictive and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended as hereinafter set forth:

In § 71.171 (33 F.R. 2082) the Fort Lewis control zone is amended to read as follows:

FORT LEWIS, WASH.

Within a 5-mile radius of Gray AAF, Fort Lewis, Wash. (lat. 47°04'55" N., long. 122°34'-55" W.), excluding the portions within the Tacoma, Wash. (McChord AFB), control zone and the portion east of a line 2 miles west of and parallel to the McChord AFB VOR, 132° radial. This control zone is effective from 0600 to 2200 hours local time daily.

Effective date. This amendment is effective 30 days after publication in the FEDERAL REGISTER.

Issued in Los Angeles, Calif., on August 23, 1968.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 68-10677; Filed, Sept. 4, 1968; 8:48 a.m.]

[Airspace Docket No. 68-WE-70]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the description of the Modesto, Calif., control zone.

The Air Force no longer has a requirement for the Military Climb Corridor R-2514 at Castle AFB, Calif., and this designation of airspace has now been revoked. This action necessitates alteration of the description of the Modesto, Calif., control zone and action is taken herein to reflect this change.

Since this change is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended as hereinafter set forth:

In § 71.171 (33 F.R. 2106) the Modesto, Calif., control zone is amended to read as follows:

MODESTO, CALIF.

Within a 5-mile radius of the Modesto City-County Airport, Modesto, Calif. (lat. 37°-37'35" N., long. 120°57'15" W.); within 2 miles each side of the Modesto VOR 201° radial, extending from the 5-mile radius zone to 8 miles west of the VOR; within 2 miles each side of the Modesto VOR 119° radial, extending from the 5-mile radius zone to 8 miles east of the VOR. This control zone is effective from 0600 to 2200 hours local time daily.

Effective date. This amendment is effective 30 days after publication in the FEDERAL REGISTER.

Issued in Los Angeles, Calif., on August 23, 1968.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 68-10678; Filed, Sept. 4, 1968; 8:48 a.m.]

[Airspace Docket No. 68-EA-57]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On page 9906 of the FEDERAL REGISTER for July 10, 1968, the Federal Aviation Administration published proposed regulations which would alter the Hopkinsville, Ky., control zone and transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are adopted effective 0901 G.m.t., November 14, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on August 20, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Hopkinsville, Ky., control zone and insert in lieu thereof:

Within a 5-mile radius of the center, 36°-40'25" N., 87°29'30" W. of Campbell Army Airfield, excluding the area within a 1.5-mile radius of the center, 36°37'15" N., 87°24'55" W. of Outlaw Field, Clarksville, Tenn.; within 2 miles each side of the 224° bearing from the Campbell RBN extending from the 5-mile radius zone to the RBN and within 2 miles each side of the Campbell TACAN 053° radial extending from the 5-mile radius zone to 6 miles northeast of the TACAN.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations in the Hopkinsville, Ky. (Campbell AAF), transition area, by deleting the parenthetical part of the caption; delete in the description of the 700-foot floor transition area, the coordinates "36°40'11" N., 87°29'13" W." and insert in lieu thereof "36°40'25" N., 87°29'30" W."; delete the figures "045°" and insert in lieu thereof "044°"; delete the phrase "within 5 miles northwest and 8 miles southeast of the Clarksville, Tenn., VOR 064° radial extending from the 14-mile radius area to 12 miles northeast of the VOR".

[F.R. Doc. 68-10679; Filed, Sept. 4, 1968; 8:48 a.m.]

[Airspace Docket No. 68–EA–69]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On page 9907 of the FEDERAL REGISTER for July 10, 1968, the Federal Aviation Administration published proposed regulations which would alter the Houlton, Maine, control zone and 700-foot floor transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., November 14, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on August 20, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Houlton, Maine, control zone the figures 018° and insert in lieu thereof 016°; delete "to the VOR" and insert in lieu thereof "to 2 miles north of the VOR."

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Houlton, Maine, 700-foot floor transition area the words "within 2 miles" to and including "south of the VOR."

[F.R. Doc. 68–10680; Filed, Sept. 4, 1968; 8:48 a.m.]

[Airspace Docket No. 68–EA–66]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 9906 of the FEDERAL REGISTER for July 10, 1968, the Federal Aviation Administration published proposed regulations which would alter the North Conway, N.H., 1,200-foot floor transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., November 14, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on August 20, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the North Conway, N.H., transition area the words "east edge of B–63" and all thereafter and insert in lieu thereof:

RBN to 12 miles southeast of the RBN; within 5 miles each side of a direct line extending from the Whitefield, N.H., RBN (44°21'58" N., 71°33'00" W.) to the North Conway, N.H., RBN; within 5 miles each side of a direct line extending from the Montpelier, Vt., VOR to the North Conway, N.H., RBN; within 5 miles each side of a direct line extending from the Lebanon, N.H., VOR to the North Conway, N.H., RBN and within 5 miles each side of a line bearing 116° from the North Conway, N.H., RBN extending from the RBN to the northwest boundary of the Portland, Maine, 1,200-foot transition area, excluding those portions that coincide with the Berlin, N.H., Lebanon, N.H., and Burlington, Vt., 1,200-foot transition areas. This transition area is effective from sunrise to sunset, daily.

[F.R. Doc. 68–10681; Filed, Sept. 4, 1968; 8:48 a.m.]

[Airspace Docket No. 68–CE–54]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On page 9093 of the FEDERAL REGISTER dated June 20, 1968, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Ida Grove, Iowa.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendment. Two comments were received. The Air Transport Association offered no objection to the proposal. The Aircraft Owners & Pilots Association objected to the proposal for the reason that it was unable to determine the justification for a 7-mile radius 700-foot floor transition area around the airport. The proposed transition area was developed in accordance with FAA criteria. A review of this proposal and the criteria for designating a transition area at Ida Grove, Iowa, for the protection of IFR air traffic into and out of this airport indicates a requirement for the 7-mile radius 700-foot floor area to protect department aircraft climbing to 1,200 feet above surrounding terrain which is 300 feet higher than the airport. Consequently, the FAA does not feel there is any valid reason for honoring the Aircraft Owners & Pilots Association objection. However, it is necessary to change the airport coordinates as set forth below.

In view of the foregoing, the proposed amendment is hereby adopted, subject to the following change:

The coordinates recited in the Ida Grove, Iowa, Municipal Airport transition area designation as "latitude 42°20'-00" N., longitude 95°26'40" W." are changed to read "latitude 42°19'55" N., longitude 92°26'40" W."

This amendment shall be effective 0901 G.m.t., November 14, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on August 20, 1968.

DANIEL L. BARROW,
Acting Director, Central Region.

In § 71.181 (33 F.R. 2137), the following transition area is added:

IDA GROVE, IOWA

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Ida Grove Municipal Airport (latitude 42°19'55" N., longitude 92°26'40" W.); and within 2 miles each side of the 117° bearing from Ida Grove Municipal Airport, extending from the 7-mile radius area to 8 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within 8 miles north and 5 miles south of the 117° bearing from Ida Grove Municipal Airport, extending from the airport to 12 miles east of the airport; and within 5 miles each side of the 297° bearing from Ida Grove Municipal Airport, extending from the airport to V–100.

[F.R. Doc. 68–10682; Filed, Sept. 4, 1968; 8:48 a.m.]

[Docket No. 8878; Amdts. 151–24, 171–4]

PART 151—FEDERAL AID TO AIRPORTS

PART 171—NON-FEDERAL NAVIGATION FACILITIES

True Light Certificates

The purpose of this amendment to Parts 151 and 171 of the Federal Aviation Regulations is to generally discontinue the issuance of certificates of "Lawful Authority To Operate a True Light" (True Light Certificates), under § 171.61; to revoke most of those certificates; to terminate most pending applications for those certificates; to delete the requirement that certain Federal-aid Airport Program sponsors apply for those certificates, under § 151.87; and to ensure the acceptable operation of airport lighting in new § 151.86.

This amendment was proposed in Notice 68–12 that was issued on May 15, 1968, and published in the FEDERAL REGISTER on May 22, 1968 (33 F.R. 7582). The comments received in response to the notice either generally agreed or expressed no objection to the amendments proposed. In the light of the comments received, the FAA is adopting the amendments as proposed in Notice 68–12, for the reasons stated therein.

As amended, the FAA no longer issues, or accepts an application for, a "True Light Certificate" under Part 171. New § 171.61(a) generally revokes each "True Light Certificate," and terminates each application for a certificate. An exception in new § 171.61(b) preserves the certificate or application of a Federal-aid Airport Program sponsor that was required to apply for a "True Light Certificate" under the former regulations. However, that sponsor may choose to comply with new § 151.86(b)(3), and surrender its certificate or terminate its application.

As amended, sponsors of projects that involve installing airport lighting, and related electrical work, are no longer required to apply for a "True Light Certif-

icate" under Part 151. Instead, new § 151.86(b)(3) requires these sponsors to agree to operate the airport lighting installed either throughout each night of the year, or according "to a satisfactory plan of operation." Under new § 151.86(c) the sponsor may choose to submit "a proposed plan of operation of the airport lighting installed for periods less than throughout each night of the year," to specify "the times when the airport lighting installed will be operated," and to satisfy the Administrator that the plan "provides for safety in air commerce, and justifies the investment of Program funds." Under new § 151.86(d), these new provisions apply to the sponsor of an "airport lighting" project that has not entered into a grant agreement on the effective date of this amendment (whether or not it has applied for a "True Light Certificate"). As stated above, if a sponsor's certificate or application is preserved under § 171.61(b), it may agree to comply with § 151.86(b)(3) and surrender its certificate or terminate its application under § 151.86(e).

As stated in Notice 68–12, new §§ 151.86(a) and 151.86(b) reflect the provisions in present §§ 151.87(a) and 151.87(b), which are being deleted. New § 151.86(a) also reflects the fact that the Administrator may find that airport lighting is necessary under § 151.13. Editorial changes to §§ 151.87(c), 151.87(d), 151.87(h), 151.87(k) and Appendix F of Part 151 are also adopted as proposed in Notice 68–12.

In addition to the amendments proposed in Notice 68–12, the FAA is adopting a clarifying amendment to § 151.111(c)(2). In Amdt. 151–22, the FAA amended § 151.111(c)(2) to refer to a new publication that identifies large and medium hubs served by scheduled air carrier service. No change was made in the substance of § 151.111(c)(2), and an airport that would be eligible under the former language of paragraph (c) continues to be eligible under that paragraph as changed by Amdt. 151–22. However, the new language of § 151.111(c)(2) may be misunderstood to mean that, if any airport in a large or medium hub is served by scheduled air carrier service, then every other airport in that hub is excluded. Since the FAA does not intend this construction, § 151.111(c)(2) is clarified to make that fact clear.

Since this amendment relates to public grants and eliminates an unnecessary procedure, I find that good cause exists to make this amendment effective in less than 30 days.

In consideration of the foregoing, effective September 5, 1968, Parts 151 and 171 of the Federal Aviation Regulations are amended as follows:

1. By adding the following new § 151.86:

§ 151.86 Lighting and electrical work: general.

(a) The installing of lighting facilities and related electrical work, as provided in § 151.87, is eligible for inclusion in a project only if the Administrator determines, for the particular airport involved, that they are needed to ensure—

(1) Its safe and efficient use by aircraft under § 151.13; or

(2) Its continued operation and adequate maintenance, and it has a large enough volume (actual or potential) of night operations.

(b) Before the Administrator makes a grant offer to the sponsor of a project that includes installing lighting facilities and related electrical work under paragraph (a) of this section, the sponsor must—

(1) Provide in the project for removing, relocating, or adequately marking and lighting, each obstruction in the approach and turning zones, as provided in § 151.91(a);

(2) Acknowledge its awareness of the cost of operating and maintaining airport lighting; and

(3) Agree to operate the airport lighting installed—

(i) Throughout each night of the year; or

(ii) According to a satisfactory plan of operation, submitted under paragraph (c) of this section.

(c) The sponsor of a project that includes installing airport lighting and related electrical work, under paragraph (a) of this section, may—

(1) Submit to the Administrator a proposed plan of operation of the airport lighting installed for periods less than throughout each night of the year;

(2) Specify, in the proposed plan, the times when the airport lighting installed will be operated; and

(3) Satisfy the Administrator that the proposed plan provides for safety in air commerce, and justifies the investment of Program funds.

(d) Paragraph (b)(3) of this section also applies to each sponsor of a project that includes installing airport lighting and related electrical work if that sponsor has not entered into a grant agreement for the project before September 5, 1968.

(e) If it agrees to comply with paragraph (b)(3) of this section, the sponsor of a project that includes installing airport lighting facilities and related electrical work that has entered into a grant agreement for that project before September 5, 1968, may—

(1) Surrender its air navigation certificate authorizing operation of a "true light" issued before that date; or

(2) Terminate its application for authority to operate a "true light" made before that date.

2. The section heading, paragraphs (a), (b), and (c), the second sentence of paragraph (d), and paragraphs (h) and (k), of § 151.87 are amended to read as follows:

§ 151.87 Lighting and electrical work: standards.

(a) [Reserved]

(b) [Reserved]

(c) The number of runways that are eligible for lighting is the same as the number eligible for paving under § 151.77, § 151.79, or § 151.80.

(d) * * * A runway that is eligible for lighting, but does not meet the requirements for 75 percent U.S. participation under § 151.43(d), is eligible for 50 percent U.S. participation in the costs of high intensity runway edge lighting (or the allowable percentage in § 151.43(c) for public land States), if the airport is served by a navigational aid that will allow using instrument approach procedures. * * *

* * * * *

(h) Any airport that is eligible to participate in the costs of runway lighting is eligible for the installing of an airport beacon, lighted wind indicator, obstruction lights, lighting control equipment, and other components of basic airport lighting, including separate transformer vaults and connection to the nearest available power source.

* * * * *

(k) Appendix F sets forth typical eligible and ineligible items of airport lighting covered by § 151.86 and this section.

3. Subparagraph (2) of § 151.111(c) is amended to read as follows:

§ 151.111 Advance planning proposals: general.

* * * * *

(c) * * *

(2) Is not served by scheduled air carrier service and located in a large or medium hub, as identified in the current editon of "Airport Activity Statistics of Certificated Route Air Carriers" (published jointly by FAA and the Civil Aeronautics Board), that is available for inspection at any FAA Area or Regional Office, or for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

* * * * *

4. Appendix F of Part 151 is amended by striking out the reference "§ 151.87", and by inserting the references "§§ 151.86 and 151.87" in place thereof.

5. Section 171.61 is amended to read as follows:

§ 171.61 Air navigation certificate: revocation and termination.

(a) Except as provided in paragraph (b) of this section, each air navigation certificate of "Lawful Authority to Operate a True Light" is hereby revoked, and each application therefor is hereby terminated.

(b) Paragraph (a) of this section does not apply to—

(1) A certificate issued to a Federal-Aid Airport Program sponsor who was required to apply for that certificate under regulations then in effect, and who has not surrendered that certificate under § 151.86(e) of this chapter; or

(2) An application made by a Federal-Aid Airport Program sponsor who was required to make that application under regulations then in effect, and who has not terminated that application under § 151.86(e) of this chapter.

(Federal Airport Act, as amended; 49 U.S.C. 1101–1120; sections 307, 313(a), 601, 606, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1354(a), 1421, 1426)

Issued in Washington, D.C., on August 28, 1968.

D. D. THOMAS,
Acting Administrator.

[F.R. Doc. 68-10683; Filed, Sept. 4, 1968; 8:48 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-543, Amdt. 7]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Charters From Direct Air Carriers by Supplemental and Other Direct Air Carriers in Emergency Situations and for Carriage of Company Personnel and Property

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of August 1968.

In a notice of proposed rule making (EDR-139) published in the FEDERAL REGISTER on May 28, 1968, the Board proposed to amend Part 207 of the Economic Regulations to permit direct air carriers to charter aircraft to supplemental and other direct air carriers for commercial traffic in cases of emergency or solely for the transportation of company personnel or company property.

In response to our notice, comments were received from Trans World Airlines (TWA), the Flying Tiger Line (Flying Tiger), Capitol International Airways, and Southern Airways.

Interested persons have been offered an opportunity to participate in the making of this rule, and due consideration has been given to all relevant matter presented. For the reasons hereinafter set forth, we have decided to adopt the proposed rule as described below. Therefore, except as modified herein, the tentative findings set forth in the Explanatory Statement to the Proposed Rule (EDR-139, supra) are incorporated herein by reference and made final.

TWA and Flying Tiger object to the rule in its present form. TWA contends first that the amendment insofar as it relates to emergency commercial charters is unnecessary, since in an emergency situation, a charter party can at present cancel its charter agreement with the carrier unable to provide service and enter into a new agreement directly with another carrier having the available lift. If the proposed regulation is adopted, the carrier requests that the phrase "in cases of emergency" should be defined and that the carrier engaging the charter trip should be required to keep records substantiating the origin and nature of each case of emergency. These provisions are necessary, according to TWA, to prevent supplemental carriers from chartering beyond their capacity in reliance on the ability of scheduled carriers to "bail them out."

Flying Tiger asks that the emergency substitute service authorized by the amendment should be excluded from the charter mileage limitations of §§ 207.5 and 207.6.[1] Claiming that the mileage limitations for all-cargo carriers under § 207.6 are already unduly small,[2] the carrier argues that the addition of any kind of service within the definition of "charter trip" would have the effect of reducing them further. According to Flying Tiger, the larger combination carriers would gain an undue advantage in competing for emergency charter business, since supplemental or other direct carriers with an emergency need would know that these larger carriers, with their greater base revenue plane mileage, could easily meet the 2-percent mileage allowance of § 207.5. The smaller combination and all-cargo carriers, on the other hand, would have to seek specific Board relief by exemption from the charter mileage limitation.

The Board finds that no substantial objections have been raised against the rule proposed in EDR-139. First, we believe the amendment is necessary. While it is presently possible, as TWA suggests, for a charter party to execute an agreement with another carrier in an emergency situation, such an arrangement would require the charter party at the last minute to cancel one contract and to negotiate another with a different carrier under a different tariff. This regulation relieves the charter party from any such burden.

The Board denies, in addition, the changes in the amendment proposed by TWA and Flying Tiger. We do not believe there is any substantial danger that the amendment would encourage supplemental carriers to sell charter transportation beyond their capacity in reliance on the ability of scheduled carriers to "bail them out" if necessary. There is, to begin with, no evidence that such a problem has arisen in connection with similar provisions contained in other charter regulations of the Board: Specifically, §§ 208.3(s)(2)(i)(a) and (ii)(a), 212.1(a)(5), 214.2(b)(1)(i) and (2)(i), and 295.2(b)(1)(i) and (2)(i). We note, in addition, that the emergency commercial charter authorization embodied in the amendment is intended to allow only one or at most a few flights. It does not authorize a continuing wet lease arrangement where, for example, a carrier has lost or is overhauling an aircraft. Therefore, there is no showing that the amendment is likely to produce an increase in traffic significant enough to affect the mileage limitations under §§ 207.5 and 207.6.

In consideration of the foregoing, the Board hereby amends Part 207 of the Economic Regulations (14 CFR Part 207), effective October 5, 1968, by modifying subparagraph (1) of the definition of "charter trip" in § 207.1 to read as follows:

§ 207.1 Definitions.

* * * * *

(1) By a person for his own use (including a direct air carrier when such aircraft is engaged solely for the transportation of company personnel or company property, or in cases of emergency, of commercial traffic).

* * * * *

(Secs. 204(a) and 401 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; 72 Stat. 754, as amended by 76 Stat. 143, 49 U.S.C. 1371)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 68-10718; Filed, Sept. 4, 1968; 8:51 a.m.]

[1] Under these sections a carrier may not during any calendar year perform off-route charters which in the aggregate, on a revenue plane-mile basis, exceed two percent of the base revenue plane-miles flown by that carrier during the preceding calendar year.

[2] Flying Tiger cites similar conclusions by the Board in the explanatory statement to EDR-128, issued on November 21, 1967. The carrier contends that even if the more liberal mileage allowances reflected in the regulations proposed in EDR-128 are adopted, the problem they raise in connection with the present regulation would still exist.

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 4]

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950——)

Subpart P—Rights and Benefits Based on Disability

Correction

In F.R. Doc. 68-9986 appearing at page 11749 in the issue of Tuesday, August 20, 1968, the following corrections should be made:

1. In § 404.1505(b), the phrase "the employ of or engaged for this purpose" should be inserted after the 14th line.

2. In section 12.00 B. of the Appendix, the penultimate line of the paragraph *Personality disorders* should read "cially unacceptable behavior." and the last line should be deleted.

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 526—INDUSTRIES OF A SEASONAL NATURE AND INDUSTRIES WITH MARKED SEASONAL PEAKS OF OPERATION

Almond Hulling Industry

On August 7, 1968, a notice was published in the FEDERAL REGISTER (33 F.R. 11175) proposing to find that the almond hulling industry, as defined, is of a seasonal nature within the meaning and under authority of section 7(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(c)) as amended by the Fair

Labor Standards Amendments of 1966 (P.L. 89-601).

Interested persons were given 15 days in which to present written data, views, and argument. No comments were received. Pursuant to section 7(c) of the Fair Labor Standards Act of 1938, 29 U.S.C. 207(c), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), Secretary's Order No. 19-67 (32 F.R. 12980), and the procedures set forth in 29 CFR 526, such findings are hereby made. Accordingly, 29 CFR 526.10 is amended by adding "Almond hulling industry" to the list there provided, with the date of this document shown under the heading of "Date of finding," and the volume and page of the FEDERAL REGISTER in which this document appears under the heading "Citation." As this amendment merely grants an exemption, no delay in its effective date is required by 5 U.S.C. 553(d). Such delay would serve no useful purpose. This amendment, shall, therefore, be effective immediately.

For the purpose of this finding, the almond hulling industry is defined as the hulling of almonds including any operation necessary or incidental thereto.

Signed at Washington, D.C., this 30th day of August 1968.

CLARENCE T. LUNDQUIST,
Administrator, Wage and Hour and Public Contracts Divisions.

[F.R. Doc. 68-10728; Filed, Sept. 4, 1968; 8:51 a.m.]

Chapter XII—Federal Mediation and Conciliation Service

PART 1404—ARBITRATION

On June 21, 1968, notice of proposed rule changes was published in the FEDERAL REGISTER (68 F.R. 7358). There were set out therein the proposed revisions of Chapter XII, Title 29, of the Code of Federal Regulations, relating to the Service's arbitration policies and procedures. Comments which were received concerning the proposed regulations have been considered. The amendatory regulations as set forth below are hereby adopted to be effective October 21, 1968, and shall as of that date supersede the present regulations which are set forth in 29 CFR Part 1404.

Sec.
1404.1 Arbitration.
1404.2 Composition of roster maintained by the Service.
1404.3 Security status.
1404.4 Procedures; how to request arbitration services.
1404.5 Arbitrability.
1404.6 Nominations of arbitrators.
1404.7 Appointment of arbitrators.
1404.8 Status of arbitrators after appointment.
1404.9 Prompt decision.
1404.10 Arbitrator's award and report.
1404.11 Fees of arbitrators.
1404.12 Conduct of hearings.

AUTHORITY: The provisions of this Part 1404 issued under sec. 202, 61 Stat. 153, as amended; 29 U.S.C. 172. Interpret or apply sec. 3, 80 Stat. 250, sec. 203, 61 Stat. 153; 5 U.S.C. 552, 29 U.S.C. 173.

§ 1404.1 Arbitration.

The labor policy of the U.S. Government is designed to foster and promote free collective bargaining. Voluntary arbitration is encouraged by public policy and is in fact almost universally utilized by the parties to resolve disputes involving the interpretation or application of collective bargaining agreements. Also, in appropriate cases, voluntary arbitration or factfinding are tools of free collective bargaining and may be desirable alternatives to economic strife in determining terms of a collective bargaining agreement. The parties assume broad responsibilities for the success of the private juridical system they have chosen. The Service will assist the parties in their selection of arbitrators.

§ 1404.2 Composition of roster maintained by the Service.

(a) It is the policy of the Service to maintain on its roster only those arbitrators who are qualified and acceptable, and who adhere to ethical standards.

(b) Applicants for inclusion on its roster must not only be well-grounded in the field of labor-management relations, but, also, usually possess experience in the labor arbitration field or its equivalent. After a careful screening and evaluation of the applicant's experience, the Service contacts representatives of both labor and management since arbitrators must be generally acceptable to those who utilize its arbitration facilities. The responses to such inquiries are carefully weighed before an otherwise qualified arbitrator is included on the Service's roster. Persons employed full time as representatives of management, labor, or the Federal Government are not included on the Service's roster.

(c) The arbitrators on the roster are expected to keep the Service informed of changes in address, occupation or availability, and of any business connections with or of concern to labor or management. The Service reserves the right to remove names from the active roster or to take other appropriate action where there is good reason to believe that an arbitrator is not adhering to these regulations and related policy.

§ 1404.3 Security status.

The arbitrators on the Service's roster are not employees of the Federal Government, and, because of this status, the Service does not investigate their security status. Moreover, when an arbitrator is selected by the parties, he is retained by them and, accordingly, they must assume complete responsibility for the arbitrator's security status.

§ 1404.4 Procedures; how to request arbitration services.

The Service prefers to act upon a joint request which should be addressed to the Director of the Federal Mediation and Conciliation Service, Washington, D.C. 20427. In the event that the request is made by only one party, the Service may act if the parties have agreed that either of them may seek a panel of arbitrators, either by specific ad hoc agreement or by specific language in the applicable collective bargaining agreement. A brief statement of the nature of the issues in dispute should accompany the request, to enable the Service to submit the names of arbitrators qualified for the issues involved. The request should also include a copy of the collective bargaining agreement or stipulation. In the event that the entire agreement is not available, a verbatim copy of the provisions relating to arbitration should accompany the request.

§ 1404.5 Arbitrability.

Where either party claims that a dispute is not subject to arbitration, the Service will not decide the merits of such claim. The submission of a panel should not be construed as anything more than compliance with a request.

§ 1404.6 Nominations of arbitrators.

(a) When the parties have been unable to agree on an arbitrator, the Service will submit to the parties the names of seven arbitrators unless the applicable collective bargaining agreement provides for a different number, or unless the parties themselves request a different number. Together with the submission of a panel of suggested arbitrators, the Service furnishes a short statement of the background, qualifications, experience and per diem fee of each of the nominees.

(b) In selecting names for inclusion on a panel, the Service considers many factors, but the desires of the parties are, of course, the foremost consideration. If at any time both the company and the union suggest that a name or names be omitted from a panel, such name or names will be omitted. If one party only (a company or a union) suggests that a name or names be omitted from a panel, such name or names will generally be omitted, subject to the following qualifications: (1) If the suggested omissions are excessive in number or otherwise appear to lack careful consideration, they will not be considered; (2) all such suggested omissions should be reviewed after the passage of a reasonable period of time. The Service will not place names on a panel at the request of one party unless the other party has knowledge of such request and has no objection thereto, or unless both parties join in such request. If the issue described in the request appears to require special technical experience or qualifications, arbitrators who possess such qualifications will, where possible, be included in the list submitted to the parties. Where the parties expressly request that the list be composed entirely of technicians, or that it be all-local or nonlocal, such request will be honored, if qualified arbitrators are available.

(c) Two possible methods of selection from a panel are—(1) at a joint meeting, alternately striking names from the submitted panel until one remains, and (2) each party separately advising the Service of its order of preference by numbering each name on the panel. In almost all cases, an arbitrator is chosen from one panel of names. However, if a re-

quest for another panel is made, the Service will comply with the request, providing that additional panels are permissible under the terms of the agreement or the parties so stipulate.

(d) Subsequent adjustment of disputes is not precluded by the submission of a panel or an appointment. A substantial number of issues are being settled by the parties themselves after the initial request for a panel and after selection of the arbitrator. Notice of such settlement should be sent promptly to the arbitrator and to the Service.

(e) The arbitrator is entitled to be compensated whenever he receives insufficient notice of settlement to enable him to rearrange his schedule of arbitration hearings or working hours. In other situations, when an arbitrator spends an unusually large amount of time in arranging or rearranging hearing dates, it may be appropriate for him to make an administrative charge to the parties in the event the case is settled before hearing.

§ 1404.7 Appointment of arbitrators.

(a) After the parties notify the Service of their selection, the arbitrator is appointed by the Director. If any party fails to notify the Service within 15 days after the date of mailing the panel, all persons named therein may be deemed acceptable to such party. The Service will make a direct appointment of an arbitrator based upon a joint request, or upon a unilateral request when the applicable collective bargaining agreement so authorizes.

(b) The arbitrator, upon appointment notification, is requested to communicate with the parties immediately to arrange for preliminary matters such as date and place of hearing.

§ 1404.8 Status of arbitrators after appointment.

After appointment, the legal relationship of arbitrators is with the parties rather than the Service, though the Service does have a continuing interest in the proceedings. Industrial peace and good labor relations are enhanced by arbitrators who function justly, expeditiously and impartially so as to obtain and retain the respect, esteem and confidence of all participants in the arbitration proceedings. The conduct of the arbitration proceeding is under the arbitrator's jurisdiction and control, subject to such rules of procedure as the parties may jointly prescribe. He is to make his own decisions based on the record in the proceedings. The arbitrator may, unless prohibited by law, proceed in the absence of any party who, after due notice, fails to be present or to obtain a postponement. The award, however, must be supported by evidence.

§ 1404.9 Prompt decision.

(a) Early hearing and decision of industrial disputes is desirable in the interest of good labor relations. The parties should inform the Service whenever a decision is unduly delayed. The Service expects to be notified by the arbitrator if and when (1) he cannot schedule, hear and determine issues promptly, and (2) he is advised that a dispute has been settled by the parties prior to arbitration.

(b) The award shall be made not later than 30 days from the date of the closing of the hearing, or the receipt of a transcript and any post-hearing briefs, or if oral hearings have been waived, then from the date of receipt of the final statements and proof by the arbitrator, unless otherwise agreed upon by the parties or specified by law. However, a failure to make such an award within 30 days shall not invalidate an award.

§ 1404.10 Arbitrator's award and report.

(a) At the conclusion of the hearing and after the award has been submitted to the parties, each arbitrator is required to file a copy with the Service. The arbitrator is further required to submit a report showing a breakdown of his fees and expense charges so that the Service may be in a position to check conformance with its fee policies. Cooperation in filing both award and report within 15 days after handing down the award is expected of all arbitrators.

(b) It is the policy of the Service not to release arbitration decisions for publication without the consent of both parties. Furthermore, the Service expects the arbitrators it has nominated or appointed not to give publicity to awards they may issue, except in a manner agreeable to both parties.

§ 1404.11 Fees of arbitrators.

(a) No administrative or filing fee is charged by the Service. The current policy of the Service permits each of its nominees or appointees to charge a per diem fee for his services, the amount of which is certified in advance by him to the Service. Each arbitrator's maximum per diem fee is set forth on his biographical sketch which is sent to the parties at such time as his name is submitted to them for consideration. The arbitrator shall not change his per diem fee without giving at least 90 days advance notice to the Service of his intention to do so.

(b) In those rare instances where arbitrators fix wages or other important terms of a new contract, the maximum fee noted above may be exceeded by the arbitrator after agreement by the parties. Conversely, an arbitrator may give due consideration to the financial condition of the parties and charge less than his usual fee in appropriate cases.

§ 1404.12 Conduct of hearings.

The Service does not prescribe detailed or specific rules of procedure for the conduct of an arbitration proceeding because it favors flexibility in labor relations. Questions such as hearing rooms, submission of prehearing or posthearing briefs, and recording of testimony, are left to the discretion of the individual arbitrator and to the parties. The Service does, however, expect its arbitrators and the parties to conform to applicable laws, and to be guided by ethical and procedural standards as codified by appropriate professional organizations and generally accepted by the industrial community and experienced arbitrators.

In cities where the Service maintains offices, the parties are welcome upon request to the Service to use its conference rooms when they are available.

Washington, D.C., August 29, 1968.

WILLIAM E. SIMKIN,
Director.

[F.R. Doc. 68-10647; Filed, Sept. 4, 1968; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 92—RESERVE OFFICERS' TRAINING CORPS (ROTC) AND RELATED OFFICERS' TRAINING PROGRAMS

The Deputy Secretary of Defense approved the following on August 16, 1968:

Sec.
92.1 Purpose and applicability.
92.2 Policy.

AUTHORITY: The provisions of this part issued under Sec. 6(D)(1), 62 Stat. 611; 50 App. U.S.C. 456(d)(1); Sec. 301, 80 Stat. 379; 5 U.S.C. 301.

§ 92.1 Purpose and applicability.

(a) This part sets forth (1) the purpose and objectives of the ROTC program; (2) the requirement for loyalty certificates for members of the ROTC; and (3) uniform Department of Defense policies on physical examination of enrollees, commissioning of graduates, and assignment of graduates under the ROTC and related officers' training programs.

(b) The provisions of this part apply to the Military Departments. They do not encompass federally maintained academies for members of the uniformed services.

§ 92.2 Policy.

(a) *Purpose and objectives of the senior ROTC program.* (1) The ROTC provides (i) a permanent and stable program of military education at college-level institutions to procure, motivate, and prepare selected students for service as regular or reserve commissioned officers in the Army, Navy, Air Force or Marine Corps; and (ii) a mutually advantageous arrangement between the Defense establishment and institutions of higher learning for the education of officer personnel for our armed forces, and a channel of communication between our military leadership and our developing educated manpower.

(2) The primary objectives of the Senior ROTC program are to provide ROTC students with:

(i) An understanding of the fundamental concepts and principles of military or naval science or aerospace studies;

(ii) A basic understanding of associated professional knowledge;

(iii) A strong sense of personal integrity, honor, and individual responsibility; and

(iv) An appreciation of the requirements for national security in order to qualify them as commissioned officers and establish a sound basis for their future professional growth and effective performance in the military service of their choice.

(b) *Oaths and security requirements.* (1) Basic course Senior Division:

(i) Each applicant as a condition of formal enrollment in the basic courses of the senior division of the Reserve Officers' Training Corps and wearing of the uniform shall execute the following oath or affirmation:

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion.

(ii) Students as may be required or permitted by educational institutions to undergo military training and who are not accepted for formal enrollment may receive instruction in the basic courses of the senior division with the approval of the Military Department concerned.

(2) *Financial Assistance Programs and Advanced Courses, Senior Division.* Each applicant for appointment or enrollment in any of the financial assistance programs of the Services and each applicant for appointment or enrollment in any advanced courses of the senior division shall meet those loyalty and security criteria required for enlistment in the Reserve Components of the appropriate Military Service.

(c) *Physical examination.* (1) To reduce to an absolute minimum the loss, at graduation, of persons found physically disqualified for appointment as commissioned officers, thorough and complete physical examinations will be conducted at the time of, or immediately prior to:

(i) Enrollment in the Advanced Courses of Army and Air Force Reserve Officers' Training Corps programs. In addition, the Military Departments are urged to conduct physical examinations of enrollees in the Basic Courses of Army and Air Force Reserve Officers' Training Corps programs where entrants therein evidence an intention to pursue the senior division curricula to completion.

(ii) Initial enrollment in all other applicable officers' training and procurement programs.

(2) Such examinations will, in all respects, be equal to the examinations conducted to determine physical qualifications for appointment as commissioned officers. The physical standards applicable at the time of enrollment shall obtain at the time of graduation.

(d) *Deferment agreements.* Enrollees who acquire exemption or deferment from induction by virtue of their enrollment in subject programs shall be required to execute agreements as provided in section 456(d)(1) of title 50, Appendix, United States Code. Enrollees other than those described above may be required to execute such agreements as may be prescribed by the Secretary of the Military Department concerned.

(e) *Commissioning of graduates.* Upon the successful completion of the required course of instruction, a graduate of a program referred to herein shall, if otherwise qualified, be appointed a Regular or Reserve Officer in the appropriate Armed Force.

(f) *Assignment of graduates.* (1) Subject programs shall be operated with the greatest possible stability to produce officers to meet the approved mobilization requirements of the Military Departments.

(2) A graduate who has executed an agreement pursuant to § 92.2(d) shall serve on active duty with the Armed Force in which appointed under the terms of his agreement if his services are required at the time of his appointment. If not needed on active duty at the time of his appointment, he will be ordered to active duty for training for a period of 3 to 6 months with the Armed Force in which appointed.

(3) Graduates shall be called to active duty or active duty for training as soon as possible within a 12-month period following their appointment as commissioned officers in accordance with the ability of the Military Departments to absorb them into units and training programs of the appropriate military services.

(i) The Military Departments will prepare schedules for the calling of such graduates to active duty or active duty for training, and each graduate shall be advised at the time of his graduation as to the approximate date he will be required to report for such duty.

(ii) During the period between appointment and the date of reporting for active duty or active duty for training, graduates shall be given appropriate Ready Reserve assignments.

(4) Graduates who have fulfilled their active military training and service obligation, or who have enlisted Reserve status and have performed 6 months active duty for training under the provisions of section 262 of Armed Forces Reserve Act of 1952, as amended, or section 511 or section 672(d) of title 10, U.S.C. following their appointment as commissioned officers and in accordance with Military Service requirements, may either be ordered to active duty or active duty for training per § 92.2(f)(3) pursuant to the terms of any agreements they have entered into with the Military Departments concerned, or be given appropriate Reserve assignments.

(5) A graduate may be delayed from being ordered to active duty or active duty for training under regulations issued by the Secretary of the Military Department concerned if he (i) is the recipient of a scholarship, (ii) has been accepted by a recognized institution of higher education for graduate studies, (iii) would suffer undue personal hardship, or (iv) is otherwise precluded from reporting as ordered for cogent and acceptable reasons. If delayed, he shall remain subject to the assignment criteria prescribed in § 92.2(f)(1) through (4) and shall be assigned to active duty or active duty for training, as appropriate, at such time as the cause of his delay ceases to exist. Part 126 of this Subchapter governs the delay in the reporting to active duty of those graduates in the Ready Reserve alerted for involuntary order to active duty.

(g) *Participation in reserve training programs.* Regulations governing participation in Reserve training programs and employment of compliance measures are prescribed in Part 101 of this subchapter.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[F.R. Doc. 68-10646; Filed, Sept. 4, 1968; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER I—ANCHORAGES

[CGFR 68-96]

PART 110—ANCHORAGE REGULATIONS

Subpart A—Special Anchorage Areas

MARBLEHEAD HARBOR, MASS.

1. The Chairman of the Board of Selectmen of Marblehead, Mass., by letter dated November 14, 1966, requested the establishment of one Special Anchorage Area in Marblehead Harbor. A public notice dated November 25, 1966, was issued by the New England Division, Corps of Engineers, describing the proposed anchorage area. All known interested parties were notified and objections have been considered. Therefore the request is granted and the establishment of special anchorage area as described in 33 CFR 110.26 below is granted, subject to the right to change the requirements and to amend the regulations if and when necessary in the public interest.

2. The purpose of this document is to establish a special anchorage area in Marblehead Harbor, Mass., as described in 33 CFR 110.26 below, wherein vessels not more than 65 feet in length, when at anchor in such special anchorage area, shall not be required to carry or exhibit anchor lights or shapes (day signals). The area will be principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed in the area but fixed piles or stakes may not be placed. The anchoring of vessels and the placing of moorings will be under the jurisdiction of the local harbormaster.

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and the delegation in 49 CFR 1.4(a)(3) of the Secretary of Transportation under 49 U.S.C. 1655(a)(1), Part 110 is amended by inserting after

§ 110.25 a new § 110.26 to read as follows and to become effective on and after 30 days after publication of this document in the FEDERAL REGISTER:

§ 110.26 Marblehead Harbor, Marblehead, Mass.

The area comprises that portion of the harbor lying between the extreme low water line and southwestward of a line bearing 302° from Marblehead Neck Light to a point on Peach Point at latitude 42°30'31", longitude 70°50'28.5".

NOTE: The area is principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors are allowed. Fixed mooring piles or stakes are prohibited. All moorings shall be so that no vessel, when anchored, shall at any time extend beyond the limits of the area. The anchoring of vessels and the placing of temporary moorings are under the jurisdiction and at the direction of the local harbormaster.

(R.S. 4233, as amended, 28 Stat. 647, as amended, 30 Stat. 98, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 180, 258, 322, 49 U.S.C. 1655(g)(1); 49 CFR 1.4(a)(3))

Dated: August 28, 1968.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 68-10671; Filed, Sept. 4, 1968; 8:47 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter II—Forest Service, Department of Agriculture

PART 212—ADMINISTRATION OF THE FOREST DEVELOPMENT TRANSPORTATION SYSTEM

PART 251—LAND USES

Miscellaneous Amendments

In Part 212, § 212.8 *Ingress and egress,* paragraph (a) is amended to read as follows:

§ 212.8 Ingress and egress.

(a) *Policy in acquiring and granting access.* To assure effective protection, management, and utilization of lands administered by the Forest Service and intermingled and adjacent private and public lands, and for the use and development of the resources upon which communities within or adjacent to the National Forests are dependent, the Chief shall as promptly as is feasible obtain needed access thereto and shall grant appropriate access across National Forest and other lands and easements administered by the Forest Service to intermingled or adjacent landowners. No road or highway shall be constructed until it is authorized in writing.

* * * * *

§ 251.1 [Revoked]

In Part 251, § 251.5 *Permits for roads and trails,* is revoked.

This amendment and revocation shall become effective upon publication in the FEDERAL REGISTER.

(26 Stat. 1103, 16 U.S.C. 471; 30 Stat. 35-36, 16 U.S.C. 478, 551)

Done at Washington, D.C., this 30th day of August 1968.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 68-10698; Filed, Sept. 4, 1968; 8:49 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5—General Services Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

This revision makes a change in the procedures pertaining to debarred, suspended, and ineligible bidders, and includes editorial changes.

PART 5-1—GENERAL

Subpart 5-1.6—Debarred, Suspended, and Ineligible Bidders

1. Section 5-1.606-54 is revised as follows:

§ 5-1.606-54 Notice as to imposition of debarment.

When debarment is imposed by the Administrator or by the hearing authority, the concern or individual shall be notified of the decision and of the period during which such debarment shall be effective. If a proposed debarment is not upheld by the Administrator or by the hearing authority, the concern or individual shall be so notified. Copies of notifications shall be furnished to the interested Commissioner and to the Office of Audits and Compliance, Office of the Administrator. Notice as to the imposition of debarment shall be furnished to the concern or individual in the same manner as provided in § 5-1.604-1.

2. Section 5-1.606-55 is revised as follows:

§ 5-1.606-55 Inquiries from debarred, suspended, or ineligible bidders.

Inquiries presented by debarred, suspended, or ineligible firms or individuals relating to modification or removal of exclusionary status shall be referred to the authority which imposed the debarment or suspension.

3. Section 5-1.607-51 is revised to read as follows:

§ 5-1.607-51 Consolidated List of Current Administrative Debarments by Executive Agencies.

(a) The Office of Audits and Compliance compiles and arranges for the distribution of the Consolidated List of Current Administrative Debarments by Executive Agencies, and provides necessary related background material to other agencies, as set forth in § 1-1.607.

(b) Notices issued by other agencies and furnished to GSA in accordance with § 1-1.606(c) are collected, processed, and disseminated by the Office of Audits and Compliance as set forth in §§ 1-1.606(e) and 1-1.607.

4. Section 5-1.607-52 is revised to read as follows:

§ 5-1.607-52 Master index.

The Office of Audits and Compliance maintains a master index of names of all concerns and individuals reported as debarred or ineligible by GSA or other executive agencies, including debarments published by other Federal agencies.

PART 5-5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

The table of contents for Part 5-5 is amended by the deletion of entries for §§ 5-5.5008, 5-5.5008-1, 5-5.5008-2, and 5-5.5008-3.

Subpart 5-5.50—Government Sources of Supply

§§ 5-5.5008, 5-5.5008-1, 5-5.5008-2, 5-5.5008-3 [Deleted]

Sections 5-5.5008, 5-5.5008-1, 5-5.5008-2, and 5-5.5008-3 are deleted.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective August 28, 1968.

Dated: August 28, 1968.

LAWSON B. KNOTT, Jr.,
Administrator of General Services.

[F.R. Doc. 68-10659; Filed, Sept. 4, 1968; 8:46 a.m.]

Chapter 8—Veterans Administration

PART 8-3—PROCUREMENT BY NEGOTIATION

Cost-Plus-a-Fixed-Fee Contract

In § 8-3.405-5, paragraph (d) is revoked.

§ 8-3.405-5 Cost-plus-a-fixed-fee contract.

* * * * *

(d) [Revoked]

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

This regulation is effective immediately.

Approved: August 28, 1968.

By direction of the Administrator.

[SEAL] A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 68-10722; Filed, Sept. 4, 1968; 8:51 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4518]

[Washington 03359; 03360]

WASHINGTON

Withdrawal for National Forest Roadside Zones

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

(Washington 03359)

WILLAMETTE MERIDIAN

SNOQUALMIE NATIONAL FOREST

Bumping Lake Road Zone

A strip of land 200 feet on each side of the centerline of the existing road through the following described legal subdivisions:

T. 16 N., R. 12 E., unsurveyed,
Sec. 12, NE¼ except HES 155, E½SW¼, W½SE¼;
Sec. 13, W½;
Sec. 23, NE¼;
Sec. 24, W½NW¼.
T. 16 N., R. 13 E., unsurveyed,
Sec. 5, W½;
Sec. 6, S½ except HES–155;
Sec. 7, N½ except HES–155.
T. 17 N., R. 13 E.,
Sec. 12, S½SW¼;
Sec. 13, W½NW¼, NW¼SW¼;
Sec. 14, SE¼, SE¼SW¼;
Sec. 22, SE¼SE¼;
Sec. 23, E½NW¼, SW¼;
Sec. 27, NE¼, SE¼NW¼, SW¼;
Sec. 32, SE¼SE¼;
Sec. 33, NE¼, SE¼NW¼, SW¼;
Sec. 34, NW¼NW¼.

Middle Fork Snoqualmie-Taylor River Road Zones

A strip of land 200 feet on each side of the centerline of the existing road through the following described legal subdivisions:

T. 23 N., R. 11 E.,
Sec. 6, lots 2, 3, 9, SW¼NE¼, W½SE¼;
Sec. 7, E½NE¼;
Sec. 8, SW¼NW¼, SW¼, S½SE¼;
Sec. 9, SW¼SW¼;
Sec. 15, N½NW¼;
Sec. 16, N½N½.
T. 24 N., R. 10 E.,
Sec. 2, SE¼SE¼;
Sec. 10, SE¼;
Sec. 15, W½;
Sec. 21, E½, SE¼SW¼;
Sec. 22, lots 1, 2, 3, 4, 5, 7, SW¼NE¼, E½NW¼, NE¼SW¼, NE¼SE¼;
Sec. 23, lot 4;
Sec. 25, SW¼;
Sec. 26, lot 1;
Sec. 29, N½.
T. 24 N., R. 11 E.,
Sec. 7;
Sec. 31, lots 5, 6, 7, 8, E½SW¼, SE¼.

White Pass Highway-State Route No. 5 Zone (Tieton River Valley)

A strip of land 200 feet on each side of the centerline of the existing road through the following described legal subdivisions:

T. 14 N., R. 14 E.,
Sec. 25, S½N½, N½S½;
Sec. 26, N½, N½S½;
Sec. 27, N½;
Sec. 28, NE¼, NE¼NW¼, S½NW¼, SW¼, NE¼SE¼, W½SE¼;
Sec. 29, S½;
Sec. 30, SE¼SW¼, S½SE¼;
Sec. 31, N½, N½SW¼;
Sec. 32, N½N½.
T. 14 N., R. 15 E.,
Sec. 12, S½SE¼;
Sec. 14, S½S½;
Sec. 22, NE¼NE¼, S½NE¼, SE¼NW¼, SW¼, N½SE¼, SW¼SE¼;
Sec. 24, N½NW¼;
Sec. 28, NE¼NE¼, W½NE¼, NW¼, NW¼SW¼;
Sec. 30, S½N½, S½.

The areas described aggregate approximately 1,815 acres in Yakima and King Counties.

(Washington 03360)

WILLAMETTE MERIDIAN

WENATCHEE NATIONAL FOREST

Sunset Highway-U.S. 97 Road Zone

A strip of land 200 feet on each side of the centerline of the existing road through the following described legal subdivisions:

T. 21 N., R. 17 E.,
Sec. 1, SE¼SE¼;
Sec. 10, SE¼;
Sec. 11, W½NE¼, S½SE¼NE¼, W½, SE¼;
Sec. 12, NE¼, S½SE¼NW¼.
T. 21 N., R. 18 E.,
Sec. 3;
Sec. 4, S½;
Sec. 5, S½;
Sec. 6, S½;
Sec. 7, lot 1;
Sec. 8, N½N½;
Sec. 9, NW¼NW¼.
T. 22 N., R. 18 E.,
Sec. 17, S½;
Sec. 18, S½;
Sec. 20, NE¼;
Sec. 21, W½, S½SE¼;
Sec. 27, SW¼;
Sec. 28, E½;
Sec. 34.

Entiat River Road Zone

A strip of land 200 feet on each side of the centerline of the existing road through the following described legal subdivisions:

T. 27 N., R. 19 E.,
Sec. 2, lots 5, 6, 7, 8, and 10;
Sec. 3, lot 5;
Sec. 11, lots 1 to 5, inclusive, E½SW¼;
Sec. 14, N½ excepting Tract Nos. 41 and 42.
T. 28 N., R. 18 E., unsurveyed,
Sec. 1, SW¼SW¼;
Sec. 2, SE¼;
Secs. 12 and 13.
T. 28 N., R. 19 E.,
Sec. 19;
Sec. 20, SW¼;
Sec. 28, lots 1, 3, 4, and 5;
Sec. 29, N½NE¼;
Sec. 33, lots 1 to 4, inclusive;
Sec. 34, lots 1 and 3, NE¼SW¼.
T. 29 N., R. 18 E., unsurveyed,
Sec. 7, S½;
Sec. 8, SW¼SW¼;
Sec. 16, W½;
Sec. 17, N½;
Sec. 21, E½, NE¼NW¼;
Sec. 22, S½;
Sec. 26, S½;
Sec. 27, N½, SE¼;
Sec. 35, E½;
Sec. 36, W½.

The areas described aggregate approximately 1,685 acres in Kittitas and Chelan Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

AUGUST 28, 1968.

[F.R. Doc. 68–10660; Filed, Sept. 4, 1968; 8:46 a.m.]

[Public Land Order 4519]

[Fairbanks 891]

ALASKA

Withdrawal for Educational Purposes; Partial Revocation of Executive Order No. 5289 of March 4, 1930

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority contained in the act of May 31, 1939 (52 Stat. 593; 48 U.S.C. 353a), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation and reserved for educational purposes in connection with the administration of the affairs of the natives of Alaska:

KWETHLUK TOWNSITE

U.S.S. 4221 (unapproved), Block 18, lot 1.

The tract described contains 3.20 acres.

2. Executive Order No. 5289 of March 4, 1930, which withdrew the lands described in paragraph 1 of this order for use of the Office of Education is hereby revoked so far as it applies to lands at Kwethluk (Quithlook).

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

AUGUST 28, 1968.

[F.R. Doc. 68–10661; Filed, Sept. 4, 1968; 8:46 a.m.]

[Public Land Order 4520]

[New Mexico 5242]

NEW MEXICO

Withdrawal for Protection of Recreation Values

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described lands which are under the jurisdiction of the Secretary of

the Interior are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for protection of public use values and as a recreation site:

NEW MEXICO PRINCIPAL MERIDIAN

T. 18 S., R. 10 E.,
Sec. 16, unsurveyed S½NE¼NE¼, N½ SE¼NE¼, SE¼NW¼NE¼, and NE¼ SW¼NE¼.

The areas described aggregate 60 acres in Otero County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

AUGUST 29, 1968.

[F.R. Doc. 68-10662; Filed, Sept. 4, 1968; 8:46 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Chautauqua National Wildlife Refuge, Ill.

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

ILLINOIS

CHAUTAUQUA NATIONAL WILDLIFE REFUGE

Public hunting of geese on the Chautauqua National Wildlife Refuge, Ill., is permitted from October 14 through December 1, 1968, and the hunting of ducks and coots is permitted from November 2 through December 1, 1968, but only on the area designated by signs as open to hunting. This open area comprising 745 acres is delineated on a map available at refuge headquarters, Havana, Ill., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following special condition:

(1) Blinds—Temporary blinds of approved material may be constructed. Blinds do not become the property of those constructing them and will be available on a daily basis.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 1, 1968.

GERALD L. CLAWSON,
Refuge Manager.

AUGUST 27, 1968.

[F.R. Doc. 68-10666; Filed, Sept. 4, 1968; 8:47 a.m.]

PART 32—HUNTING

Seney National Wildlife Refuge, Mich.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

MICHIGAN

SENEY NATIONAL WILDLIFE REFUGE

Public hunting of Woodcock and Wilson's Snipe (Jacksnipe) on the Seney National Wildlife Refuge is permitted only on the area designated as open to hunting. This open area, comprising 29,720 acres, is delineated on maps available at refuge headquarters, Seney, Mich., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Hunting shall be in accordance with all applicable State regulations covering the hunting of Woodcock and Wilson's Snipe (Jacksnipe) subject to the following special conditions:

(1) All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes and snow sleds are not permitted on the refuge.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 30, 1968.

R. W. BURWELL,
Regional Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 28, 1968.

[F.R. Doc. 68-10667; Filed Sept. 4, 1968; 8:47 a.m.]

PART 32—HUNTING

Certain Wildlife Refuges in Alaska

The following regulations are issued and are effective on date of publication in the FEDERAL REGISTER. These regulations apply to public hunting on National Wildlife Refuges in Alaska.

General conditions: Hunting shall be in accordance with applicable State regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Information on special conditions applying to individual refuges and maps can be obtained at refuge headquarters or from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 730 Northeast Pacific Street, Portland, Oreg. 97208.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Migratory game birds may be hunted on the following refuges:

Arctic National Wildlife Range, Post Office Box 500, Kenai, Alaska 99611.

Clarence Rhode National Wildlife Refuge, Post Office Box 346, Bethel, Alaska 99559.

Izembek National Wildlife Range, Cold Bay, Alaska.

Kenai National Moose Range, Post Office Box 500, Kenai, Alaska 99611.

Kodiak National Wildlife Refuge, Box 825, Kodiak, Alaska 99615.

Nunivak National Wildlife Range, Bethel, Alaska.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 26, 1969.

TRAVIS S. ROBERTS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 28, 1968.

[F.R. Doc. 68-10668; Filed, Sept. 4, 1968; 8:47 a.m.]

PART 32—HUNTING

Aransas National Wildlife Refuge, Tex.; Correction

In F.R. Doc. 68-10096, appearing on page 11906 of the issue for Thursday, August 22, 1968, we wish to add subparagraph (9) under special conditions, to read as follows:

(9) Bag limit for archery hunt—one deer, any sex; bag limit for gun hunt—two deer, of which one must be an antlerless deer.

WILLIAM T. KRUMMES,
Regional Director, Albuquerque, N. Mex.

AUGUST 28, 1968.

[F.R. Doc. 68-10669; Filed, Sept. 4, 1968; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Personal Holding Companies and Certain Other Matters

Notice is hereby given 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, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 541 through 544, 551 through 554, 856, 1016, 1022, 1023, 1244, and 1361 of the Internal Revenue Code of 1954 to section 225 (a) through (e), (f)(4), (h), (j), and (k) (1) through (5) of the Revenue Act of 1964 (78 Stat. 79) and section 3 of the Act of August 22, 1964 (Public Law 88-484, 78 Stat. 598), and for certain other purposes, such regulations are amended as follows:

PARAGRAPH 1. Section 1.541 is amended by revising section 541 and by adding a historical note. These revised and added provisions read as follows:

§ 1.541 Statutory provisions; imposition of personal holding company tax.

SEC. 541. *Imposition of personal holding company tax.* In addition to other taxes imposed by this chapter, there is hereby imposed for each taxable year on the undistributed personal holding company income (as defined in section 545) of every personal holding company (as defined in section 542) a personal holding company tax equal to 70 percent of the undistributed personal holding company income.

(Sec. 541 as amended by sec. 225(a), Rev. Act 1964 (78 Stat. 79))

PAR. 2. Section 1.541-1 is amended by revising paragraphs (a) and (b), and by adding new paragraphs (c) and (d). These revised and added provisions read as follows:

§ 1.541-1 Imposition of tax.

(a) *In general.* Section 541 imposes a tax upon corporations classified as personal holding companies under section 542. This tax, if applicable, is in addition to the tax imposed upon corporations generally under section 11. Unless specifically excepted under section 542(c) the tax applies to domestic and foreign corporations and, to the extent provided by section 542(b), to an affiliated group of corporations filing a consolidated return. Corporations classified as personal holding companies are exempt from the accumulated earnings tax imposed under section 531 but are not exempt from other income taxes imposed upon corporations, generally, under any other provisions of the Code. Unlike the accumulated earnings tax imposed under section 531, the personal holding company tax imposed by section 541 applies to all personal holding companies as defined in section 542, whether or not they were formed or availed of to avoid income tax upon shareholders. See section 6501(f) and § 301.6501(f)-1 of this chapter (Regulations on Procedure and Administration) with respect to the period of limitation on assessment of personal holding company tax upon failure to file a schedule of personal holding company income.

(b) *Foreign corporations.* A foreign corporation, whether resident or nonresident, which is classified as a personal holding company is subject to the tax imposed under section 541 with respect to its income from sources within the United States, even though such income is not fixed or determinable annual or periodical income specified in section 881. A foreign corporation is not classified as a personal holding company subject to tax under section 541 if it is a foreign personal holding company as defined in section 552 or if it meets the requirements of the exception provided in section 542(c)(7) (or, in the case of taxable years beginning before January 1, 1964, section 542(c)(10) prior to amendment by section 225(c)(2) of the Revenue Act of 1964 (78 Stat. 79)).

(c) *Rate of tax.* Except as otherwise provided in this paragraph, the tax imposed by section 541 is 70 percent of the undistributed personal holding company income as defined in section 545 and the regulations thereunder. For taxable years beginning before January 1, 1964, the tax imposed is 75 percent of the undistributed personal holding company income not in excess of $2,000, plus 85 percent of the undistributed personal holding company income in excess of $2,000.

(d) *Certain liquidations before January 1, 1966.* In the case of certain corporations described in section 333(g)(3) that completely liquidate and distribute all property before January 1, 1966, section 225(h) of the Revenue Act of 1964 (78 Stat. 90) provides a special rule for the application of the Internal Revenue Code of 1954. Under the special rule, the Code is applied without regard to the amendments made by section 225 (other than subsections (f) and (g) of such section) of the Revenue Act of 1964. However, an exception to the special rule is provided where section 332 applies to the liquidation.

PAR. 3. Section 1.542 is amended by revising paragraphs (a)(1), (b), and (c) of section 542, by adding a new subsection (d) to section 542, and by revising the historical note. These revised and added provisions read as follows:

§ 1.542 Statutory provisions; definition of personal holding company.

SEC. 542. *Definition of personal holding company*—(a) *General rule.* * * *

(1) *Adjusted ordinary gross income requirement.* At least 60 percent of its adjusted ordinary gross income (as defined in section 543(b)(2)) for the taxable year is personal holding company income (as defined in section 543(a)), and

* * * * *

(b) *Corporations filing consolidated returns*—(1) *General rule.* In the case of an affiliated group of corporations filing or required to file a consolidated return under section 1501 for any taxable year, the adjusted ordinary gross income requirement of subsection (a)(1) of this section shall, except as provided in paragraphs (2) and (3), be applied for such year with respect to the consolidated adjusted ordinary gross income and the consolidated personal holding company income of the affiliated group. No member of such an affiliated group shall be considered to meet such adjusted ordinary gross income requirement unless the affiliated group meets such requirement.

(2) *Ineligible affiliated group.* Paragraph (1) shall not apply to an affiliated group of corporations, other than an affiliated group of railroad corporations the common parent of which would be eligible to file a consolidated return under section 141 of the Internal Revenue Code of 1939 prior to its amendment by the Revenue Act of 1942, if—

(A) Any member of the affiliated group of corporations (including the common parent corporation) derived 10 percent or more of its adjusted ordinary gross income for the taxable year from sources outside the affiliated group, and

(B) 80 percent or more of the amount described in subparagraph (A) consists of personal holding company income (as defined in section 543).

For purposes of this paragraph, section 543 shall be applied as if the amount described

in subparagraph (A) were the adjusted ordinary gross income of the corporation.

(3) *Excluded corporations.* Paragraph (1) shall not apply to an affiliated group of corporations if any member of the affiliated group (including the common parent corporation) is a corporation excluded from the definition of personal holding company under subsection (c).

(4) *Certain dividend income received by a common parent.* In applying paragraph (2) (A) and (B), personal holding company income and adjusted ordinary gross income shall not include dividends received by a common parent corporation from another corporation if—

(A) The common parent corporation owns, directly or indirectly, more than 50 percent of the outstanding voting stock of such other corporation, and

(B) Such other corporation is not a personal holding company for the taxable year in which the dividends are paid.

(c) *Exceptions.* The term "personal holding company" as defined in subsection (a) does not include—

(1) A corporation exempt from tax under subchapter F (sec. 501 and following);

(2) A bank as defined in section 581, or a domestic building and loan association within the meaning of section 7701(a)(19) without regard to subparagraphs (D) and (E) thereof;

(3) A life insurance company;

(4) A surety company;

(5) A foreign personal holding company as defined in section 552;

(6) A lending or finance company if—

(A) 60 percent or more of its ordinary gross income (as defined in section 543(b)(1)) is derived directly from the active and regular conduct of a lending or finance business;

(B) The personal holding company income for the taxable year (computed without regard to income described in subsection (d)(3) and income derived directly from the active and regular conduct of a lending or finance business, and computed by including as personal holding company income the entire amount of the gross income from rents, royalties, produced film rents, and compensation for use of corporate property by shareholders) is not more than 20 percent of the ordinary gross income;

(C) The sum of the deductions which are directly allocable to the active and regular conduct of its lending or finance business equals or exceeds the sum of—

(i) 15 percent of so much of the ordinary gross income derived therefrom as does not exceed $500,000, plus

(ii) 5 percent of so much of the ordinary gross income derived therefrom as exceeds $500,000 but not $1,000,000; and

(D) The loans to a person who is a shareholder in such company during the taxable year by or for whom 10 percent or more in value of its outstanding stock is owned directly or indirectly (including, in the case of an individual, stock owned by members of his family as defined in section 544(a)(2)), outstanding at any time during such year do not exceed $5,000 in principal amount;

(7) A foreign corporation if—

(A) Its gross income from sources within the United States for the period specified in section 861(a)(2)(B) is less than 50 percent of its total gross income from all sources, and

(B) All of its stock outstanding during the last half of the taxable year is owned by nonresident alien individuals, whether directly or indirectly through other foreign corporations;

(8) A small business investment company which is licensed by the Small Business Administration and operating under the Small Business Investment Act of 1958 and which is actively engaged in the business of providing funds to small business concerns under that Act. This paragraph shall not apply if any shareholder of the small business investment company owns at any time during the taxable year directly or indirectly (including, in the case of an individual, ownership by the members of his family as defined in section 544(a)(2)) a 5 per centum or more proprietary interest in a small business concern to which funds are provided by the investment company or 5 per centum or more in the value of the outstanding stock of such concern.

(d) *Special rules for applying subsection (c)(6)*—(1) *Lending or finance business defined*—(A) *In general.* Except as provided in subparagraph (B), for purposes of subsection (c)(6), the term "lending or finance business" means a business of—

(i) Making loans,

(ii) Purchasing or discounting accounts receivable, notes, or installment obligations,

(iii) Rendering services or making facilities available in connection with activities described in clauses (i) and (ii) carried on by the corporation rendering services or making facilities available, or

(iv) Rendering services or making facilities available to another corporation which is engaged in the lending or finance business (within the meaning of this paragraph), if such services or facilities are related to the lending or finance business (within such meaning) of such other corporation and such other corporation and the corporation rendering services or making facilities available are members of the same affiliated group (as defined in section 1504).

(B) *Exceptions.* For purposes of subparagraph (A), the term "lending or finance business" does not include the business of—

(i) Making loans, or purchasing or discounting accounts receivable, notes, or installment obligations, if (at the time of the loan, purchase, or discount) the remaining maturity exceeds 60 months, unless the loans, notes, or installment obligations are evidenced or secured by contracts of conditional sale, chattel mortgages, or chattel lease agreements arising out of the sale of goods or services in the course of the borrower's or transferor's trade or business, or

(ii) Making loans evidenced by, or purchasing, certificates of indebtedness issued in a series, under a trust indenture, and in registered form or with interest coupons attached.

For purposes of clause (i), the remaining maturity shall be treated as including any period for which there may be a renewal or extension under the terms of an option exercisable by the borrower.

(2) *Business deductions.* For purposes of subsection (c)(6)(C), the deductions which may be taken into account shall include only—

(A) Deductions which are allowable only by reason of section 162 or section 404, except there shall not be included any such deduction in respect of compensation for personal services rendered by shareholders (including members of the shareholder's family as described in section 544(a)(2)), and

(B) Deductions allowable under section 167, and deductions allowable under section 164 for real property taxes, but in either case only to the extent that the property with respect to which such deductions are allowable is used directly in the active and regular conduct of the lending or finance business.

(3) *Income received from certain affiliated corporations.* For purposes of subsection (c)(6)(B), in the case of a lending or finance company which meets the requirements of subsection (c)(6)(A), there shall not be treated as personal holding company income the lawful income received from a corporation which meets the requirements of subsection (c)(6) and which is a member of the same affiliated group (as defined in section 1504) of which such company is a member.

(Sec. 542 as amended by sec. 3, Act of Aug. 12, 1955 (Public Law 385, 84th Cong., 69 Stat. 718); sec. 3, Act of Sept. 23, 1959 (Public Law 86-376, 73 Stat. 700); sec. 1, Act of Oct. 9, 1962 (Public Law 87-768, 76 Stat. 766); sec. 225 (b), (c), and (k)(1), Rev. Act 1964 (78 Stat. 79, 93))

PAR. 4. Section 1.542-1 is amended to read as follows:

§ 1.542-1 Definition of a personal holding company.

A personal holding company is any corporation (other than one specifically excepted under section 542(c)) which—

(a) For any taxable year beginning after December 31, 1963, meets the adjusted ordinary gross income requirement specified in section 542(a)(1) and paragraph (a) of § 1.542-2, or

(b) For any taxable year beginning before January 1, 1964, meets the gross income requirement specified in paragraph (b) of § 1.542-2,

and for the taxable year meets the stock ownership requirement specified in section 542(a)(2) and § 1.542-3. Both the income and stock ownership requirements must be satisfied with respect to each taxable year. For rules relating to the exclusion of lending or finance companies, see § 1.542-5.

PAR. 5. Section 1.542-2 is amended to read as follows:

§ 1.542-2 Income requirement.

(a) *Adjusted ordinary gross income requirement.* To meet the adjusted ordinary gross income requirement for taxable years beginning after December 31, 1963, at least 60 percent of the adjusted ordinary gross income of the corporation for the taxable year must be personal holding company income as defined in section 543 and §§ 1.543-3 through 1.543-11. For the definition of "adjusted ordinary gross income" see section 543(b)(2) and paragraph (c) of § 1.543-12.

(b) *Gross income requirement.* To meet the gross income requirement for taxable years beginning before January 1, 1964, at least 80 percent of the total gross income of the corporation must be personal holding company income as defined in §§ 1.543-1 and 1.543-2. For the definition of "gross income" see section 61 and §§ 1.61-1 through 1.61-15. Under such provisions gross income is not necessarily synonomous with gross receipts. Further, in the case of transactions in stocks and securities and in commodities transactions, gross income for purposes of this paragraph shall include only the excess of gains over losses from such transactions. See paragraph (b)(5) and (6) of §§ 1.543-1 and 1.543-2. For determining the character of the amount includible in gross income under section 951(a), see paragraph (a) of § 1.951-1.

PAR. 6. Section 1.542-3 is amended by revising subdivision (iv) of paragraph (a)(2) to read as follows:

§ 1.542–3 Stock ownership requirement.

(a) *General rule.* * * *

(2) *Exception.* * * *

(iv) This subparagraph is illustrated by the following example:

Example. The X Charitable Foundation (an organization described in section 501(c)(3) to which section 503 is applicable) has owned all of the stock of the Y Corporation since Y's organization in 1949. Both X and Y are calendar-year corporations. At the end of the year 1967, X has accumulated $100,000 out of income and has actually paid out only $75,000 of this amount, leaving a balance of $25,000 on December 31, 1967. X was not denied an exemption under section 504(a) for the year 1967. Y, during the calendar year 1967, has $400,000 taxable income of which $200,000 is available for distribution as dividends at the end of the year. X will be considered to have accumulated out of income during the calendar year 1967 the amount of $225,000 for the purpose of determining whether it would have been denied an exemption under section 504(a)(1). If X would have been denied an exemption under section 504(a)(1) by reason of having been deemed to have accumulated $225,000, the stock ownership requirement of section 542(a)(2) and this section will have been satisfied. If Y Corporation also satisfies the adjusted ordinary gross income requirement of section 542(a)(1) and paragraph (a) of § 1.542–2 it will be a personal holding company for the calendar year 1967.

* * * * *

PAR. 7. Section 1.542–4 is amended to read as follows:

§ 1.542–4 Corporations filing consolidated returns.

(a) *General rule.* A consolidated return under section 1501 shall determine the application of the personal holding company tax to the group and to any member thereof on the basis of the consolidated adjusted ordinary gross income and consolidated personal holding company income of the group, as determined under the regulations prescribed pursuant to section 1502 (relating to consolidated returns); however, this rule shall not apply to either (1) an ineligible affiliated group as defined in section 542(b)(2) and paragraph (b) of this section, or (2) an affiliated group of corporations a member of which is excluded from the definition of a personal holding company under section 542(c) (see paragraph (c) of this section). Thus, in the latter two instances the adjusted ordinary gross income requirement provided in section 542(a)(1) and paragraph (a) of § 1.542–2 shall apply to each individual member of the affiliated group of corporations.

(b) *Ineligible affiliated group.* (1) Except for certain affiliated railroad corporations, as provided in subparagraph (2) of this paragraph, an affiliated group of corporations is an ineligible affiliated group and therefore may not use its consolidated adjusted ordinary gross income and consolidated personal holding company income to determine the liability of the group or any member thereof for personal holding company tax (as provided in paragraph (a) of this section), if—

(i) Any member of such group, including the common parent, derived 10 percent or more of its adjusted ordinary gross income from sources outside the affiliated group for the taxable year, and

(ii) 80 percent or more of the adjusted ordinary gross income from sources outside the affiliated group consists of personal holding company income as defined in section 543 and §§ 1.543–3 through 1.543–11.

For purposes of subdivision (i) of this subparagraph, adjusted ordinary gross income shall not include certain dividend income received by a common parent from a corporation not a member of the affiliated group which qualifies under section 542(b)(4) and paragraph (d) of this section. See particularly the examples contained in paragraph (d)(2) of this section. Intercorporate dividends received by members of the affiliated group (including the common parent) are to be included in the adjusted ordinary gross income from all sources for purposes of the test in subdivision (i) of this subparagraph. For purposes of subdivision (ii) of this subparagraph, section 543 and §§ 1.543–3 through 1.543–11 shall be applied as if the amount of adjusted ordinary gross income derived from sources outside the affiliated group by a corporation which is a member of such group is the adjusted ordinary gross income of such corporation.

(2) An affiliated group of railroad corporations shall not be considered to be an ineligible affiliated group, notwithstanding any other provisions of section 542(b)(2) and this paragraph, if the common parent of such group would be eligible to file a consolidated return under section 141 of the Internal Revenue Code of 1939 prior to its amendment by the Revenue Act of 1942 (56 Stat. 798).

(3) See section 562 and § 1.562–3 for dividends paid deduction in the case of a distribution by a member of an ineligible affiliated group.

(4) The determination of whether an affiliated group of corporations is an ineligible group under section 542(b)(2) and this paragraph, may be illustrated by the following examples:

Example (1). Corporations X, Y, and Z constitute an affiliated group of corporations which files a consolidated return for the calendar year 1964; corporations Y and Z are wholly owned subsidiaries of corporation X and derive no adjusted ordinary gross income from sources outside the affiliated group; corporation X, the common parent, has adjusted ordinary gross income in the amount of $250,000 for the taxable year 1964. $200,000 of such adjusted ordinary gross income consists of dividends received from corporations Y and Z. The remaining $50,000 was derived from sources outside the affiliated group, $40,000 of which represents personal holding company income as defined in section 543. The $50,000 included in the adjusted ordinary gross income of corporation X and derived from sources outside the affiliated group is more than 10 percent of X's adjusted ordinary gross income ($50,000/$250,000) and the $40,000 which represents personal holding company income is 80 percent of $50,000 (the amount considered to be the adjusted ordinary gross income of corporation X). Accordingly, corporations X, Y, and Z would be an ineligible affiliated group and the adjusted ordinary gross income requirement under section 542(a)(1) and paragraph (a) of § 1.542–2 would be applied to each corporation individually.

Example (2). If, in the above example, only $30,000 of the $50,000 derived from sources outside the affiliated group by corporation X represented personal holding company income, this group of affiliated corporations would not be an ineligible affiliated group. Although the $50,000 representing the adjusted ordinary gross income of corporation X from sources outside the affiliated group is more than 10 percent of its total adjusted ordinary gross income, the amount of $30,000 representing personal holding company income is not 80 percent or more of the amount considered to be adjusted ordinary gross income for the purpose of this test. Under section 542(b)(2) and subparagraph (1) of this paragraph both the adjusted ordinary gross income and the personal holding company income requirements must be satisfied in determining whether an affiliated group constitutes an ineligible group. Since both these requirements have not been satisfied in this example, this group of affiliated corporations would not be an ineligible group.

(c) *Excluded corporations.* The general rule for determining liability of an affiliated group under paragraph (a) of this section shall not apply if any member thereof is a corporation which is excluded, under section 542(c), from the definition of a personal holding company.

(d) *Certain dividend income received by a common parent.* (1) Dividends received by a common parent of an affiliated group from a corporation which is not a member of the affiliated group shall not be included in adjusted ordinary gross income or personal holding company income, for the purpose of the test under section 542(b)(2)—

(i) If such common parent owned, directly or indirectly, more than 50 percent of the outstanding voting stock of the dividend paying corporation at the time such common parent became entitled to the dividend, and

(ii) If the dividend paying corporation is not a personal holding company for the taxable year in which the dividends are paid.

Thus, if the tests in subdivisions (i) and (ii) of this subparagraph are met, the dividend income received by the common parent from such other corporation will not be considered adjusted ordinary gross income for purposes of the test in section 542(b)(2)(A) (paragraph (b) of this section), that is, either to determine adjusted ordinary gross income from sources outside the affiliated group or to determine adjusted ordinary gross income from all sources.

(2) The application of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). Corporation X is the common parent of corporation Y and corporation Z and together they constitute an affiliated group which files a consolidated return under section 1501. Corporation Y and corporation Z derived no adjusted ordinary gross income from sources outside the affiliated group. Corporation X, the common parent, had adjusted ordinary gross income of $100,000 for the calendar year 1964 of which amount $20,000 represented a dividend received from corporation W, and

$4,000 represented interest from corporation T. The remaining adjusted ordinary gross income of X, $76,000, was received from corporations Y and Z. Corporation X, for its entire taxable year, owned 60 percent of the voting stock of corporation W which was not a personal holding company for the calendar year 1964. For the purpose of the adjusted ordinary gross income and personal holding company income test under section 542(b)(2) and paragraph (b) of this section, the $20,000 dividend received from corporation W would not be included in the adjusted ordinary gross income or personal holding company income of corporation X. The affiliated group would not be an ineligible group under section 542(b)(2) because no member of the group derived 10 percent or more of its adjusted ordinary gross income from sources outside the affiliated group as required by section 542(b)(2)(A). Inasmuch as the $20,000 dividend from corporation W is not included in the adjusted ordinary gross income of corporation X for purposes of section 542(b)(2), corporation X has only $4,000 of its adjusted ordinary gross income from sources outside the affiliated group, which is only 5 percent of its adjusted ordinary gross income from all sources, $80,000.

Example (2). If, in example (1), corporation X owned 50 percent or less of the voting stock of corporation W at the time X became entitled to the dividend, or if corporation W had been a personal holding company for the taxable year in which the dividends were paid, the $20,000 dividend received by corporation X would be included in adjusted ordinary gross income and personal holding company income of corporation X for the purpose of the test under section 542(b)(2) and paragraph (b) of this section. Thus, the affiliated group would be an ineligible affiliated group under section 542(b)(2) because 24 percent of its adjusted ordinary gross income was from sources outside the affiliated group ($24,000/$100,000) and 100 percent of this $24,000 was personal holding company income.

(e) *Special rule for taxable years beginning before January 1, 1964.* In the case of taxable years beginning before January 1, 1964, the rules provided in paragraphs (a) through (d) of this section shall apply as if each reference to "adjusted ordinary gross income" were a reference to "gross income", as if each reference to paragraph (a) of § 1.542–2 were a reference to paragraph (b) of § 1.542–2, and as if each reference to §§ 1.543–3 through 1.543–11 were a reference to §§ 1.543–1 and 1.543–2.

PAR. 8. Immediately after § 1.542–4 the following new section is inserted:

§ 1.542–5 Lending or finance companies.

(a) *General rule.* For taxable years beginning after December 31, 1963, a corporation is excluded under section 542(c)(6) from personal holding company status if each of the following tests is satisfied:

(1) *60-percent test.* At least 60 percent of the corporation's ordinary gross income (as defined in section 543(b)(1) and paragraph (b) of § 1.543–12) for the taxable year must be derived directly from the active and regular conduct of the corporation's lending or finance business. See paragraph (b) of this section for the definition of "lending or finance business".

(2) *20-percent test.* (i) The corporation's personal holding company income for the taxable year (computed as provided in subdivision (ii) of this subparagraph) must not exceed 20 percent of its ordinary gross income (as defined in section 543(b)(1) and paragraph (b) of § 1.543–12).

(ii) For purposes of subdivision (i) of this subparagraph, the personal holding company income of the corporation for the taxable year shall be computed under section 543(a) except that such income shall be computed—

(*a*) If such corporation satisfies the 60-percent test of subparagraph (1) of this paragraph, by excluding the lawful income received from a corporation which—(*1*) satisfies each of the tests of this paragraph, and (*2*) is a member of the same affiliated group (as defined in section 1504) of which such corporation is a member;

(*b*) By excluding income derived directly from the active and regular conduct of the corporation's lending or finance business (as defined in paragraph (b) of this section);

(*c*) By including the entire amount of the gross income from rents (as defined in the second sentence of section 543(b)(3) and paragraph (d)(2) of § 1.543–12);

(*d*) By including the entire amount of the gross income from mineral, oil, and gas royalties (as defined in paragraph (e)(2) of § 1.543–12) and from copyright royalties (as defined in section 543(a)(4) and paragraph (d) of § 1.543–7);

(*e*) By including the entire amount of the gross income from produced film rents (as defined in section 543(a)(5)(B) and paragraph (b) of § 1.543–8); and

(*f*) By including the amounts received as compensation for the use of, or right to use, property of the corporation by certain shareholders (determined in accordance with section 543(a)(6), but without regard to the last sentence of such section).

For purposes of (*a*) of this subdivision, the term "lawful" limits the term "income" to that income which is lawful under the applicable State law.

(3) *Deduction test.* (i) The sum of the deductions allowable for the taxable year which are directly allocable to the active and regular conduct of the corporation's lending or finance business (as defined in paragraph (b) of this section) must equal or exceed the sum of—

(*a*) 15 percent of so much of the ordinary gross income (as defined in section 543(b)(1) and paragraph (b) of § 1.543–12) from such business for the taxable year as does not exceed $500,000, and

(*b*) 5 percent of so much of such ordinary gross income for the taxable year as exceeds $500,000, but does not exceed $1,000,000.

Thus, for example, in the case of a corporation which has ordinary gross income for the taxable year of $700,000 from the active and regular conduct of its lending or finance business, the sum of the deductions allowable for such year which are directly allocable to such business must be at least, but need not exceed, $85,000 ($75,000 (15 percent of $500,000) plus $10,000 (5 percent of $200,000)). In the case of a corporation which has ordinary gross income of $1 million or more from the active and regular conduct of its lending or finance business, the sum of the deductions which are directly allocable to such business must be at least, but need not exceed, $100,000 ($75,000 (15 percent of $500,000) plus $25,000 (5 percent of $500,000)).

(ii)(*a*) For purposes of subdivision (i) of this subparagraph, the deductions which are to be taken into account shall include only—

(*1*) Deductions which are allowable only by reason of—(*i*) section 162 (relating to trade or business expenses), or (*ii*) section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan), except that there shall be excluded any such deductions in respect of compensation for personal services rendered by shareholders (including members of a shareholder's family, as described in section 544(a)(2)); and

(*2*) Deductions which are allowable under—(*i*) section 167 (relating to depreciation), and (*ii*) section 164(a)(1) (relating to real property taxes), but in either case only to the extent that the property with respect to which such deductions are allowable is used directly in the active and regular conduct of the lending or finance business.

(*b*) For purposes of (*a*)(*1*) of this subdivision (ii)—

(*1*) A deduction which is specifically allowable under a section other than section 162 or 404, as, for example, the deduction for interest which is specifically allowable under section 163, shall not constitute a deduction allowable only by reason of section 162 or 404.

(*2*) In determining deductions in respect of compensation for personal services rendered by shareholders, the relevant date is the date when the personal services are rendered. Thus, for example, if an employee is a shareholder on the date when the personal services are rendered but is not a shareholder on the date when the compensation in respect of such services is received, the compensation is for personal services rendered by a shareholder.

(*c*) For purposes of subdivision (i) of this subparagraph, an expense incurred by the corporation acting merely as a conduit shall not be taken into account.

(iii) For purposes of subdivision (i) of this subparagraph, the determination of the deductions that are directly allocable to the active and regular conduct of the corporation's lending or finance business shall be made in accordance with the following rules:

(*a*) In a case in which a deduction that, under subdivision (ii) of this subparagraph, is to be taken into account is definitely related only to the active and regular conduct of the corporation's lending or finance business, the entire amount of the allowable deduction shall be directly allocated to such business. In a case in which such a deduction is

neither in whole nor in part definitely related to the active and regular conduct of the corporation's lending or finance business, then no part of such deduction shall be allocated to such business.

(b) In a case in which the working time of an officer or employee of the corporation is divided between activities in connection with the active and regular conduct of the corporation's lending or finance business and one or more other activities of the corporation, only a portion of the deduction that is to be taken into account with respect to compensation paid to such officer or employee shall be directly allocable to the active and regular conduct of such lending or finance business. For purposes of the preceding sentence, the portion of the allowable deduction which is directly allocated to the active and regular conduct of such lending or finance business is an amount equal to such allowable deduction multiplied by a fraction, the numerator of which is a figure based on the working time of such officer or employee devoted to such lending or finance business, and the denominator of which is a figure based on the total working time of such officer or employee.

(c) In a case in which property used by the corporation in connection with the active and regular conduct of its lending or finance business is also used by it for other purposes, then only a part of a deduction that is to be taken into account with respect to such property shall be directly allocable to the active and regular conduct of such lending or finance business. For purposes of the preceding sentence, the portion of the allowable deduction which is directly allocated to the active and regular conduct of such lending or finance business is an amount equal to such allowable deduction multiplied by a fraction, the numerator of which is a figure based on the use in connection with (or, in an appropriate case, the rental value of space devoted to) such lending or finance business, and the denominator of which is a figure based on the total use to which the porperty is put (or the total rental value of the property).

(d) In a case in which a deduction that is to be taken into account is definitely related to the active and regular conduct of the corporation's lending or finance business and, in addition, is definitely related to some other activity of the corporation but the rules set forth in (b) and (c) of this subdivision (iii) do not apply, the determination of the portion of the allowable deduction that is directly allocable to the active and regular conduct of the corporation's lending or finance business may be made on any reasonable basis, such as, for example, the ratio of gross income derived directly from the active and regular conduct of the corporation's lending or finance business to the entire ordinary gross income.

(iv) The application of this subparagraph, insofar as it relates to the determination of deductions directly allocable to the active and regular conduct of the corporation's lending or finance business, may be illustrated by the following example:

Example. Corporation X engages in the active and regular conduct of a lending or finance business. In addition, it carries on an investment business. It owns a three-floor building which is used in connection with both business activities. One entire floor is used solely in connection with the lending or finance business. One entire floor is used solely in connection with the investment business. The remaining floor is used in connection with both activities, the division of use being equal. Similarly, one group of employees (group A) works only in the lending or finance business. Another group of employees (group B) works only in the investment business. A third group of employees (group C) works in both business activities. The working time of the employees in group C is divided equally between the two business activities. None of the employees in groups A, B, or C are shareholders or related to shareholders in any way. For the taxable year, the allowable deductions described in subdivision (ii) of this subparagraph with respect to the building and employees are as follows:

Building:	*Deduction*
Depreciation	$30,000
Real property taxes	10,000
Employees—Salaries:	
Group A	80,000
Group B	50,000
Group C	60,000

The sum of such deductions which are directly allocable to the active and regular conduct of X's lending or finance business is $130,000 computed as follows:

Building:	*Directly allocable*
Depreciation (½ × $30,000)	$15,000
Real property taxes (½ × $10,000)	5,000
Employees—Salaries:	
Group A	80,000
Group B	0
Group C (½ × $60,000)	30,000
Total	130,000

(4) *Shareholder loan test.* (i) The loans outstanding at any time during the taxable year to a person who is a 10-percent-or-more shareholder at any time during the taxable year must not exceed $5,000 in principal amount.

(ii) For purposes of subdivision (i) of this subparagraph, a person shall be considered to be a 10-percent-or-more shareholder if such person owns, directly or indirectly, 10 percent or more in value of the corporation's outstanding stock. Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners or beneficiaries. Stock considered as owned by a corporation, partnership, estate, or trust by reason of the application of the preceding sentence shall be considered as owned by such corporation, partnership, estate, or trust for purposes of again applying such sentence. Additionally, in the case of an individual, stock owned by members of his family (as defined in section 544(a)(2)) shall be considered as owned by such individual. The amount of stock outstanding and its value shall be determined in accordance with the rules set forth in the last two sentences of paragraph (b) and in paragraph (c) of § 1.542–3.

(b) *Lending or finance business defined*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, the term "lending or finance business" means a business of—

(i) Making loans to any person;

(ii) Purchasing or discounting accounts receivable, notes, or installment obligations from any person;

(iii) Rendering services or making facilities available to any person in connection with activities, described in subdivisions (i) and (ii) of this subparagraph, carried on by the corporation rendering services or making facilities available; or

(iv) Rendering services or making facilities available to another corporation which is engaged in the lending or finance business (within the meaning of this paragraph), if—(*a*) such services or facilities are related to such business of such other corporation, and (*b*) such other corporation and the corporation rendering services or making facilities available are members of the same affiliated group (as defined in section 1504).

Except as provided in subparagraph (2)(i)(*a*) of this paragraph, for purposes of subdivision (i) and (ii) of this subparagraph, there is no distinction betweeen secured obligations and obligations that are not secured.

(2) *Exceptions.* (i) For purposes of subparagraph (1) of this paragraph, the term "lending or finance business" does not include the business of—

(*a*) Making loans, or purchasing or discounting accounts receivable, notes, or installment obligations, if the remaining maturity exceeds 60 months, unless the loans, notes, or installment obligations are evidence or secured by—(*1*) contracts of conditional sale, (2) chattel mortgages, or (3) chattel lease agreements, arising out of the sale of goods or services in the course of the borrower's or transferor's trade or business; or

(*b*) Making loans evidenced by, or purchasing, certificates of indebtedness which are issued—(*1*) in a series, (2) under a trust indenture, and (3) in registered form or with interest coupons attached.

(ii) For purposes of subdivision (i)(*a*) of this subparagraph, the remaining maturity—(*a*) shall be measured as of the time the corporation makes the loan or purchases or discounts the account receivable, note, or installment obligation, and (*b*) shall include any period for which there may be a renewal or extension under the terms of an option which may be exercised by the obligor under such loan or such other debt obligation. In determining remaining maturity, there shall be taken into account any separate agreement which may extend the maturity of the loan or other debt obligation or result in the making of a loan in the future. The existence of an agreement or an option may be evidenced by facts and circumstances indicating that, at the time the remaining maturity is to be determined, both the taxpayer and the obligor anticipated that the maturity would be extended or a new loan would be made. Such facts

and circumstances could include, for example, the fact that at the time the maturity is being determined neither party could reasonably expect the obligor to discharge his obligation within the prescribed time, or the existence of a course of prior conduct by the taxpayer indicating that it customarily extends the maturity of a loan upon request by an obligor.

(iii) If (subsequent to the time that the remaining maturity of a loan or other debt obligation is determined and prior to the time that such loan or debt obligation matures) the corporation enters into an agreement whereby it agrees to extend the term of the loan or other debt obligation or to make a loan in the future, the remaining maturity of the loan or other debt obligation shall be redetermined as of the date that the extension is granted or the agreement to make such loan is made. In redetermining the remaining maturity of the loan or other debt obligation, any option or separate agreement shall be taken into account. See subdivision (ii) of this subparagraph.

(iv) The application of this subparagraph may be illustrated by the following example.

Example. On January 1, 1968, corporation Y, a calendar year taxpayer, lends $109,500 to individual A. The loan is not secured. The note signed by A provides that the loan is to be repaid in monthly installments of $1,500 plus interest, commencing February 1, 1968, for 4 years with the balance of $37,500 becoming due on February 1, 1972. At the time of the loan, Y does not grant A a renewal or extension option, and the parties do not enter into any separate agreement as to extending the maturity of the loan or the making of a loan in the future. However, on January 1, 1969, corporation Y and individual A agree that the $1,500 monthly payments of principal shall continue until the debt is liquidated. Under the terms of the extension, the debt will be completely liquidated on February 1, 1974. On January 1, 1968, the date of the note, the loan is treated as having a remaining maturity not in excess of 60 months, since the note provides that the loan is to be completely repaid in 4 years and 1 month (49 months). Accordingly, during the period January 1, 1968, through December 31, 1968, the loan to A is considered to be a part of Y's lending or finance business. However, on January 1, 1969, the loan exceeds the 60-month maximum since, pursuant to the terms of the extension entered into on that date, the remaining maturity is 61 months (from January 1, 1969, to February 1, 1974). Accordingly, for corporation Y's taxable years 1969 through 1974, the loan to A is not considered part of its lending or finance business.

(c) *Active and regular conduct.* For purposes of this section, whether a corporation is engaged in the "active and regular" conduct of a lending or finance business shall be determined on the basis of the facts and circumstances of the particular case. However, a corporation shall be presumed to be engaged in the "active and regular" conduct of a lending or finance business if for the taxable year and at least one of the two immediately preceding taxable years at least 60 percent of its ordinary gross income consists of gross income derived directly from the conduct of a lending or finance business.

(d) *Directly.* For purposes of paragraphs (a)(1), (a)(2)(ii)(*b*), and (c) of this section, the use of the work "directly" in connection with the derivation of income from the conduct of a lending or finance business has the effect of excluding from such gross income any income that is not directly related to the activities of the corporation described in paragraph (b)(1) of this section. Thus, for example, income from the investment of idle funds in short-term securities, interest on a judgment obtained on a defaulted loan, and rent derived from property acquired by reason of a borrower's default on a loan do not constitute gross income derived directly from the conduct of the corporation's lending or finance business. However, subject to the exception provided in paragraph (b)(2) of this section, income from the sale or transfer of (1) notes acquired in the business of making loans, and (2) accounts receivable, notes, or installment obligations acquired in the business of purchasing or discounting accounts receivable, notes, or installment obligations, constitutes gross income derived directly from the conduct of the corporation's lending or finance business.

PAR. 9. Section 1.543 is amended by revising section 543 and the historical note to read as follows:

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

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

(1) *Dividends, etc.* Dividends, interest, royalties (other than mineral, oil, or gas royalties or copyright royalties), and annuities. This paragraph shall not apply to—

(A) Interest constituting rent (as defined in subsection (b)(3)),

(B) Interest on amounts set aside in a reserve fund under section 511 or 607 of the Merchant Marine Act, 1936, and

(C) A dividend distribution of divested stock (as defined in subsection (e) of section 1111), but only if the stock with respect to which the distribution is made was owned by the distributee on September 6, 1961, or was owned by the distributee for at least 2 years before the date on which the antitrust order (as defined in subsection (d) of section 1111) was entered.

(2) *Rents.* The adjusted income from rents; except that such adjusted income shall not be included if—

(A) Such adjusted income constitutes 50 percent or more of the adjusted ordinary gross income, and

(B) The sum of—

(i) The dividends paid during the taxable year (determined under section 562),

(ii) The dividends considered as paid on the last day of the taxable year under section 563(c) (as limited by the second sentence of section 563(b)), and

(iii) The consent dividends for the taxable year (determined under section 565),

equals or exceeds the amount, if any, by which the personal holding company income for the taxable year (computed without regard to this paragraph and paragraph (6), and computed by including as personal holding company income copyright royalties and the adjusted income from mineral, oil, and gas royalties) exceeds 10 percent of the ordinary gross income. For purposes of applying this paragraph, royalties received for the use of, or for the privilege of using, a patent, invention, model, or design (whether or not patented), secret formula or process, or any other similar property right shall be treated as rent, if such property right is also used by the corporation receiving such royalties in the manufacture or production of tangible personal property held for lease to customers, and if the amount (computed without regard to this sentence) constituting rent from such leases to customers meets the requirements of subparagraph (A).

(3) *Mineral, oil, and gas royalties.* The adjusted income from mineral, oil, and gas royalties; except that such adjusted income shall not be included if—

(A) Such adjusted income constitutes 50 percent or more of the adjusted ordinary gross income,

(B) The personal holding company income for the taxable year (computed without regard to this paragraph, and computed by including as personal holding company income copyright royalties and the adjusted income from rents) is not more than 10 percent of the ordinary gross income, and

(C) The sum of the deductions which are allowable under section 162 (relating to trade or business expenses) other than—

(i) Deductions for compensation for personal services rendered by the shareholders, and

(ii) Deductions which are specifically allowable under sections other than section 162,

equals or exceeds 15 percent of the adjusted ordinary gross income.

(4) *Copyright royalties.* Copyright royalties; except that copyright royalties shall not be included if—

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

(B) The personal holding company income for the taxable year computed—

(i) Without regard to copyright royalties, other than royalties received for the use of, or right to use, copyrights or interests in copyrights in works created in whole, or in part, by any shareholder owning more than 10 percent of the total outstanding capital stock of the corporation,

(ii) Without regard to dividends from any corporation in which the taxpayer owns at least 50 percent of all classes of stock entitled to vote and at least 50 percent of the total value of all classes of stock and which corporation meets the requirements of this subparagraph and subparagraphs (A) and (C), and

(iii) By including as personal holding company income the adjusted income from rents and the adjusted income from mineral, oil, and gas royalties,

is not more than 10 percent of the ordinary gross income, and

(C) The sum of the deductions which are properly allocable to such royalties and which are allowable under section 162, other than—

(i) Deductions for compensation for personal services rendered by the shareholders,

(ii) Deductions for royalties paid or accrued, and

(iii) Deductions which are specifically allowable under sections other than section 162,

equals or exceeds 25 percent of the amount by which the ordinary gross income exceeds the sum of the royalties paid or accrued and the amounts allowable as deductions under

section 167 (relating to depreciation) with respect to copyright royalties.

For purposes of this subsection, the term "copyright royalties" means compensation, however designated, for the use of, or the right to use, copyrights in works protected by copyright issued under title 17 of the United States Code (other than by reason of section 2 or 6 thereof) and to which copyright protection is also extended by the laws of any country other than the United States of America by virtue of any international treaty, convention, or agreement, or interests in any such copyrighted works, and includes payments from any person for performing rights in any such copyrighted work and payments (other than produced film rents as defined in paragraph (5)(B)) received for the use of, or right to use, films. For purposes of this paragraph, the term "shareholder" shall include any person who owns stock within the meaning of section 544.

(5) *Produced film rents.* (A) Produced film rents; except that such rents shall not be included if such rents constitute 50 percent or more of the ordinary gross income.

(B) For purposes of this section, the term "produced film rents" means payments received with respect to an interest in a film for the use of, or right to use, such film, but only to the extent that such interest was acquired before substantial completion of production of such film.

(6) *Use of corporation property by shareholder.* Amounts received as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation in any case where, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property; whether such right is obtained directly from the corporation or by means of a sublease or other arrangement. This paragraph shall apply only to a corporation which has personal holding company income for the taxable year (computed without regard to this paragraph and paragraph (2), and computed by including as personal holding company income copyright royalties and the adjusted income from mineral, oil, and gas royalties) in excess of 10 percent of its ordinary gross income.

(7) *Personal service contracts.* (A) Amounts received under a contract under which the corporation is to furnish personal services; if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and

(B) Amounts received from the sale or other disposition of such a contract.

This paragraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.

(8) *Estates and trusts.* Amounts includible in computing the taxable income of the corporation under part I of subchapter J (section 641 and following, relating to estates, trusts, and beneficiaries).

(b) *Definitions.* For purposes of this part—

(1) *Ordinary gross income.* The term "ordinary gross income" means the gross income determined by excluding—

(A) All gains from the sale or other disposition of capital assets, and

(B) All gains (other than those referred to in subparagraph (A)) from the sale or other disposition of property described in section 1231(b).

(2) *Adjusted ordinary gross income.* The term "adjusted ordinary gross income" means the ordinary gross income adjusted as follows:

(A) *Rents.* From the gross income from rents (as defined in the second sentence of paragraph (3) of this subsection) subtract the amount allowable as deductions for—

(i) Exhaustion, wear and tear, obsolescence, and amortization of property other than tangible personal property which is not customarily retained by any one lessee for more than 3 years,

(ii) Property taxes,

(iii) Interest, and

(iv) Rent,

to the extent allocable, under regulations prescribed by the Secretary or his delegate, to such gross income from rents. The amount subtracted under this subparagraph shall not exceed such gross income from rents.

(B) *Mineral royalties, etc.* From the gross income from mineral, oil, and gas royalties described in paragraph (4), and from the gross income from working interests in an oil or gas well, subtract the amount allowable as deductions for—

(i) Exhaustion, wear and tear, obsolescence, amortization, and depletion,

(ii) Property and severance taxes,

(iii) Interest, and

(iv) Rent,

to the extent allocable, under regulations prescribed by the Secretary or his delegate, to such gross income from royalties or such gross income from working interests in oil or gas wells. The amount subtracted under this subparagraph with respect to royalties shall not exceed the gross income from such royalties, and the amount subtracted under this subparagraph with respect to working interests shall not exceed the gross income from such working interests.

(C) *Interest.* There shall be excluded—

(i) Interest received on a direct obligation of the United States held for sale to customers in the ordinary course of trade or business by a regular dealer who is making a primary market in such obligations, and

(ii) Interest on a condemnation award, a judgment, and a tax refund.

(3) *Adjusted income from rents.* The term "adjusted income from rents" means the gross income from rents, reduced by the amount subtracted under paragraph (2)(A) of this subsection. For purposes of the preceding sentence, the term "rents" means compensation, however designated, for the use of, or right to use, property, and the interest on debts owed to the corporation, to the extent such debts represent the price for which real property held primarily for sale to customers in the ordinary course of its trade or business was sold or exchanged by the corporation; but does not include amounts constituting personal holding company income under subsection (a)(6), nor copyright royalties (as defined in subsection (a)(4)), nor produced film rents (as defined in subsection (a)(5)(B)).

(4) *Adjusted income from mineral, oil, and gas royalties.* The term "adjusted income from mineral, oil, and gas royalties" means the gross income from mineral, oil, and gas royalties (including production payments and overriding royalties), reduced by the amount subtracted under paragraph (2)(B) of this subsection in respect of such royalties.

(c) *Gross income of insurance companies other than life or mutual.* In the case of an insurance company other than life or mutual, the term "gross income" as used in this part means the gross income, as defined in section 832(b)(1), increased by the amount of losses incurred, as defined in section 832(b)(5), and the amount of expenses incurred, as defined in section 832(b)(6), and decreased by the amount deductible under section 832(c)(7) (relating to tax-free interest).

(Sec. 543 as amended by the Act of Apr. 22, 1960 (Public Law 86-435, 74 Stat. 77); sec. 3(c), Act of Feb. 2, 1962 (Public Law 87-403, 76 Stat. 6); sec. 225 (d) and (k)(2), Rev. Act 1964 (78 Stat. 81, 93); sec. 3, Act of Aug. 22, 1964 (Public Law 88-484, 78 Stat. 598))

PAR. 10. Immediately after § 1.543 the following new section is inserted:

§ 1.543–0 Effective date.

Sections 1.543–1 and 1.543–2 are applicable only to taxable years beginning before January 1, 1964, and all references therein to sections of the Code are to sections of the Internal Revenue Code of 1954 prior to the amendments made by section 225 of the Revenue Act of 1964 (78 Stat. 79). Except as otherwise expressly provided therein, §§ 1.543–3 through 1.543–12 are applicable to taxable years beginning after December 31, 1963.

PAR. 11. Section 1.543–1 is amended by revising the section heading, paragraph (a), and subparagraphs (2) and (10) of paragraph (b) to read as follows:

§ 1.543–1 Personal holding company income (taxable years beginning before January 1, 1964).

(a) *General rule.* For taxable years beginning before January 1, 1964, the term "personal holding company income" means the portion of the gross income described in paragraph (b) of this section. See section 543(b) and § 1.543–2 for special limitations on gross income and personal holding company income in case of gains from stock, securities, and commodities transactions.

(b) *Definitions.* * * *

(2) *Interest.* The term "interest" means any amounts, includible in gross income, received for the use of money loaned, and shall include—(i) any amount treated as interest under section 483, and (ii) any annual or periodic rental payment under a redeemable ground rent (excluding amounts in redemption thereof) that is treated as interest. See section 163(c) and paragraph (b) of § 1.163–1. However, interest which constitutes "rent" shall not be classified as "interest" for purposes of section 543(a)(1) and this subparagraph, but shall be classified as "rents" (see subparagraph (10) of this paragraph). Interest on amounts set aside in a reserve fund under section 511 or 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1161 or 1177), shall not be included in personal holding company income.

* * * * *

(10) *Rents (including interest constituting rents).* Rents which are to be included as personal holding company in-

come consist of compensation (however designated) for the use, or right to use, property of the corporation. The term "rents" does not include amounts includible in personal holding company income under section 543(a)(6) and subparagraph (9) of this paragraph. The amounts considered as rents include charter fees, etc., for the use of, or the right to use, property, as well as interest on debts owed to the corporation (to the extent such debts represent the price for which real property held primarily for sale to customers in the ordinary course of the corporation's trade or business was sold or exchanged by the corporation). However, if the amount of the rents includible under section 543(a)(7) and this subparagraph constitutes 50 percent or more of the gross income of the corporation, such rents shall not be considered to be personal holding company income. For purposes of this subparagraph, an annual or periodic rental payment under a redeemable ground rent which, pursuant to section 163(c) and paragraph (b) of § 1.163–1, is treated as interest on an indebtedness secured by a mortgage shall be treated as interest, and the redeemable ground rent shall be treated as a debt owed to the corporation.

* * * * *

PAR. 12. Section 1.543–2 is amended by revising the section heading and paragraph (a) to read as follows:

§ 1.543–2 Limitations (taxable years beginning before January 1, 1964).

(a) For taxable years beginning before January 1, 1964, under section 543(b)(1), the gains which are to be included in gross income, and in personal holding company income with respect to transactions described in section 543(a)(2) and paragraph (b)(5) of § 1.543–1, shall be the net gains from the sale or exchange of stock or securities. If there is an excess of losses over gains from such transactions, such excess (or net loss) shall not be used to reduce gross income or personal holding company income for purposes of the personal holding company tax. Similarly, under section 543(b)(2) the gains which are to be included in gross income, and in personal holding company income with respect to transactions described in section 543(a)(3) and paragraph (b)(6) of § 1.543–1, shall be the net gains from commodity transactions which reflect personal holding company income. Any excess of losses over gains from such transactions (resulting in a net loss) shall not be used to reduce gross income or personal holding company income. The capital loss carryover under section 1212 shall not be taken into account.

* * * * *

PAR. 13. There are inserted immediately after § 1.543–2 the following new sections:

§ 1.543–3 Personal holding company income (taxable years beginning after December 31, 1963).

For taxable years beginning after December 31, 1963, the term "personal holding company income" means the portion of the adjusted ordinary gross income (as defined in section 543(b)(2) and paragraph (c) of § 1.543–12) which consists of the items described in §§ 1.543–4 through 1.543–11. See section 543(b) and § 1.543–12 for definitions to be used for personal holding company tax purposes.

§ 1.543–4 Dividends, interest, annuities, and royalties (other than mineral, oil, or gas royalties or certain copyright royalties).

(a) *General rule.* Under section 543(a)(1), personal holding company income includes all—

(1) Dividends (as defined in paragraph (b) of this section),

(2) Interest (as defined in paragraph (c) of this section),

(3) Annuities (as defined in paragraph (d) of this section), and

(4) Royalties (as defined in paragraph (e) of this section).

See paragraph (c)(2), (3), and (4) of this section, for certain interest amounts which shall not constitute an item of personal holding company income.

(b) *Dividends.* The term "dividends" includes dividends as defined in section 316 and amounts required to be included in gross income under section 551 and §§ 1.551–1 and 1.551–2 (relating to foreign personal holding company income taxed to U.S. shareholders).

(c) *Interest.* (1) The term "interest" means any amounts, includible in gross income, received for the use of money loaned, and shall include—

(i) Any amount treated as interest under section 483, and

(ii) Any annual or periodic rental payment under a redeemable ground rent (excluding amounts in redemption thereof) that is treated as interest. See section 163 (c) and paragraph (b) of § 1.163–1.

Interest which constitutes "rent" under paragraph (d)(2) of § 1.543–12 shall not be classified as "interest" for purposes of section 543(a)(1) and this subparagraph.

(2) Interest on amounts set aside in a reserve fund under section 511 or 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1161 or 1177), shall not be an item of personal holding company income, even though such interest is includible in gross income, and is not excluded from either ordinary gross income or adjusted ordinary gross income. See section 543(b)(1) and (2) and paragraphs (b) and (c) of § 1.543–12.

(3) Interest received on a direct obligation of the United States held for sale to customers in the ordinary course of trade or business by a regular dealer who is making a primary market in such obligations shall not be an item of personal holding company income. See section 543(b)(2)(C) and paragraph (c)(5)(i) of § 1.543–12 for the exclusion of such interest from adjusted ordinary gross income.

(4) Interest on a condemnation award, a judgment, and a tax refund shall not be items of personal holding company income even though such interest is includible in gross income. See section 543(b)(2)(C) and paragraph (c)(5) of § 1.543–12 for the exclusion of such interest from adjusted ordinary gross income.

(d) *Annuities.* The term "annuities" includes annuities only to the extent includible in the computation of gross income. See section 72 and the regulations thereunder for rules relating to the inclusion of annuities in gross income.

(e) *Royalties.* The term "royalties" includes amounts received for the privilege of using patents, copyrights, secret processes and formulas, good will, trade marks, trade brands, franchises, and other like property. The term "royalties" does not include—

(1) Rents (as defined in paragraph (d)(2) of § 1.543–12),

(2) Produced film rents (as defined in paragraph (b) of § 1.543–8),

(3) Mineral, oil, and gas royalties (as defined in paragraph (e)(2) of § 1.543–12), or

(4) Copyright royalties (as defined in paragraph (d) of § 1.543–7).

§ 1.543–5 Adjusted income from rents.

(a) *In general.* Under section 543(a)(2), the adjusted income from rents (as defined in section 543(b)(3) and paragraph (d) of § 1.543–12) constitutes, generally, personal holding company income. However, if both of the requirements set forth in paragraphs (b) and (c) of this section are met, then such adjusted income from rents shall not constitute personal holding company income.

(b) *50-percent rental income requirement.* Under section 543(a)(2)(A), if the adjusted income from rents for the taxable year constitutes 50 percent or more of the corporation's adjusted ordinary gross income (as defined in section 543(b)(2) and paragraph (c) of § 1.543–12) for the taxable year and the requirement of paragraph (c) of this section is met, then such adjusted income from rents shall not constitute personal holding company income.

(c) *10-percent personal holding company income requirement.* (1) Under section 543(a)(2)(B), if—

(i) The dividends paid deduction for the taxable year (computed in accordance with subparagraph (2) of this paragraph) equals or exceeds the amount, if any, by which the personal holding company income for the taxable year (computed in accordance with the special rules set forth in subparagraph (3) of this paragraph) exceeds 10 percent of the corporation's ordinary gross income (as defined in section 543(b)(1) and paragraph (b) of § 1.543–12) for the taxable year, and

(ii) The requirement of paragraph (b) of this section is met,

then the adjusted income from rents for the taxable year shall not constitute personal holding company income.

(2) (i) For purposes of this paragraph, the dividends paid deduction shall be computed under section 561 as if the taxpayer were a personal holding

company for purposes of such computation except that such deduction shall be computed without regard to—

(*a*) Any dividend carryover described in section 564, and

(*b*) Any distribution of property which, in the case of a personal holding company, would be a dividend solely on account of the application of section 316(b)(2) or section 562(b).

For purposes of this subparagraph, the taxpayer shall be treated as having elected, under section 563(b) and § 1.563–2 (relating to dividends paid after the close of the taxable year), to include (in the computation of the dividends paid deduction) dividends paid after the close of the taxable year and on or before the 15th day of the third month following the close of such taxable year, to the maximum extent permitted by such sections. If a corporation would be a personal holding company, as defined in section 542 and the regulations thereunder, but for the fact that the dividends paid deduction computed in accordance with this subparagraph meets the requirement of subparagraph (1)(i) of this paragraph, then the dividends entering into such computation shall be treated as having been made for the purpose of satisfying such requirement.

(ii) The application of this subparagraph may be illustrated as follows:

Example. Assume that corporation Y is determining whether its adjusted income from rents constitutes personal holding company income. Corporation Y has a dividend carryover to the taxable year (computed under section 564) of $10. During the taxable year, corporation Y pays a dividend (described in section 316(a)) of $30 to its shareholders. Y's undistributed personal holding company income (UPHCI) for the taxable year (computed as if Y were a personal holding company) is $10. After the close of the taxable year and on or before the 15th day of the third month following the close of such year, Y pays a dividend of $6 to its shareholders. Corporation Y's dividends paid deduction under section 561 (computed as if it were a personal holding company and in accordance with the rules of this subparagraph) is $33, computed as follows:

Dividends paid during the taxable year	$30
Dividends considered under section 563 as paid on last day of the taxable year ((6) but not in excess of either UPHCI ($10) or 10 percent of dividends paid during the year ($3))	3
	33

The dividend carryover to the taxable year is not taken into account for purposes of the computation.

(3) For purposes of this paragraph, personal holding company income shall be computed under section 543(a) except that such income shall be computed—

(i) By excluding adjusted income from rents (as defined in section 543(b)(3) and paragraph (d) of § 1.543–12);

(ii) By excluding amounts received as compensation for the use of, or right to use, property of the corporation (as defined in section 543(a)(6) and § 1.543–9);

(iii) Except as provided in subdivision (v) of this subparagraph, by including copyright royalties (as defined in section 543(a)(4) and paragraph (d) of § 1.543–7);

(iv) By including adjusted income from mineral, oil, and gas royalties (as defined in section 543(b)(4) and paragraph (e) of § 1.543–12); and

(v) By excluding royalties received for the use of, or for the privilege of using, a patent, invention, model, or design (whether or not patented), secret formula or process or any other similar property right if—

(*a*) Such property is also used by the corporation receiving such royalties in the manufacture or production of tangible personal property held for lease to customers, and

(*b*) The gross income from the rental of such tangible personal property, adjusted as required by section 543(b)(2)(A) as if such income were the only gross income from rents, constitutes 50 percent or more of the corporation's adjusted ordinary gross income.

(d) The application of this section may be illustrated by the following examples:

Example (*1*). Assume corporation Z has gross income of $200, consisting of gross income from rent in the amount of $150, $15 of dividends, a $10 capital gain from the sale of securities, and $25 from the sale of merchandise. The total amount of the deductions for depreciation, interest, and property taxes allocable to the gross income from rents equals $100. Corporation Z's ordinary gross income equals $190 ($200 (the gross income) less $10 (capital gain)). Corporation Z's adjusted ordinary gross income equals $90 and its adjusted income from rents equals $50, computed as follows:

	Adjusted ordinary gross income	*Adjusted income from rents*
Gross income from rents	$150	$150
Plus:		
Dividends	15	
Sale of Merchandise	25	
Ordinary gross income	190	
Less: Adjustments under sec. 543(b)(2)(A)	100	100
Total	90	50

Since the adjusted income from rents ($50) constitutes 50 percent or more of the adjusted ordinary gross income ($90), the requirement of section 543(a)(2)(A) and paragraph (b) of this section is satisfied. Corporation Z's only personal holding company income, computed by excluding adjusted income from rents as provided in paragraph (c)(3) of this section, is $15 of dividends. Since $15 does not exceed 10 percent of the ordinary gross income ($190), the test of section 543(a)(2)(B) and paragraph (c) of this section is satisfied without reference to the dividends paid by corporation Z during the taxable year. Accordingly, corporation Z's adjusted income from rents does not constitute personal holding company income and corporation Z is not a personal holding company for the taxable year.

Example (*2*). Assume the same facts as in example (1) except that corporation Z's dividend income equals $25. In addition, corporation Z pays a dividend (described in section 316(a)) of $5 to its shareholders during the taxable year. Although the $25 of dividend income exceeds 10 percent of the ordinary gross income ($200), the dividends paid deduction for the taxable year (computed as provided in paragraph (c)(2) of this section) ($5) equals the excess of the personal holding company income (computed by excluding adjusted income from rents as provided in paragraph (c)(3) of this section) over 10 percent of the ordinary gross income, as follows:

Personal holding company income	$25
Less: 10 percent of ordinary gross income ($200)	20
Excess	5

Accordingly, the test of section 543(a)(2)(B) and paragraph (c) of this section is satisfied and the adjusted income from rents does not constitute personal holding company income. Therefore, corporation Z is not a personal holding company for the taxable year.

§ 1.543–6 Adjusted income from mineral, oil, and gas royalties.

(a) *In general.* Under section 543(a)(3), the adjusted income from mineral, oil, and gas royalties (as defined in section 543(b)(4) and paragraph (e) of § 1.543–12) constitutes, generally, personal holding company income. However, if the requirements set forth in paragraph (b) of this section are met, then such adjusted income from mineral, oil, and gas royalties shall not constitute personal holding company income.

(b) *Requirements.* (1) Under section 543(a)(3)(A), (B), and (C), if—

(i) The adjusted income from mineral, oil, and gas royalties for the taxable year constitutes 50 percent or more of the corporation's adjusted ordinary gross income (as defined in section 543(b)(2) and paragraph (c) of § 1.543–12) for the taxable year;

(ii) The personal holding company income for the taxable year (computed in accordance with the special rules set forth in subparagraph (2) of this paragraph) is not more than 10 percent of the corporation's ordinary gross income (as defined in section 543(b)(1) and paragraph (b) of § 1.543–12) for the taxable year; and

(iii) The sum of the deductions allowable for the taxable year under section 162 (computed in accordance with the special rules set forth in subparagraph (3) of this paragraph) equals or exceeds 15 percent of the adjusted ordinary gross income (as defined in section 543(b)(2) and paragraph (c) of § 1.543–12) for the taxable year.

then the adjusted income from mineral, oil, and gas royalties for the taxable year shall not constitute personal holding company income.

(2) For purposes of subparagraph (1)(ii) of this paragraph, personal holding company income shall be computed under section 543(a) except that such income shall be computed—

(i) By excluding adjusted income from mineral, oil, and gas royalties (as defined in section 543(b)(4) and paragraph (e) of § 1.543–12);

(ii) By including copyright royalties (as defined in section 543(a)(4) and paragraph (d) of § 1.543–7); and

(iii) By including adjusted income from rents (as defined in section 543(b)(3) and paragraph (d) of § 1.543–12).

(3) For purposes of subparagraph (1)(iii) of this paragraph, the deductions allowable under section 162 shall be computed by excluding—

(i) Deductions for compensation for personal services rendered by any shareholder of the corporation, and

(ii) Deductions which are specifically allowable under sections other than section 162, as, for example, the deduction for interest which is specifically allowable under section 163, the deduction for depreciation of the corporation's assets which is specifically allowable under section 167 or 611, and the deduction for depletion (cost or percentage) which is specifically allowable under section 611.

For purposes of subdivision (ii) of this paragraph, the deduction for intangible drilling and development costs under section 263(c) and § 1.612–4 and section 616 and the deduction for amortization of leasehold interest and leasehold improvements described in §§ 1.162–11 and 1.167(a)–4 shall be treated as deductions which are specifically allowable under a section other than section 162. An expense incurred by the corporation acting merely as a conduit shall not constitute a deduction allowable under section 162.

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

Example. Assume corporation N has gross income of $400, consisting of gross income from mineral royalties in the amount of $250, $40 of dividends, and $110 from the sale of merchandise. The total amount of the deductions for depletion, interest, and property and severance taxes allocable to the gross income from mineral, oil, and gas royalties equals $100. The sum of the deductions allowable under section 162 (other than deductions for compensation for personal services rendered by shareholders and deductions specifically allowable under sections other than section 162) is $45. Corporation N's adjusted ordinary gross income equals $300 and its adjusted income from mineral, oil, and gas royalties equals $150. Since the adjusted income from mineral, oil, and gas royalties constitutes 50 percent or more of the adjusted ordinary gross income, the requirement of section 543(a)(3)(A) and subparagraph (1)(i) of this paragraph is satisfied. Since the $40 of dividends is personal holding company income under section 543(a)(1), corporation N's personal holding company income, computed as provided in subparagraph (2) of this paragraph, equals $40. Since $40 is not more than 10 percent of the ordinary gross income ($400), the 10-percent test of section 543(a)(3)(B) and subparagraph (1)(ii) of this paragraph is satisfied. Since $45 (the sum of the deductions allowable under section 162 computed as provided in subparagraph (3) of this paragraph) equals or exceeds 15 percent of the adjusted ordinary gross income ($300), the deductions requirement of section 543(a)(3)(C) and subparagraph (1)(iii) of this paragraph is satisfied. Accordingly, corporation N's adjusted income from mineral, oil, and gas royalties does not constitute personal holding company income.

§ 1.543–7 Copyright royalties.

(a) *In general.* Under section 543(a)(4), the income from copyright royalties, as defined in section 543(a)(4) and paragraph (d) of this section, constitutes, generally, personal holding company income. However, if the requirements set forth in paragraph (b) of this section are met then such income shall not constitute personal holding company income.

(b) *Requirements.* (1) Under section 543(a)(4) (A), (B), and (C), if—

(i) The copyright royalties for the taxable year (computed by excluding royalties received for the use of, or the right to use, copyrights or interests in copyrights in works created in whole, or in part, by any person who, at any time during the corporation's taxable year, is a shareholder) constitute 50 percent or more of the corporation's ordinary gross income (as defined in section 543(b)(1) and paragraph (b) of § 1.543–12) for the taxable year;

(ii) The personal holding company income (computed in accordance with the special rules set forth in subparagraph (2) of this paragraph) for the taxable year is not more than 10 percent of the corporation's ordinary gross income for such year; and

(iii) The sum of the deductions allowable for the taxable year to the corporation under section 162 (computed in accordance with the special rules set forth in subparagraph (3)(i) of this paragraph) which are properly allocable to copyright royalties (determined in accordance with subparagraph (3)(ii) of this paragraph) equals or exceeds 25 percent of the amount by which the ordinary gross income for such year exceeds the sum of the royalties paid or accrued for such year and the amounts allowable as deductions for such year under section 167 (relating to depreciation), determined under subparagraph (4) of this paragraph,

then the copyright royalties for the taxable year shall not constitute personal holding company income.

(2) For purposes of subparagraph (1)(ii) of this paragraph, the personal holding company income shall be computed under section 543(a) except that such income shall be computed—

(i) By excluding copyright royalties (except that there shall be included royalties received for the use of, or the right to use, copyrights or interests in copyrights in works created, in whole or in part, by any shareholder owning, at any time during the corporation's taxable year, more than 10 percent in value of the outstanding stock of the corporation),

(ii) By excluding dividends from any corporation in which the taxpayer owns, on the date when shareholders of such corporation become entitled to dividends, at least 50 percent of all classes of stock entitled to vote and at least 50 percent of the total value of all classes of stock, provided the corporation which pays the dividends meets the requirements of section 543(a)(4) (A), (B), and (C) and this paragraph, and

(iii) By including the adjusted income from rents (as defined in section 543(b)(3) and paragraph (d) of § 1.543–12) and adjusted income from mineral, oil, and gas royalties (as defined in section 2 or 6 thereof) and to which copy-§1.543–12).

(3)(i) For purposes of subparagraph (1)(iii) of this paragraph, the deductions allowable under section 162 shall be computed by excluding—

(*a*) Deductions for compensation for personal services rendered by a shareholder of the corporation,

(*b*) Deductions for copyright and other royalties paid or accrued, and

(*c*) Deductions which are specifically allowable under Code sections other than section 162, as, for example, the deduction for interest which is specifically allowable under section 163 and the deduction for depreciation of the corporation's assets which is specifically allowable under section 167.

An expense incurred by the corporation acting merely as a conduit shall not constitute a deduction under section 162.

(ii) In determining the deductions allowable under section 162 which are properly allocable to copyright royalties, subect to the exceptions set forth in subdivision (i) of this subparagraph, all of such deductions that are definitely related to copyright royalties shall be allocated to such royalties. In a case in which a deduction allowable under section 162 is neither in whole nor in part definitely related to copyright royalties, no part of such deduction shall be allocated to copyright royalties. In a case in which a deduction that is to be taken into account is definitely related to copyright royalties and is also definitely related to some other income or activity of the corporation, the determination of the portion of the allowable deduction that is properly allocable to copyright royalties shall be made on a reasonable basis, such as, for example, the ratio of copyright royalties for the taxable year to the entire ordinary gross income.

(4) For purposes of subparagraph (1)(iii) of this paragraph, in determining the excess of ordinary gross income over royalties and depreciation, there shall be taken into account only—

(i) Copyright and other royalties paid or accrued by the corporation, and

(ii) Depreciation allowable with respect to property acquired by the corporation,

pursuant to the terms of an agreement under which certain rights existing under a copyright are assigned to the corporation, regardless of whether such contract is a sale of property or a license.

(c) *Determination of stock value and stock ownership.* For purposes of section 543(a)(4) and this section, the following rules shall apply:

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

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

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

(d) *Copyright royalties defined.* For purposes of section 543(a)(4) and this section, the term "copyright royalties" means compensation, however, designated, for the use of, or the right to use, copyrights in works protected by copyright issued under title 17 of the United States Code (other than by reason of section 2 or 6 thereof) and to which copyright protection is also extended by the laws of any foreign country as a result of any international treaty, convention, or agreement to which the United States is a signatory. Thus, the term "copyright royalties" includes not only royalties from sources within the United States under protection of U.S. laws relating to statutory copyrights but also royalties from sources within a foreign country with respect to U.S. statutory copyrights protected in such foreign country by an international treaty, convention, or agreement to which the United States is a signatory. In addition, the term "copyright royalties" includes—

(1) Compensation for the use of, or right to use, an interest in any such copyrighted works;

(2) Payments from any person for performing rights in any such copyrighted works; and

(3) Payments (other than produced film rents as defined in section 543(a)(5)(B) and paragraph (b) of § 1.543–8) received for the use of, or right to use, films (including television tapes).

§ 1.543–8 Produced film rents.

(a) *In general.* Under section 543(a)(5) produced film rents (as defined in paragraph (b) of this section) constitute, generally, personal holding company income. However, if the total amount of such produced film rents constitutes 50 percent or more of the ordinary gross income of the corporation (as defined in section 543(b)(1) and paragraph (b) of § 1.543–12) for the taxable year, such rents shall not be considered to be personal holding company income. In order for produced film rents to be excluded from personal holding company income, the 50-percent requirement must be met solely by reference to income which is within the definition of produced film rents.

(b) *Definition of produced film rents.* For purposes of section 543, the term "produced film rents" means payments received with respect to an interest in a film for the use of, or right to use, such film, but only to the extent that such interest was acquired before substantial completion of production of such film. What constitutes an interest in a film and whether such an interest is acquired before substantial completion of production of such film are questions to be determined on the basis of all of the facts and circumstances in each case. Thus, for example, for purposes of this section, if two corporations form a joint venture for the purpose of acquiring the motion picture rights to a book, and the joint venture proceeds to adapt such book to motion picture screenplay form, and to produce the film, then the interest in the film acquired by the joint venturers is acquired before substantial completion of production of the film. If, as a result of major revisions in the screenplay, unavailability of leading actors and actresses, or other unexpected events occurring at an early stage in the actual production of the film, substantial additional funds are required to continue production, an interest in the film acquired by a corporation at such time is acquired before substantial completion of production of the film. However, if an interest in a film is acquired by a corporation at a time when most of the major scenes have been filmed, the payments received by such corporation with respect to such interest are not "produced film rents". For the treatment of film rents other than those defined in this paragraph, see section 543(a)(4) and § 1.543–7. The term "produced film rents" does not include amounts which constitute personal holding company income under section 543(a)(7) and § 1.543–10 (relating to personal service contracts).

§ 1.543–9 Compensation for use of property.

(a) *In general.* Under section 543(a)(6), except as provided in paragraph (b) of this section, the gross amounts received or accrued as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation shall be included as personal holding company income if, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property. Thus, if a shareholder who meets the stock ownership requirement of section 543(a)(6) and this paragraph uses, or has the right to use, a yacht, residence, or other property owned by the corporation, the compensation to the corporation for such use of, or right to use, the property constitutes personal holding company income. This is true even though the shareholder may acquire the use of, or the right to use, the property by means of a sublease or under any other arrangement involving parties other than the corporation and the shareholder. For purposes of section 543(a)(6) and this paragraph, the amount of stock outstanding and its value shall be determined in accordance with the rules set forth in the last two sentences of paragraph (b) and in paragraph (c) of § 1.542–3. The stock ownership requirement of section 543(a)(6) and this paragraph relates to the stock outstanding at any time during the entire taxable year. For rules relating to the determination of stock ownership, see section 544 and §§ 1.544–1 through 1.544–7.

(b) *Exclusion from personal holding company income.* If the corporation's personal holding company income (computed in accordance with the special rules set forth in paragraph (c) of this section) for the taxable year does not exceed 10 percent of its ordinary gross income for such year, then, in a case in which a shareholder specified in paragraph (a) of this section has the use of, or right to use, property of the corporation, amounts received or accrued by the corporation as compensation for the use of, or right to use, such property shall not constitute personal holding company income. In addition, in such a case, such amounts shall not constitute "rents" (as defined in paragraph (d)(2) of § 1.543–12).

(c) *Special rules for determining personal holding company income.* For purposes of paragraph (b) of this section, personal holding company income shall be computed under section 543(a) except that such income shall be computed—

(1) By excluding amounts described in the first sentence of section 543(a)(6) and paragraph (a) of this section;

(2) By excluding adjusted income from rents (as defined in section 543(b)(3) and paragraph (d) of § 1.543–12);

(3) By including adjusted income from mineral, oil, and gas royalties (as defined in section 543(b)(4) and paragraph (e) of § 1.543–12); and

(4) By including copyright royalties (as defined in section 543(a)(4) and paragraph (d) of § 1.543–7).

§ 1.543–10 Personal service contracts.

(a) *In general.* Under section 543(a)(7), amounts received under a contract under which the corporation is to furnish personal services, as well as amounts received from the sale or other disposition of such contract, shall be included as personal holding company income if—

(1) Some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services or if the individual who is to perform the services is designated (by name or by description) in the contract; and

(2) At any time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.

For this purpose, the amount of stock outstanding and its value shall be determined in accordance with the rules set forth in the last two sentences of paragraph (b) and in paragraph (c) of § 1.542–3. It should be noted that the stock ownership requirement of section 543(a)(7) and this section relates to the stock ownership at any time during the taxable year. For rules relating to the determination of stock ownership, see section 544 and §§ 1.544–1 through 1.544–7.

(b) *Important and essential services.* If the contract, in addition to requiring the performance of services by a 25-percent-or-more stockholder who is designated or who could be designated (as specified in section 543(a)(7) and paragraph (a) of this section), requires the performance of services by other persons which are important and essential, then only

that portion of the amount received under such contract which is attributable to the personal services of the 25-percent-or-more stockholder shall constitute personal holding company income. Incidental personal services of other persons employed by the corporation to facilitate the performance of the services by the 25-percent-or-more stockholder, however, shall not constitute important or essential services. Under section 482 gross income, deductions, credits, or allowances between or among organizations, trades, or businesses may be allocated if it is determined that allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such organizations, trades, or businesses.

(c) *Amount attributable to personal services of 25-percent-or-more stockholder*—(1) *General rule.* For taxable years beginning after December 31, 1967, the portion of the amount received under a contract in any such taxable year of the corporation which is attributable to the personal services of a 25-percent-or-more stockholder shall be an amount equal to such amount received multiplied by a fraction, the numerator of which is the sum of the amounts inuring for such taxable year to the benefit of such stockholder, and the denominator of which is the sum of the amounts inuring for such taxable year to the benefit of such stockholder and all persons who are required to perform important and essential services under such contract.

(2) *Amounts inuring to the benefit of a person.* For purposes of subparagraph (1) of this paragraph, the amounts inuring to the benefit of a person for a taxable year shall be the sum of—

(i) The amounts paid (or credited) in any medium during such year, directly or indirectly, to such person by the corporation as compensation, rent, interest, royalties, and dividends (as defined in section 316(a)), and

(ii) In the case of a person who is a stockholder, his proportionate share of the taxable income of the corporation for such year less—

(*a*) The amount by which the tax imposed by section 11 on such income exceeds the credits allowable under part IV (section 31 and following), subchapter A, chapter 1 of the Code, and

(*b*) The dividends (described in section 316(a)) paid during the taxable year.

If, by applying the rules provided in section 544, a person would be considered to own any stock which is owned (directly or indirectly) by any other person, then amounts inuring to the benefit of such other person under the first sentence of this subparagraph shall be considered as inuring to the benefit of such person.

(3) *Special rule.* For purposes of this paragraph, in any case where the corporation has gross income from more than one contract for the taxable year, the computations with respect to each contract shall be made separately. For purposes of such separate computations, the amount considered as inuring to the benefit of a person with respect to a particular contract shall be an amount equal to the total amounts inuring to the benefit of such person for the year multiplied by a fraction, the numerator of which is the gross income of the corporation from such contract, and the denominator of which is the total gross income from all contracts which require the important and essential services of such person.

(d) *Examples.* The application of section 543(a)(7) and this section may be illustrated by the following examples:

Example (1). A, whose profession is that of an actor, owns all of the outstanding capital stock of the M Corporation. The M Corporation entered into a contract with A under which A was to perform personal services for the person or persons whom the M Corporation might designate, in consideration of which A was to receive $10,000 a year from the M Corporation. The M Corporation entered into a contract with the O Corporation in which A was designated to perform personal services for the O Corporation in consideration of which the O Corporation was to pay the M Corporation $500,000 a year. The $500,000 received by the M Corporation from the O Corporation constitutes personal holding company income.

Example (2). Except as otherwise indicated the facts are the same as in example (1). A owns only 80 percent of the M stock. In addition to A's contract with the M Corporation, B, whose profession is that of a dancer, and C, whose profession is that of a singer, were also under contract to the M Corporation to perform personal services for the person or persons whom the M Corporation might designate. The taxable year of the M Corporation involved is the calendar year 1968. B and C were each to receive $20,000 a year from the M Corporation. B owns 20 percent of the outstanding capital stock and is a member of A's family within the meaning of section 544(a)(2). Under the rules of section 544, A is considered as owning the stock owned by B, and B is considered as owning the stock owned by A. For the year 1968, M's taxable income less the excess of the tax imposed by section 11 over allowable credits, is $272,500. M Corporation pays no dividends during the taxable year. The contract entered into by the M Corporation with the O Corporation, in addition to designating that A was to perform personal services for the O Corporation, designated that B and C were also to perform personal services for the O Corporation. Because O Corporation desired the services of C, who was prominent in his field, to assist in providing a good supporting cast for the program, the services of C required under the contract are determined to be important and essential. Therefore, only that portion of the $500,000 received by the M Corporation which is attributable to the personal services A and B (each of whom is a 25-percent-or-more stockholder and is named in the contract) constitutes personal holding company income. The sum of the amounts inuring to the benefit of A and B for the taxable year is $605,000, computed as follows:

Stockholder A:		
Compensation paid to A	$10,000	
A's share of taxable income	218,000	
Compensation paid to B	20,000	
B's share of taxble income	54,500	
		$302,500
Stockholder B:		
Compensation paid to B	20,000	
B's share of taxable income	54,500	
Compensation paid to A	10,000	
A's share of taxable income	218,000	
		302,500
Total		605,000

The sum of the amounts inuring to the benefit of A, B, and C for the taxable year is $625,000 ($605,000 (A and B) + $20,000 (amount inuring to benefit of C)). The portion of the amount received on the contract which is attributable to the personal services of A and B and which constitutes personal holding company income is $484,000, computed as follows:

$$\frac{\$605{,}000 \text{ (amounts inuring to benefit of A and B)}}{\$625{,}000 \text{ (amounts inuring to benefit of A, B, and C)}} \times \$500{,}000 \text{ (contract amount)} = \$484{,}000$$

The same result would obtain even though the singer required by the contract had not been designated by name but the contract gave the M Corporation discretion to select and provide the services of a singer for the program and such services were provided.

Example (3). The N Corporation is engaged in engineering. Its entire outstanding capital stock is owned by four individuals. The N Corporation entered into a contract with the R Corporation to perform engineering services in consideration of which the R Corporation was to pay the N Corporation $50,000. The individual who was to perform the services was not designated (by name or by description) in the contract and no one but the N Corporation had the right to designate (by name or by description) such individual. The $50,000 received by the N Corporation from the R Corporation does not constitute personal holding company income.

Example (4). K, an actor, owns all of the outstanding capital stock of S Corporation. K entered into a contract with S Corporation under which K was to perform personal services for the person or persons whom S might designate in consideration of which K was to receive $400,000 a year from S Corporation. S Corporation entered into a contract with T Corporation in which K was designated to act in a film to be produced by T Corporation in consideration for a 20 percent interest in the copyright and negatives of such film when produced. The amounts received by S Corporation from its 20 percent interest in the film constitute personal holding company income under section 543(a)(7) and are not produced film rents within the meaning of section 543(a)(5).

§ 1.543–11 Estates and trusts.

Under section 543(a)(8), personal holding company income includes amounts includible in computing the taxable income of the corporation under part I, subchapter J, chapter 1 of the Code (relating to estates, trusts, and beneficiaries). The gain from the sale or other disposition of any interest in an estate or trust is excluded from personal holding company income.

§ 1.543–12 Definitions.

(a) *Gross income.* The term "gross income" has the same meaning for personal holding company tax purposes as

it does under section 61 and the regulations thereunder. Under such definition gross income is not necessarily synonymous with gross receipts, and losses incurred from dealings in property, both tangible and intangible, are disregarded. Thus, for example, if there is a loss from the sale or other disposition of a capital asset or of property described in section 1231(b), such loss shall not be used to reduce gross income for purposes of the personal holding company tax, nor shall such loss be used to reduce the amount of any gains derived from dealings in property. In the case of a mineral, oil, or gas working interest, gross income shall be determined without subtraction for depreciation and depletion based on cost. For determining the character of the amount includible in gross income under section 951(a), see paragraph (a) of § 1.951–1.

(b) *Ordinary gross income*—(1) *In general.* For personal holding company purposes, the term "ordinary gross income" means the gross income determined as provided in paragraph (a) of this section except that there shall be excluded—

(i) All gains from the sale or other disposition of capital assets, and

(ii) All gains (other than those referred to in subdivision (i) of this subparagraph) from the sale of other disposition of property described in section 1231(b).

However, amounts which under part IV, subchapter P, chapter 1 of the Code (sections 1231 and following) are treated as gain which is not described in subdivision (i) and (ii) of this subparagraph shall not be excluded from gross income for purposes of computing ordinary gross income. Since section 631(c) has no application for personal holding company purposes, amounts which are otherwise treated as gains on the sale of coal or domestic iron ore under section 631(c) are not excluded from gross income in determining ordinary gross income.

(2) *Example.* The application of the rules provided in this paragraph may be illustrated by the following example:

Example. Assume that corporation R sells two pieces of machinery for $100 each. Machine A has an adjusted basis of $80 and machine B has an adjusted basis of $108. Assume, further, that for purposes of section 1245(a)(2) of the Code, the "recomputed basis" of machine A is $95. Corporation R's gain or loss on the sale of the two machines is computed as follows:

	Machine A	*Machine B*
Amount realized from sale	$100	$100
Less: Adjusted basis	24	108
Gain (loss) realized	20	(8)
Recomputed basis (sec. 1245(a))	95	
Less: Adjusted basis	80	
Amount of gain which is not treated as capital gain or sec. 1231 gain (sec. 1245(a)(1))	15	

The $8 loss on the sale of machine B is not an item of gross income and, therefore, does not enter into the computation of ordinary gross income. Of the $20 gain from the sale of machine A, $15 is treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b) of the Code, and thus is not excluded from gross income under section 543(b)(1) and this paragraph in determining ordinary gross income. The remaining $5 gain is gain from the sale of property described in section 1231(b), and is excluded from gross income under section 543(b)(1) and this paragraph for purposes of determining corporation R's ordinary gross income.

(c) *Adjusted ordinary gross income*—(1) *In general.* For personal holding company purposes, the term "adjusted ordinary gross income" means the ordinary gross income, determined as provided in paragraph (b) of this section, adjusted as provided in section 543(b)(2)(A), (B), and (C) and subparagraphs (2) through (5) of this paragraph.

(2) *Adjustments to ordinary gross income; rents*—(i) *In general.* In computing adjusted ordinary gross income for any taxable year, there shall be subtracted from the gross income from rents (as defined in paragraph (d)(2) of this section), subject to the limitation provided in subdivision (iv) of this subparagraph, the amounts allowable as deductions for—

(a) Depreciation under section 167, including, where applicable, the additional first-year depreciation allowance described in section 179,

(*b*) Amortization of leasehold interests and leasehold improvements described in §§ 1.162–11 and 1.167(a)–4,

(*c*) Real property taxes and personal property taxes within the meaning of section 164(a)(1) and (2),

(*d*) Interest under section 163, and

(*e*) Rent;

to the extent that such deductions are allocable (under subdivision (iii) of this subparagraph) to such gross income from rents.

(ii) *Certain short-term leases.* For purposes of subdivision (i) of this subparagraph and notwithstanding any other provision of this subparagraph, if the gross income from rents for the taxable year includes rents derived from leases of tangible personal property of a type which is not customarily retained or used by any one lessee for a period of more than 3 years, such rents shall not be reduced by allowable deductions for depreciation and amortization with respect to such property. The determination of whether property is of a type which is not customarily retained or used by any one lessee for a period of more than 3 years shall be made by reference to the period of customary retention or use by lessees who lease from lessors in the nationwide industry of leasing such type of property. Thus, the term of the lease in a particular case will not be controlling for purposes of determining the period of customary retention or use. The special rule of this subdivision does not apply to the deductions for property taxes, interest, and rent with respect to such tangible personal property.

(iii) *Deductions allocable to rents.* For purposes of determining the deductions allocable to gross income from rents for any taxable year, the following rules shall apply:

(*a*) In the case of the amounts allowable as deductions for depreciation, amortization, property taxes, interest, and rent, described in subdivision (i) of this subparagraph, all such amounts which are directly or indirectly related to property held for rent during the taxable year shall be allocated to gross income from rents. For this purpose, amounts allowable as deductions which are directly or indirectly related to property held for rent include, for example, deductions for depreciation on rental property or property used in connection with rental property (such as office equipment and furniture used in a rental office), amortization of a leasehold interest in and rents paid with respect to property which is, in turn, subleased by the corporation, property taxes levied on rental property and property used in connection with rental property, interest paid or accrued on a loan the proceeds of which are used to purchase rental property or property used in connection with rental property, and interest paid or accrued on an obligation which constitutes all or part of the payment of the purchase price of rental property or property used in connection with rental property.

(*b*) (*1*) In a case in which property held for rent or property used in connection with property held for rent is also used by the corporation for other purposes, then only a part of the amounts allowable as deductions described in subdivision (i) of this subparagraph with respect to such property shall be allocable to gross income from rents. For purposes of the preceding sentence, the portion of the amounts allowable as deductions with respect to such property which is allocable to gross income from rents is an amount equal to such allowable amounts multiplied by a fraction, the numerator of which is a figure based on the use in connection with (or, in an appropriate case, the rental value of space devoted to) rental activities, and the denominator of which is a figure based on the total use to which the property is put (or the total rental value of the property).

(*2*) The application of this subdivision (*b*) may be illustrated by the following examples:

Example (*1*). X Corporation owns a building which has eight floors, each floor having an equal rental value. Six floors are held for rent. One floor is used exclusively in X's investment business. One-half of the remaining floor is used as a rental office and one-half is used in the investment business. X leases a business machine which is used, on the average, 3 hours of every 8-hour work day in connection with its rental activities. The business machine is used in connection with the investment activities for the re-

maining 5 hours of every work day. The deductions for depreciation and property taxes allowed with respect to the building for the taxable year are $10,000. The deduction for rent allowed with respect to the business machine is $800. The total amount of the deductions allocable to gross income from rents is $8,425, computed as follows:

Deductions	Allocable to gross income from rent
$10,000 × (6.50 floors (Rental use) / 8 floors (Total use))	$8,125
$800 × (3 hours (Rental use) / 8 hours (Total use))	300
Total	8,425

Example (2). Assume the same facts as in example (1), except that the rental values of the floors are not equal. The rental value of each of the six floors that are held for rent is $8,000 per year. The rental value of each of the remaining floors is $1,000 per year. The total amount of the deductions allocable to gross income from rents is $10,000, computed as follows:

Deductions	Allocable to gross income from rent
$10,000 × ($48,500 (Rental value of 6½ floors) / $50,000 (Total rental value))	$9,700
$800 × (3 hours (Rental use) / 8 hours (Total use))	300
Total	10,000

(c) In a case in which interest is paid or accrued on a loan the proceeds of which are not used to purchase property or on an obligation which does not constitute all or part of the payment of the purchase price of property, then a part of the amount allowable as a deduction for interest with respect to such loan or obligation shall be allocable to gross income from rents. For purposes of the preceding sentence, the portion of such allowable amount which is allocable to gross income from rents is an amount equal to such allowable amount multiplied by a fraction, the numerator of which is the gross income from rents, and the denominator of which is the entire ordinary gross income of the corporation.

(d) For purposes of this subdivision (iii), property will be considered held for rent whether or not such property is actually rented if such property is normally held by the taxpayer for rent or if the taxpayer intends to hold such property for rent. Property which is held for rent on a seasonal basis shall be considered as held for rent for the entire taxable year unless the corporation establishes that the property was used for other purposes during the season when it was not held for rent.

(iv) *Limitation on adjustments.* The amounts subtracted under this subparagraph shall not exceed the corporation's entire gross income from rents. Subject to the limitation of the preceding sentence, amounts are to be subtracted even though no gross income is derived from the property to which the amounts are related. Thus, for example, assume that M Corporation owns three buildings which it holds for rent. Two of the buildings produce $150 apiece in gross income from rents. The third building produces no gross income from rents. The deductions allowable for depreciation and real property taxes with respect to building No. 1 equal $90, with respect to building No. 2 equal $110, and with respect to building No. 3 equal $105. In computing M's adjusted ordinary gross income, the amount subtracted from the gross income from rents is $300, computed as follows:

Gross income from rents:		
Building No. 1	$150	
Building No. 2	150	
Building No. 3	0	
		$300
Less—Adjustments:		
Building No. 1	90	
Building No. 2	110	
Building No. 3	105	
		305
Maximum amount subtracted (as limited by gross income from rents)		$300

(3) *Adjustments to ordinary gross income; mineral, oil, and gas royalties*—(i) *In general.* In computing adjusted ordinary gross income for any taxable year, there shall be subtracted from the gross income from mineral, oil and gas royalties (as defined in paragraph (e)(2) of this section), subject to the limitation provided in subdivision (iv) of this subparagraph, the amounts allowable as deductions for—

(a) Depletion under section 611,

(b) Depreciation under section 611 or section 167, including, where applicable, the additional first-year depreciation allowance described in section 179,

(c) Amortization of leasehold interests and leasehold improvements described in §§ 1.162–11 and 1.167(a)–4,

(d) Real property taxes and personal property taxes within the meaning of section 164(a) (1) and (2),

(e) Severance taxes as defined in subdivision (iii) of this subparagraph,

(f) Interest under section 163, and

(g) Rent;

to the extent that such deductions are allocable (under subdivision (ii) of this subparagraph) to such gross income from mineral, oil, and gas royalties.

(ii) *Deductions allocable to mineral, oil, and gas royalties.* For purposes of determining the deductions allocable to gross income from mineral, oil, and gas royalties for any taxable year, the following rules shall apply:

(a) In the case of the amounts allowable as deductions for depletion, depreciation, amortization, property taxes, severance taxes, interest, and rent, described in subdivision (i) of this subparagraph, all such amounts which are directly or indirectly related to mineral, oil, and gas royalties during the taxable year shall be allocated to gross income from such royalties.

(b) In a case in which property used by the corporation in connection with mineral, oil, and gas royalties is also used by the corporation for other purposes, then only a part of the amounts allowable as deductions described in subdivision (i) of this subparagraph with respect to such property shall be allocable to gross income from mineral, oil, and gas royalties. For purposes of the preceding sentence, the portion of the amounts allowable as deductions with respect to such property which is allocable to gross income from mineral, oil, and gas royalties is an amount equal to such allowable amounts multiplied by a fraction, the numerator of which is a figure based on the use in connection with (or, in an appropriate case, the rental value of space devoted to) mineral, oil, and gas royalties, and the denominator of which is a figure based on the total use to which the property is put (or the total rental value of the property). In addition, in an appropriate case, the allocation shall be made by comparing a figure based on the value of that portion of the property devoted to mineral, oil, and gas royalties and a figure based on the total value of the property.

(c) In a case in which interest is paid or accrued on a loan the proceeds of which are not used to purchase property or on an obligation which does not constitute all or part of the payment of the purchase price of property, then a part of the amount allowable as a deduction for interest with respect to such loan or obligation shall be allocable to gross income from mineral, oil, and gas royalties. For purposes of the preceding sentence, the portion of such allowable amount which is allocable to gross income from mineral, oil, and gas royalties is an amount equal to such allowable amount multiplied by a fraction, the numerator of which is the gross income from mineral, oil, and gas royalties, and the denominator of which is the entire ordinary gross income of the corporation.

(iii) *Definition of severance tax.* For purposes of subdivision (i)(e) of this subparagraph, a severance tax is a tax imposed either on mineral, oil, or gas severed from the ground or on the occupation or act of severing or producing mineral, oil, or gas. Thus, the characterization of such a tax under State or local law as an occupation or license tax is irrelevant for this purpose.

(iv) *Limitation on adjustments.* The amounts subtracted under this subparagraph shall not exceed the corporation's entire gross income from mineral, oil, and gas royalties. Subject to the limitation of the preceding sentence, amounts are to be subtracted even though no gross in-

come is derived from the property to which the amounts are related.

(4) *Adjustments to ordinary gross income; working interests in oil or gas wells*—(i) *In general.* In computing adjusted ordinary gross income for any taxable year, there shall be subtracted from the gross income from working interests in oil or gas wells, subject to the limitation provided in subdivision (iii) of this subparagraph, the amounts allowable as deductions for—

(*a*) Depletion under section 611,

(*b*) Depreciation under section 611 or section 167, including, where applicable, the additional first-year depreciation allowance described in section 179,

(*c*) Amortization of leasehold interests and leasehold improvements described in §§ 1.162–11 and 1.167(a)–4,

(*d*) Real property taxes and personal property taxes within the meaning of section 164(a) (1) and (2),

(*e*) Severance taxes as defined in subparagraph (3) (iii) of this paragraph,

(*f*) Interest under section 163, and

(*g*) Rent;

to the extent that such deductions are allocable (under subdivision (ii) of this subparagraph) to such gross income from working interests in oil or gas wells. For purposes of this subparagraph, "working interest" shall have the same meaning as "operating mineral interest". See paragraph (b) of § 1.614–2 for the meaning of "operating mineral interest".

(ii) *Deductions allocable to working interests in oil or gas wells.* For purposes of determining the deductions allocable to gross income from working interests in oil or gas wells for any taxable year, the following rules shall apply:

(*a*) In the case of the amounts allowable as deductions for depletion, depreciation, amortization, property taxes, severance taxes, interest, and rent, described in subdivision (i) of this subparagraph, all such amounts which are directly or indirectly related to gross income from working interests in oil or gas wells shall be allocated to gross income from working interests in oil or gas wells.

(*b*) In a case in which property used by the corporation in connection with working interests in oil or gas wells is also used by the corporation for other purposes, then only a part of the amounts allowable as deductions described in subdivision (i) of this subparagraph with respect to such property shall be allocable to gross income from working interests in oil or gas wells. For purposes of the preceding sentence, the portion of the amounts allowable as deductions with respect to such property which is allocable to gross income from working interests in oil or gas wells is an amount equal to such allowable amounts multiplied by a fraction, the numerator of which is a figure based on the use in connection with (or, in an appropriate case, the rental value of space devoted to) the production of gross income from working interests in oil or gas wells, and the denominator of which is a figure based on the total use to which the property is put (or the total rental value of the property). In addition, in an appropriate case, the allocation shall be made by comparing a figure based on the value of that portion of the property devoted to the production of gross income from working interests in oil or gas wells and a figure based on the total value of the property.

(*c*) In a case in which interest is paid or accrued on a loan the proceeds of which are not used to purchase property or on an obligation which does not constitute all or part of the payment of the purchase price of property, then a part of the amount allowable as a deduction for interest with respect to such loan or obligation shall be allocable to gross income from working interests in oil or gas wells. For purposes of the preceding sentence, the portion of such allowable amount which is allocable to gross income from working interests in oil or gas wells is an amount equal to such allowable amount multiplied by a fraction, the numerator of which is the gross income from working interests in oil or gas wells, and the denominator of which is the entire ordinary gross income of the corporation.

(*d*) For purposes of this subdivision (ii), property will be considered held for the production of gross income from a working interest in an oil or gas well whether or not gross income is actually received from such working interest.

(iii) *Limitation on adjustments.* The amounts subtracted under this subparagraph shall not exceed the corporation's entire gross income from working interests in oil or gas wells. Subject to the limitation of the preceding sentence, amounts are to be subtracted even though no gross income is derived from the property to which the amounts are related.

(5) *Adjustments to ordinary gross income; interest.* In computing adjusted ordinary gross income for any taxable year there shall be subtracted from the ordinary gross income (as defined in section 543(b) (1) and paragraph (b) of this section)—

(i) Interest received on a direct obligation of the United States held for sale to customers in the ordinary course of trade or business by a regular dealer who is making a primary market in such obligations;

(ii) Interest on a condemnation award;

(iii) Interest on a judgment; and

(iv) Interest on a tax refund (including refund of interest paid as part of any assessment).

(d) *Adjusted income from rents*—(1) *In general.* For purposes of determining personal holding company income, the term "adjusted income from rents" means the gross income from rents adjusted in the manner provided in paragraph (c) (2) of this section.

(2) *Definition of rents (including interest constituting rents).* (i) For purposes of determining personal holding company income, the term "rents" means compensation (however designated) for the use of, or right to use, property of the corporation. The term "rents" does not include:

(*a*) Amounts includible in personal holding company income under section 543(a) (6) and § 1.543–9;

(*b*) Amounts which are copyright royalties as defined in section 543(a) (4) and paragraph (d) of § 1.543–7; and

(*c*) Amounts which are produced film rents as defined in section 543(a) (5) (B) and paragraph (b) of § 1.543–8.

The amounts considered as rents include charter fees, etc., for the use of, or the right to use, property, as well as interest on debts owed to the corporation (to the extent such debts represent the price for which real property held primarily for sale to customers in the ordinary course of the corporation's trade or business was sold or exchanged by the corporation). For purposes of the preceding sentence, an annual or periodic rental payment under a redeemable ground rent which, pursuant to section 163(c) and paragraph (b) of § 1.163–1, is treated as interest on an indebtedness secured by a mortgage shall be treated as interest, and the redeemable ground rent shall be treated as a debt owed to the corporation. For a special rule in the case of certain amounts received or accrued as compensation for the use of, or right to use, property of the corporation, see paragraph (b) of § 1.543–9.

(ii) For taxable years beginning after December 31, 1967, the term "rents" does not include payments for the use or occupancy of rooms or other space where significant services are also rendered to the occupant, such as for the use or occupancy of rooms or other quarters in hotels, boarding houses, or apartment houses furnishing hotel services, or in tourist homes, motor courts, or motels. Generally, services are considered rendered to the occupant if they are primarily for his convenience and are other than those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only. The supplying of maid service, for example, constitutes such services; whereas the furnishing of heat and light, the cleaning of public entrances, exits, stairways, and lobbies, the collection of trash, etc., are not considered as services rendered to the occupant. Payments for the use or occupancy of entire private residences or living quarters in duplex or multiple housing units, of offices in an office building, etc., are generally "rents". Payments for the parking of automobiles ordinarily do not constitute rents. Payments for the warehousing of goods or for the use of personal property do not constitute rents if significant services are rendered in connection with such payments.

(e) *Adjusted income from mineral, oil, and gas royalties*—(1) *In general.* For purposes of determining personal holding company income, the term "adjusted income from mineral, oil, and gas royalties" means the gross income from mineral, oil, and gas royalties adjusted in the manner provided in paragraph (c) (3) of this section.

*

(2) *Definition of mineral, oil, and gas royalties.* For purposes of determining personal holding company income, the term "mineral, oil, and gas royalties" means all royalties, including production payments and overriding royalties, received from any interest in mineral, oil, or gas properties. The term "mineral" includes those minerals which are included within the meaning of the term "minerals" in the regulations under section 611. The term "overriding royalties" includes amounts received from the sublessee by the operating company which originally leased and developed the natural resource property in respect of which such overriding royalties are paid.

PAR. 14. Section 1.544 is amended by revising so much of subsection (a) of section 544 as precedes paragraph (1) thereof, subparagraph (B) of section 544(a)(4), paragraphs (2) and (4) of section 544(b), and the historical note. These revised provisions read as follows:

§ 1.544 Statutory provisions; rules for determining stock ownership.

SEC. 544. *Rules for determining stock ownership*—(a) *Constructive ownership.* For purposes of determining whether a corporation is a personal holding company, insofar as such determination is based on stock ownership under section 542(a)(2), section 543(a)(7), section 543(a)(6), or section 543(a)(4)—

* * * * *

(4) *Application of family-partnership and option rules.* * * *

(B) For purposes of section 543(a)(7) (relating to personal service contracts), of section 543(a)(6) (relating to use of property by shareholders), or of section 543(a)(4) (relating to copyright royalties), if, but only if, the effect is to make the amounts therein referred to includible under such paragraph as personal holding company income.

* * * * *

(b) *Convertible securities.* * * *

(2) For purposes of section 543(a)(7) (relating to personal service contracts), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such paragraph as personal holding company income;

* * * * *

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

* * * * *

(Sec. 544 as amended by the Act of Apr. 22, 1960 (Public Law 86-435, 74 Stat. 77); sec. 225(k)(3), Rev. Act 1964 (78 Stat. 93))

PAR. 15. Section 1.544-1 is amended by revising paragraphs (a) and (b), and by adding a new paragraph (e) at the end thereof. These revised and added provisions read as follows:

§ 1.544-1 Constructive ownership.

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

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

(2) Section 543(a)(7), relating to personal holding company income derived from personal service contracts.

(3) Section 543(a)(6), relating to personal holding company income derived from property used by shareholders.

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

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

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

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

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

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

Each of the rules referred to in subparagraphs (2), (3), and (4) of this paragraph is applicable only if it has the effect of satisfying the stock ownership requirement of the section to which applicable; that is, when applied to section 542(a)(2), its effect is to make the corporation a personal holding company, or when applied to section 543(a)(7), section 543(a)(6), or section 543(a)(4), its effect is to make the amounts described in such provisions includible as personal holding company income.

* * * * *

(e) In the case of taxable years beginning before January 1, 1964, the rules provided in paragraphs (a) through (d) of this section shall apply as if each reference therein to section 543(a)(7) were a reference to section 543(a)(5) and each reference to section 543(a)(4) were a reference to section 543(a)(9), prior to their amendment by section 225(d) of the Revenue Act of 1964 (78 Stat. 81).

PAR. 16. Section 1.551 is amended by revising subsection (b) of section 551 and by adding a historical note. These revised and added provisions read as follows:

§ 1.551 Statutory provisions; foreign personal holding company income taxed to United States shareholders.

SEC. 551. *Foreign personal holding company income taxed to U.S. shareholders.* * * *

(b) *Amount included in gross income.* Each U.S. shareholder, who was a shareholder on the day in the taxable year of the company which was the last day on which a U.S. group (as defined in section 552(a)(2)) existed with respect to the company, shall include in his gross income, as a dividend, for the taxable year in which or with which the taxable year of the company ends, the amount he would have received as a dividend (determined as if any distribution in liquidation actually made in such taxable year had not been made) if on such last day there had been distributed by the company, and received by the shareholders, an amount which bears the same ratio to the undistributed foreign personal holding company income of the company for the taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year.

* * * * *

(Sec. 551 as amended by sec. 225(f)(4), Rev. Act 1964 (78 Stat. 88))

PAR. 17. Paragraph (c) of § 1.551-2 is amended to read as follows:

§ 1.551-2 Amount included in gross income.

* * * * *

(c) The amount which each U.S. shareholder must return is that amount which he would have received as a dividend if the above-specified portion of the undistributed foreign personal holding company income had in fact been distributed by the foreign personal holding company as a dividend on the last day of its taxable year on which the required U.S. group existed. Such amount is determined, therefore, by the interest of the U.S. shareholder in the foreign personal holding company, that is, by the number of shares of stock owned by the U.S. shareholder and the relative rights of his class of stock, if there are several classes of stock outstanding. Thus, if a foreign personal holding company has both common and preferred stock outstanding and the preferred shareholders are entitled to a specified dividend before any distribution may be made to the common shareholders, then the assumed distribution of the stated portion of the undistributed foreign personal holding company income must first be treated as a payment of the specified dividend on the preferred stock before any part may be allocated as a dividend on the common stock. In the case of distributions in liquidation made in taxable years of the distributing corporation beginning after December 31, 1963, the amount which would have been received as a dividend under section 551(b) and this section is determined as if any distribution in liquidation actually made in such taxable year had not been made. See section 562(b) and paragraph (b) of § 1.562-1 for rules which, for purposes of computing the deduction for dividends paid for taxable years beginning after December 31, 1963, exclude from the definition of the term "dividends" any distribution made in such taxable year in liquidation of a foreign personal holding company.

* * * * *

PAR. 18. Section 1.552-3 is amended by revising paragraph (a) to read as follows:

§ 1.552-3 Stock ownership requirement.

(a) To meet the stock ownership requirement, it is necessary that at some time in the taxable year more than 50 percent in value of the outstanding stock stock of the foreign corporation be owned, directly or indirectly, by or for not more than five individuals who are citizens or residents of the United States, herein referred to as "United States group." See section 554 and §§ 1.554-1 through 1.554-7 for rules to be applied in determining stock ownership.

* * * * *

PAR. 19. Section 1.553 is amended by revising section 553 and the historical note. These revised provisions read as follows:

§ 1.553 Statutory provisions; foreign personal holding company income.

SEC. 553. *Foreign personal holding company income*—(a) *Foreign personal holding company income.* For purposes of this subtitle, the term "foreign personal holding company income" means that portion of the gross income, determined for purposes of section 552, which consists of:

(1) *Dividends, etc.* Dividends, interest, royalties, and annuities. This paragraph shall not apply to a dividend distribution of divested stock (as defined in subsection (e) of section 1111) but only if the stock with respect to which the distribution is made was owned by the distributee on September 6, 1961, or was owned by the distributee for at least 2 years before the date on which the antitrust order (as defined in subsection (d) of section 1111) was entered.

(2) *Stock and securities transactions.* Except in the case of regular dealers in stock or securities, gains from the sale or exchange of stock or securities.

(3) *Commodities transactions.* Gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. This paragraph shall not apply to gains by a producer, processor, merchant, or handler of the commodity which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others.

(4) *Estates and trusts.* Amounts includible in computing the taxable income of the corporation under part I of subchapter J (sec. 641 and following, relating to estates, trusts, and beneficiaries); and gains from the sale or other disposition of any interest in an estate or trust.

(5) *Personal service contracts.*—

(A) Amounts received under a contract under which the corporation is to furnish personal services; if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and

(B) Amounts received from the sale or other disposition of such a contract.

This paragraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.

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

(7) *Rents.* Rents, unless constituting 50 percent or more of the gross income. For purposes of this paragraph, the term "rents" means compensation, however designated, for the use of, or right to use, property; but does not include amounts constituting foreign personal holding company income under paragraph (6).

(b) *Limitation on gross income in certain transactions.* For purposes of this part—

(1) Gross income and foreign personal holding company income determined with respect to transactions described in subsection (a)(2) (relating to gains from stock and security transactions) shall include only the excess of gains over losses from such transactions, and

(2) Gross income and foreign personal holding company income determined with respect to transactions described in subsection (a)(3) (relating to gains from commodity transactions) shall include only the excess of gains over losses from such transactions.

(Sec. 553 as amended by the Act of Apr. 22, 1960 (Public Law 86-435, 74 Stat. 77); sec. 225(e), Rev. Act 1964 (78 Stat. 85))

PAR. 20. Section 1.553-1 is amended to read as follows:

§ 1.553-1 Foreign personal holding company income.

(a) *General rule.* The term "foreign personal holding company income" means the portion of the gross income determined in accordance with section 555 and §§ 1.555-1 and 1.555-2, which consists of the classes of gross income described in paragraph (b) of this section. See section 553(b) and § 1.553-2 for special limitations on gross income and foreign personal holding company income in cases of gains from stock, securities, and commodities transactions.

(b) *Definitions*—(1) *Dividends.* The term "dividends" includes dividends as defined in section 316 and amounts required to be included in gross income under section 551 and §§ 1.551-1 and 1.551-2 (relating to foreign personal holding company income taxed to United States shareholders).

(2) *Interest.* The term "interest" means any amounts, includible in gross income, received for the use of money loaned, and shall include—(i) any amount treated as interest under section 483, and (ii) any annual or perodic rental payment under a redeemable ground rent (excluding amounts in redemption thereof) that is treated as interest. See section 163(c) and paragraph (b) of § 1.163-1.

(3) *Royalties.* The term "royalties" includes—

(i) All amounts received for the privilege of using patents, copyrights, secret processes and formulas, good will, trade marks, trade brands, franchises, and other like property, and

(ii) All royalties, including production payments and overriding royalties, received from any interest in mineral, oil, or gas properties.

The first sentence of this subparagraph shall apply to overriding royalties received from the sublessee by the operating company which originally leased and developed the natural resource property in respect of which such overriding royalties are paid, and to mineral, oil, or gas production payments, only with respect to amounts received after September 30, 1958. The term "mineral" includes those minerals which are included within the meaning of the term "minerals" in the regulations under section 611. The term "royalties" does not include rents. For rules relating to rents see section 553(a)(7) and subparagraph (10) of this paragraph.

(4) *Annuities.* The term "annuities" includes annuities only to the extent includible in the computation of gross income. See section 72 and the regulations thereunder for rules relating to the inclusion of annuities in gross income.

(5) *Gains from the sale or exchange of stock or securities.* (i) Except in the case of regular dealers in stocks or securities as provided in subdivision (ii) of this subparagraph, gross income and foreign personal holding company income include the amount by which the gains exceed the losses from the sale or exchange of stock or securities. See section 553(b)(1) and § 1.553-2 for provisions relating to this limitation. For this purpose, there shall be taken into account all those gains includible in gross income (including gains from liquidating dividends and other distributions from capital) and all those losses deductible from gross income which are considered under chapter 1 of the Code to be gains or losses from the sale or exchange of stock or securities. The term "stock or securities" as used in section 553(a)(2) and this subparagraph includes shares of certificates of stock, stock rights or warrants, or interests in any corporation (including any joint stock company, insurance company, associations, or other organization classified as a corporation by the Code), certificates of interest or participation in any profit-sharing agreement, or in any oil, gas, or other mineral property, or lease, collateral trust certificates, voting trust certificates, bonds, debentures, certificates of indebtedness, notes, car trust certificates, bills of exchange, and obligations issued by or on behalf of a State, Territory, or political subdivision thereof.

(ii) In the case of "regular dealers in stock or securities" there shall not be included gains or losses derived from the sale or exchange of stock or securities made in the normal course of business. The term "regular dealer in stock or securities" means a corporation with an established place of business regularly engaged in the purchase of stock or securities and their resale to customers. However, such corporations shall not be considered as regular dealers with respect to stock or securities which are held for investment. See section 1236 and § 1.1236-1.

(6) *Gains from futures transactions in commodities.* Gross income and foreign personal holding company income include the amount by which the gains exceed the losses from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. See § 1.553-2 for provisions relating to this limitation. In gen-

eral, for the purposes of determining such excess, there are included all gains and losses on futures contracts which are speculative. However, for the purpose of determining such excess, there shall not be included gains or losses from cash transactions, or gains or losses by a producer, processor, merchant, or handler of the commodity, which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others. See section 1233 and § 1.1233–1.

(7) *Estates and trusts.* Under section 553(a)(4) foreign personal holding company income includes amounts includible in computing the taxable income of the corporation under part I, subchapter J, chapter 1 of the Code (relating to estates, trusts, and beneficiaries), and any gain derived by the corporation from the sale or other disposition of any interest in an estate or trust.

(8) *Personal service contracts.*—(i) *In general.* Under section 553(a)(5), amounts received under a contract under which the corporation is to furnish personal services, as well as amounts received from the sale or other disposition of such contract, shall be included as foreign personal holding company income if—

(*a*) Some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services or if the individual who is to perform the services is designated (by name or by description) in the contract; and

(*b*) At any time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.

For this purpose, the amount of stock outstanding and its value shall be determined in accordance with the rules set forth in paragraph (c) of § 1.552–3. It should be noted that the stock ownership requirement of section 553(a)(5) and this subparagraph relates to the stock ownership at any time during the taxable year. For rules relating to the determination of stock ownership, see section 554 and §§ 1.554–1 through 1.554–7.

(ii) *Important and essential services.* If the contract, in addition to requiring the performance of services by a 25-percent-or-more stockholder who is designated or who could be designated (as specified in section 553(a)(5) and subdivision (i) of this subparagraph), requires the performance of services by other persons which are important and essential, then only that portion of the amount received under such contract which is attributable to the personal services of the 25-percent-or-more stockholder shall constitute personal holding company income. Incidental personal services of other persons employed by the corporation to facilitate the performance of the services by the 25-percent-or-more stockholder, however, shall not constitute important or essential services. Under section 482 gross income, deductions, credits, or allowances between or among organizations, trades, or businesses may be allocated if it is determined that allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such organizations, trades, or businesses.

(iii) *Amount attributable to personal services of 25-percent-or-more stockholder.* For taxable years beginning after December 31, 1967, the portion of the amount received under a contract which is attributable to the personal services of a 25-percent-or-more stockholder shall be determined in accordance with the principles expressed in paragraph (c) of § 1.543–10.

(9) *Compensation for use of property.* (i) *In general.* Under section 553(a)(6), except as provided in subdivision (ii) of this subparagraph, the gross amounts received or accrued as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation shall be included as foreign personal holding company income if, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned directly or indirectly, by or for any individual entitled to the use of the property. Thus, if a shareholder who meets the stock ownership requirement of section 553(a)(6) and this subparagraph uses, or has the right to use, a yacht, residence or other property owned by the corporation, the compensation to the corporation for such use of, or right to use, the property constitutes foreign personal holding company income. This is true even though the shareholder may acquire the use of, or the right to use, the property by means of a sublease or under any other arrangement involving parties other than the corporation and the shareholder.

(ii) *Exclusion from personal holding company income.* If the corporation's foreign personal holding company income for the taxable year does not exceed 10 percent of its gross income for such year, then in a case in which a shareholder specified in subdivision (i) of this subparagraph has the use of, or right to use, property of the corporation, amounts received or accrued as compensation for the use of, or right to use, such property shall not constitute foreign personal holding company income. In addition, in such a case, such amounts shall not constitute "rents" (as defined in subparagraph (10) of this paragraph). For purposes of this subdivision, foreign personal holding company income shall be computed under section 553 except that such income shall be computed by excluding—(*a*) such amounts received or accrued as compensation for the use of, or right to use, property of the corporation, and (*b*) rents (as defined in section 553(a)(7) and subparagraph (10) of this paragraph).

(iii) *Determination of stock value and stock ownership.* For purposes of this subparagraph, the amount of stock outstanding at any time during the taxable year and its value shall be determined in accordance with the rules set forth in paragraph (c) of § 1.552–3. For rules relating to the determination of stock ownership, see section 554 and §§ 1.554–1 through 1.554–7.

(10) *Rents*—(i) *General rule.* Rents which are to be included as foreign personal holding company income consist of compensation (however designated) for the use of, or right to use, property of the corporation. The term "rents" does not include amounts includible in foreign personal holding company income under section 553(a)(6) and subparagraph (9) of this paragraph. The amounts considered as rents include charter fees, etc., for the use of, or the right to use, property. However, if the amount of the rents includible under section 553(a)(7) and this subparagraph constitutes 50 percent or more of the gross income of the corporation, such rents shall not be considered to be foreign personal holding company income. For a special rule in the case of certain amounts received or accrued as compensation for the use of, or right to use, property of the corporation, see subparagraph (9)(ii) of this paragraph.

(ii) *Special rule.* For taxable years beginning after December 31, 1967, the term "rents" does not include payments for the use or occupancy of rooms or other space where significant services are also rendered to the occupant, such as for the use or occupancy of rooms or other quarters in hotels, boarding houses, or apartment houses furnishing hotel services, or in tourist homes, motor courts, or motels. Generally, services are considered rendered to the occupant if they are primarily for his convenience and are other than those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only. The supplying of maid service, for example, constitutes such services; whereas the furnishing of heat and light, the cleaning of public entrances, exists, stairways, and lobbies, the collection of trash, etc., are not considered as services rendered to the occupant. Payments for the use or occupancy of entire private residences or living quarters in duplex or multiple housing units, of offices in an office building, etc., are generally "rents". Payments for the parking of automobiles ordinarily do not constitute rents. Payments for the warehousing of goods or for the use of personal property do not constitute rents if significant services are rendered in connection with such payments.

PAR. 21. There is inserted immediately after § 1.553–1 the following new section:

§ 1.553–2 Limitation on gross income and foreign personal holding company income in transactions involving stocks, securities and commodities.

(a) Under section 553(b)(1) the gains which are to be included in gross income, and in foreign personal holding company income with respect to transactions de-

scribed in section 553(a)(2) and paragraph (b)(5) of § 1.553–1, shall be the net gains from the sale or exchange of stock or securities. If there is an excess of losses over gains from such transactions, such excess (or net loss) shall not be used to reduce gross income or foreign personal holding company income for purposes of determining whether the corporation is a foreign personal holding company. Similarly under section 553(b)(2) the gains which are to be included in gross income, and in foreign personal holding company income with respect to transactions described in section 553(a)(3) and paragraph (b)(6) of § 1.553–1, shall be the net gains from commodity transactions which reflect foreign personal holding company income. Any excess of losses over gains from such transactions (resulting in a net loss) shall not be used to reduce gross income or foreign personal holding company income. The capital loss carryover under section 1212 shall not be taken into account.

(b) The application of section 553(b) may be illustrated by the following examples:

Example (1). The P Corporation, a foreign corporation which is not a regular dealer in stocks and securities, received rentals of $250,000 for its property from a 25-percent shareholder, and also had gains of $50,000 during the taxable year from the sale of stocks and securities. It also had losses on the sale of stocks and securities in the amount of $30,000. Accordingly, P Corporation had gross income during the taxable year of $270,000 ($250,000 plus $20,000 net gain from the sales of stocks and securities). It had foreign personal holding company income of $20,000. (The rentals of $250,000 would not be foreign personal holding company income under section 553(a)(6) since the foreign personal holding company income of the corporation, $20,000 (after excluding any such income described in section 553(a)(6)), is not more than 10 percent of its gross income.)

Example (2). The R Corporation, a foreign corporation which is not a regular dealer in stocks or securities, realized total gains during the taxable year of $900,000 from commodity futures transactions and $200,000 from the sales of stocks and securities. It also sustained total losses of $1,000,000 on such commodity futures transactions, resulting in a net gain for the taxable year of $100,000. None of the commodity futures transactions are hedging or other types of futures transactions excluded from the application of section 553(a)(3). No part of the loss on commodity futures transactions is to be taken into account in determining foreign personal holding company income and gross income for foreign personal holding company purposes for the taxable year. The full amount of the $200,000 in gains from the sales of stocks and securities is to be included in foreign personal holding company income and in gross income for foreign personal holding company purposes for the taxable year.

PAR. 22. Section 1.554 is amended by revising section 554 and adding a historical note. These revised and added provisions read as follows:

§ 1.554 Statutory provisions; stock ownership.

SEC. 554. *Stock ownership*—(a) *Constructive ownership.* For purposes of determining whether a corporation is a foreign personal holding company, insofar as such determination is based on stock ownership under section 552(a)(2), section 553(a)(5), or section 553(a)(6)—

(1) *Stock not owned by individual.* Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

(2) *Family and partnership ownership.* An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For purposes of this paragraph, the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(3) *Options.* If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

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

(A) For purposes of the stock ownership requirement provided in section 552(a)(2), if, but only if, the effect is to make the corporation a foreign personal holding company;

(B) For purposes of section 553(a)(5) (relating to personal service contracts) or of section 553(a)(6) (relating to the use of property by shareholders), if, but only if, the effect is to make the amounts therein referred to includible under such paragraph as foreign personal holding company income.

(5) *Constructive ownership as actual ownership.* Stock constructively owned by a person by reason of the application of paragraph (1) or (3) shall, for purposes of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for purposes of again applying such paragraph in order to make another the constructive owner of such stock.

(6) *Option rule in lieu of family and partnership rule.* If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

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

(1) For purposes of the stock ownership requirement provided in section 552(a)(2), but only if the effect of the inclusion of all such securities is to make the corporation a foreign personal holding company;

(2) For purposes of section 553(a)(5) (relating to personal service contracts), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such paragraph as foreign personal holding company income; and

(3) For purposes of section 553(a)(6) (relating to the use of property by shareholders), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such paragraph as foreign personal holding company income.

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

(Sec. 554 as amended by sec. 225(e), Rev. Act 1964 (78 Stat. 85))

PAR. 23. Section 1.554–1 is amended to read as follows:

§ 1.554–1 Constructive ownership.

(a) Rules relating to the constructive ownership of stock are provided by section 554 for the purpose of determining whether the stock ownership requirements of the following sections are satisfied:

(1) Section 552(a)(2), relating to ownership of stock by five or fewer individuals.

(2) Section 553(a)(5), relating to foreign personal holding company income derived from personal service contracts.

(3) Section 553(a)(6), relating to foreign personal holding company income derived from property used by shareholders.

(b) Section 554 provides four general rules with respect to constructive ownership. These rules are:

(1) Constructive ownership by reason of indirect ownership. See section 554(a)(1) and § 1.554–2.

(2) Constructive ownership by reason of family and partnership ownership. See section 554(a)(2), (4), (5), and (6), and §§ 1.554–3, 1.554–6, and 1.554–7.

(3) Constructive ownership by reason of ownership of options. See section 554(a)(3), (4), (5), and (6), and §§ 1.554–4, 1.554–6, and 1.554–7.

(4) Constructive ownership by reason of ownership of convertible securities. See section 554(b) and § 1.554–5.

Each of the rules referred to in subparagraphs (2), (3), and (4) of this paragraph is applicable only if it has the effect of satisfying the stock ownership requirement of the section to which applicable; that is, when applied to section 552(a)(2), its effect is to make the corporation a foreign personal holding company, or when applied to section 553(a)(5) or section 553(a)(6), its effect is to make the amounts described in such provisions includible as foreign personal holding company income.

(c) All forms and classes of stock, however denominated, which represent the interests of shareholders, members, or beneficiaries in the corporation shall be taken into consideration in applying the constructive ownership rules of section 554.

(d) For rules applicable in treating constructive ownership, determined by one application of section 554, as actual ownership for purposes of a second application of section 554, see section 554(a)(5) and § 1.554–6.

PAR. 24. There are inserted immediately after § 1.554–1 the following new sections:

§ 1.554–2 Constructive ownership by reason of indirect ownership.

The following example illustrates the application of section 554(a)(1), relating

to constructive ownership by reason of indirect ownership:

Example. A and B, two individuals, are the exclusive and equal beneficiaries of a trust or estate which owns the entire capital stock of the M Corporation, a foreign corporation. The M Corporation in turn owns the entire capital stock of the N Corporation, a foreign corporation. Under such circumstances the entire capital stock of both the M Corporation and the N Corporation shall be considered as being owned equally by A and B as the individuals owning the beneficial interest therein.

§ 1.554–3 Constructive ownership by reason of family and partnership ownership.

(a) The following example illustrates the application of section 554(a)(2), relating to constructive ownership by reason of family and partnership ownership.

Example. The M Corporation, a foreign corporation, at some time during the taxable year, had 1,800 shares of outstanding stock, 450 of which were held by various individuals having no relationship to one another and none of whom were partners, and the remaining 1,350 were held by 51 shareholders as follows:

Relationships	Shares	Shares	Shares	Shares	Shares
An individual	A 100	B 20	C 20	D 20	E 20
His father	AF 10	BF 10	CF 10	DF 10	EF 10
His wife	AW 10	BW 40	CW 40	DW 40	EW 40
His brother	AB 10	BB 10	CB 10	DB 10	EB 10
His son	AS 10	BS 40	CS 40	DS 40	ES 40
His daughter by former marriage (son's half-sister)	ASHS 10	BSHS 40	CSHS 40	DSHS 40	ESHS 40
His brother's wife	ABW 10	BBW 10	CBW 10	DBW 160	EBW 10
His wife's father	AWF 10	BWF 10	CWF 110	DWF 10	EWF 10
His wife's brother	AWB 10	BWB 10	CWB 10	DWB 10	EWB 10
His wife's brother's wife	AWBW 10	BWBW 10	CWBW 10	DWBW 10	EWBW 110
Individual partner	AP 10				

By applying the statutory rule provided in section 554(a)(2) five individuals own more than 50 percent of the outstanding stock as follows:

A (including AF, AW, AB, AS, ASHS, AP)	160
B (including BF, BW, BB, BS, BSHS)	160
CW (including C, CS, CWF, CWB)	220
DB (including D, DF, DBW)	200
EWB (including EW, EWF, EWBW)	170
Total, or more than 50 percent	910

Individual A represents the obvious case where the head of the family owns the bulk of the family stock and naturally is the head of the group. A's partner owns 10 shares of the stock. Individual B represents the case where he is still head of the group because of the ownership of stock by his immediate family. Individuals C and D represent cases where the individuals fall in groups headed in C's case by his wife and in D's case by his brother because of the preponderance of holdings on the part of relatives by marriage. Individual E represents the case where the preponderant holdings of others eliminate that individual from the group.

(b) For the restriction on the applicability of the family and partnership ownership rules of this section, see paragraph (b) of § 1.554–1. For rules relating to constructive ownership as actual ownership, see § 1.554–6.

§ 1.554–4 Options.

The shares of stock which may be acquired by reason of an option shall be considered to be constructively owned by the individual having the option to acquire such stock. For example: If C, an individual, on March 1, 1964, purchases an option, or otherwise comes into possession of an option, to acquire 100 shares of the capital stock of M Corporation, a foreign corporation, such 100 shares of stock shall be considered to be constructively owned by C as if C had actually acquired the stock on that date. If C has an option on an option (or one of a series of options) to acquire such stock, he shall also be considered to have constructive ownership of the stock which may be acquired by reason of the option (or the series of options). Under such circumstances, C shall be considered to have acquired constructive ownership of the stock on the date he acquired his option. For the restriction on the applicability of the rule of this section, see paragraph (b) of § 1.554–1.

§ 1.554–5 Convertible securities.

Under section 554(b) outstanding securities of a corporation such as bonds, debentures, or other corporate obligations, convertible into stock of the corporation (whether or not convertible during the taxable year) shall be considered as outstanding stock of the corporation. The consideration of convertible securities as outstanding stock is subject to the exception that, if some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be considered as outstanding stock although the others are not so considered, but no convertible securities shall be considered as outstanding stock unless all outstanding securities having a prior conversion date are also so considered. For example, if outstanding securities are convertible in 1964, 1965, and 1966, those convertible in 1964 can be properly considered as outstanding stock without so considering those convertible in 1965 or 1966, and those convertible in 1964 and 1965 can be properly considered as outstanding stock without so considering those convertible in 1966. However, the securities convertible in 1965 could not be properly considered as outstanding stock without so considering those convertible in 1964 and the securities convertible in 1966 could not be properly considered as outstanding stock without so considering those convertible in 1964 and 1965. For the restriction on the applicability of the rule of this section, see paragraph (b) of § 1.554–1.

§ 1.554–6 Constructive ownership as actual ownership.

(a) *General rules.* (1) Stock constructively owned by a person by reason of the application of the rule provided in section 554(a)(1), relating to stock not owned by an individual, shall be considered as actually owned by such person for the purpose of again applying such rule or of applying the family and partnership rule provided in section 554(a)(2), in order to make another person the constructive owner of such stock, and

(2) Stock constructively owned by a person by reason of the application of the option rule provided in section 554(a)(3) shall be considered as actually owned by such person for the purpose of applying either the rule provided in section 554(a)(1), relating to stock not owned by an individual, or the family and partnership rule provided in section 554(a)(2) in order to make another person the constructive owner of such stock, but

(3) Stock constructively owned by an individual by reason of the application of the family and partnership rule provided in section 554(a)(2) shall not be considered as actually owned by such individual for the purpose of again applying such rule in order to make another individual the constructive owner of such stock.

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

Example (1). A's wife, AW, owns all the stock of the M Corporation, which in turn owns all the stock of the O Corporation. The O Corporation in turn owns all the stock of the P Corporation, a foreign corporation. Under the rule provided in section 554(a)(1), relating to stock not owned by an individual, the stock in the P Corporation owned by the O Corporation is considered to be owned constructively by the M Corporation, the sole shareholder of the O Corporation. Such constructive ownership of the stock of the M Corporation is considered as actual ownership for the purpose of again applying such rule in order to make AW, the sole shareholder of the M Corporation, the constructive owner of the stock of the P Corporation. Similarly, the constructive ownership of the stock by AW is considered as actual ownership for the purpose of applying the family and partnership rule provided in section 554(a)(2) in order to make A the constructive owner of the stock of the P Corporation, if such application is necessary for any of the purposes set forth in paragraph (a) of § 1.554–1. But the stock thus constructively owned by A may not be considered as actual ownership for the purpose of again applying the family and partnership rule in order to make another member of A's family, for example, A's father, the constructive owner of the stock of the P Corporation.

Example (2). B, an individual, owns all the stock of the R Corporation which has an option to acquire all the stock of the S Corporation, a foreign corporation, owned by C, an individual, who is not related to B. Under the option rule provided in section 554(a)(3) the R Corporation may be considered as owning constructively the stock of the S Corporation owned by C. Such constructive ownership of the stock by the R Corporation is considered as actual ownership for the purpose of applying the rule provided in section 554(a)(1), relating to stock not owned by an

individual, in order to make B, the sole shareholder of the R Corporation, the constructive owner of the stock of the S Corporation. The stock thus constructively owned by B by reason of the application of the rule provided in section 554(a)(1) likewise is considered as actual ownership for the purpose, if necessary, of applying the family and partnership rule provided in section 554(a)(2), in order to make another member of B's family, for example, B's wife, BW, the constructive owner of the stock of the S Corporation. However, the family and partnership rule could not again be applied so as to make still another individual the constructive owner of the stock of the S Corporation, that is, the stock constructively owned by BW could not be considered as actually owned by her in order to make Bw's father the constructive owner of such stock by a second application of the family and partnership rule.

§ 1.554–7 Option rule in lieu of family and partnership rule.

(a) If, in determining the ownership of stock, such stock may be considered as constructively owned by an individual by an application of either the family and partnership rule (section 554(a)(2)) or the option rule (section 554(3)), such stock shall be considered as owned constructively by the individual by reason of the application of the option rule.

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

Example. Two brothers, A and B, each own 10 percent of the stock of the M Corporation, a foreign corporation, and A's wife, AW, also owns 10 percent of the stock of such corporation. AW's husband, A, has an option to acquire the stock owned by her at any time. It becomes necessary, for one of the purposes stated in section 554(a)(4), to determine the stock ownership of B in the M Corporation. If the family and partnership rule were the only rule that applied in the case, B would be considered, under that rule, as owning 20 percent of the stock of the M Corporation, namely, his own stock plus the stock owned by his brother. In that event, B could not be considered as owning the stock held by AW since (1) AW is not a member of B's family and (2) the constructive ownership of such stock by A through the application of the family and partnership rule in his case is not considered as actual ownership so as to make B the constructive owner by a second application of the same rule with respect to the ownership of the stock. However, there is more than the family and partnership rule involved in this example. As the holder of an option upon the stock, A may be considered the constructive owner of his wife's stock by the application of the option rule and without reference to the family relationship between A and AW. If A is considered as owning the stock of his wife by application of the option rule, then such constructive ownership by A is regarded as actual ownership for the purpose of applying the family and partnership rule so as to make another member of A's family, for example, B, the constructive owner of the stock. Hence, since A may be considered as owning his wife's stock by applying either the family-partnership rule or the option rule, the provisions of section 554(a)(6) apply and accordingly A must be considered the constructive owner of his wife's stock under the option rule rather than the family-partnership rule. B thus becomes the constructive owner of 30 percent of the stock of the M Corporation, namely, his own 10 percent, A's 10 percent, and AW's 10 percent constructively owned by A as the holder of an option on the stock.

PAR. 25. Section 1.856 is amended by revising paragraph (6) of section 856(a) and the historical note. These revised provisions read as follows:

§ 1.856 Statutory provision; definition of real estate investment trust.

SEC. 856. *Definition of real estate investment trust*—(a) *In general.* * * *

(6) Which would not be a personal holding company (as defined in section 542) if all of its adjusted ordinary gross income (as defined in section 543(b)(2)) constituted personal holding company income (as defined in section 543); and

* * * * *

(Sec. 856 as added by sec. 10(a), Act of Sept. 14, 1960 (Public Law 86–779, 74 Stat. 1004 through 1006) and as amended by sec. 225(k)(4), Rev. Act 1964 (78 Stat. 94))

PAR. 26. Section 1.856–1 is amended by revising paragraphs (b)(6) and (d)(5) to read as follows:

§ 1.856–1 Definition of real estate investment trust.

* * * * *

(b) *Qualifying conditions.* * * *

(6) Which would not be a personal holding company (as defined in section 542) if—(i) all of its adjusted ordinary gross income (as defined in section 543(b)(2)), or (ii) in the case of taxable years beginning before January 1, 1964, all of its gross income, constituted personal holding company income (as defined in section 543 and the regulations thereunder).

* * * * *

(d) *Rules applicable to status requirements.* * * *

(5) *Personal holding company.* An unincorporated organization, even though it may otherwise meet the requirements of Part II of subchapter M, will not be a real estate investment trust if (i) by considering all of its adjusted ordinary gross income (as defined in section 543(b)(2)), or (ii) for taxable years beginning before January 1, 1964, by considering all of its gross income, as personal holding company income under section 543, it would be a personal holding company as defined in section 542. Thus, if at any time during the last half of the trust's taxable year more than 50 percent in value of its outstanding stock is owned (directly or indirectly under the provisions of section 544) by or for not more than five individuals, the stock ownership requirement in section 542(a)(2) will be met and the trust would be a personal holding company. See § 1.857–6, relating to record requirements for purposes of determining whether the trust is a personal holding company.

* * * * *

PAR. 27. Section 1.1016 is amended by revising paragraphs (18) and (20) of section 1016(a), by adding a new paragraph (21) to section 1016(a), and by revising the historical note. These revised and added provisions read as follows:

§ 1.1016 Statutory provisions; adjustments to basis.

SEC. 1016. *Adjustments to basis*—(a) *General rule.* * * *

(18) To the extent provided in section 1376 in the case of stock of, and indebtedness owing, shareholders of an electing small business corporation (as defined in section 1371(b));

* * * * *

(20) To the extent provided in section 961 in the case of stock in controlled foreign corporations (or foreign corporations which were controlled foreign corporations) and of property by reason of which a person is considered as owning such stock;

(21) To the extent provided in section 1022, relating to increase in basis for certain foreign personal holding company stock or securities.

* * * * *

(Sec. 1016 as amended by sec. 4(c), Act of June 29, 1956 (Public Law 629, 84th Cong., 70 Stat. 407); secs 2(b) and 64(d)(2), Technical Amendments Act of 1958 (72 Stat. 1607, 1656); sec. 3(d)(1) and (2), Life Insurance Company Income Tax Act 1959 (73 Stat. 139); secs. 2(f), 8(g)(2), and 12(b)(4), Rev. Act 1962 (76 Stat. 972, 998, 1031); secs. 203(a)(3)(C), 225(j)(2), and 227(b)(5), Rev. Act 1964 (78 Stat. 34, 93, 98))

PAR. 28. Section 1.1016–5 is amended by adding at the end thereof the following new paragraph(s):

§ 1.1016–5 Miscellaneous adjustments to basis.

* * * * *

(s) *Stock or securities in foreign personal holding companies acquired from certain decedents.* In the case of a person acquiring stock or securities of a foreign personal holding company from a decedent dying after December 31, 1963, the basis of such stock or securities shall be adjusted to the extent provided in section 1022 and the regulations thereunder.

PAR. 29. Section 1.1022 is redesignated § 1.1023 and as so redesignated is amended by redesignating section 1022 as section 1023 and by adding a historical note. These amended provisions read as follows:

§ 1.1023 Statutory provisions; cross references.

SEC. 1023. *Cross references.* * * *

(Sec. 1023 as renumbered by sec. 225(j)(1), Rev. Act. 1964 (78 Stat. 92))

PAR. 30. Immediately after § 1.1021–1 the following new sections are inserted:

§ 1.1022 Statutory provisions; increase in basis with respect to certain foreign personal holding company stock or securities.

SEC. 1022. *Increase in basis with respect to certain foreign personal holding company stock or securities*—(a) *General rule.* The basis (determined under section 1014(b)(5), relating to basis of stock or securities in a foreign personal holding company) of a share of stock or a security, acquired from a decedent dying after December 31, 1963, of a corporation which was a foreign personal holding company for its most recent taxable year ending before the date of the decedent's death shall be increased by its proportionate share of any Federal estate tax attributable to the net appreciation in value of all of such

shares and securities determined as provided in this section.

(b) *Proportionate share.* For purposes of subsection (a), the proportionate share of a share of stock or of a security is that amount which bears the same ratio to the aggregate increase determined under subsection (c)(2) as the appreciation in value of such share or security bears to the aggregate appreciation in value of all such shares and securities having appreciation in value.

(c) *Special rules and definitions.* For purposes of this section—

(1) *Federal estate tax.* The term "Federal estate tax" means only the tax imposed by section 2001 or 2101, reduced by any credit allowable with respect to a tax on prior transfers by section 2013 or 2102.

(2) *Federal estate tax attributable to net appreciation in value.* The Federal estate tax attributable to the net appreciation in value of all shares of stock and securities to which subsection (a) applies is that amount which bears the same ratio to the Federal estate tax as the net appreciation in value of all of such shares and securities bears to the value of the gross estate as determined under chapter 11 (including section 2032, relating to alternate valuation).

(3) *Net appreciation.* The net appreciation in value of all shares and securities to which subsection (a) applies is the amount by which the fair market value of all such shares and securities exceeds the adjusted basis of such property in the hands of the decedent.

(4) *Fair market value.* For purposes of this section, the term "fair market value" means fair market value determined under chapter 11 (including section 2032, relating to alternate valuation).

(d) *Limitations.* This section shall not apply to any foreign personal holding company referred to in section 342(a)(2).

(Sec. 1022 as added by sec. 225(j)(1), Rev. Act 1964 (78 Stat. 92))

§ 1.1022–1 Increase in basis with respect to certain foreign personal holding company stock or securities.

(a) *General rule.* Under section 1022, the basis (determined under section 1014(b)(5)) of certain stock or securities of a corporation which was a foreign personal holding company for its most recent taxable year ending before the date of the decedent's death is subject to the special adjustment described in paragraph (b) of this section. This special adjustment applies only to stocks or securities acquired from a decedent dying after December 31, 1963. Section 1022 shall not apply to any stock or securities of a foreign corporation described in section 342(a)(2), relating to certain corporations which in 1937 were foreign personal holding companies. If section 1022 and this section apply, the basis of the stock or securities is increased as of the date of the decedent's death regardless of the date of payment of the Federal estate tax. For purposes of this section the term "acquired" shall have the same meaning as it has in section 1014(b)(5).

(b) *Amount of adjustment*—(1) *In general.* The basis of each share of stock or each security to which paragraph (a) applies shall be increased by its proportionate share (as determined under subparagraph (2) of this paragraph) of the Federal estate tax attributable to the net appreciation in value of all such stock and securities (as determined under subparagraph (3) of this paragraph).

(2) *Proportionate share.* The proportionate share of a share of stock or a security referred to in subparagraph (1) of this paragraph is the amount determined by multiplying the amount determined under subparagraph (3) of this paragraph by a fraction, the numerator of which is the appreciation in value of such share or security, and the denominator of which is the aggregate appreciation in value of all such shares and securities having appreciation in value. For purposes of the preceding sentence, the appreciation in value of a share of stock or a security shall be the excess of—

(i) The fair market value of such share or security, over

(ii) The adjusted basis of such share or security in the hands of the decedent.

See paragraph (c)(2) of this section for the meaning of "fair market value."

(3) *Federal estate tax attributable to net appreciation in value.* The Federal estate tax attributable to the net appreciation in value of all shares of stock and securities to which paragraph (a) of this section applies is the amount deterimned by multiplying the Federal estate tax (as defined in paragraph (c)(1) of this section) imposed on the transfer of the decedent's taxable estate by a fraction, the numerator of which is the net appreciation in value of all such shares and securities (as defined in paragraph (c)(3) of this section), and the denominator of which is the value of the decedent's gross estate as determined under chapter 11 of the Code (section 2001 and following including section 2032, relating to alternate valuation).

(c) *Definitions.* For purposes of this section, the following definitions shall apply:

(1) *Federal estate tax.* The term "Federal estate tax" means the tax imposed by section 2001 or 2101 reduced by any credit allowable with respect to a tax on prior transfers by section 2013 or 2102. Thus, for this purpose, the tax imposed by section 2001 or 2101 shall not be reduced by the credits for state death taxes (section 2011), foreign death taxes (section 2014), or any other credit properly allowable with respect to such tax other than the credit for tax on prior transfers.

(2) *Fair market value.* The term "fair market value" means fair market value determined under chapter 11 of the Code (section 2001 and following, including section 2032, relating to alternate valuation). Thus, for example, if the executor elects under section 2032 to value the property included in the gross estate as of a date other than the date of the decedent's death, then the fair market value of the stock or security shall be determined at such other date.

(3) *Net appreciation in value of all shares and securities.* The "net appreciation in value of all shares and securities to which paragraph (a) of this section applies" shall be the amount by which the sum of the fair market values (as defined in subparagraph (2) of this paragraph) of all such shares and securities exceeds the sum of the adjusted basis of all such shares and securities in the hands of the decedent. Thus, for example, if—(i) the decedent owned 100 shares of stock described in paragraph (a) of this section, (ii) his adjusted basis in each such share was $500, and (iii) each such share is valued for Federal estate tax purposes at $750, then the net appreciation in value of such shares is $25,000.

(d) *Example.* The application of this section may be illustrated by the following example:

Example. A dies in 1964 owning 200 shares of stock in corporation M, a calendar year taxpayer, which was a foreign personal holding company for the taxable year 1963. M is not a corporation referred to in section 342(a)(2). The 200 shares of M stock are included in A's gross estate for Federal estate tax purposes and are bequeathed to B. In A's hands, each share of stock had an adjusted basis of $30. The fair market value of each share for Federal estate tax purposes is $60. The basis of each share of M stock determined under section 1014(b)(5) is $30. The value of the gross estate is $300,000 and the Federal estate tax reduced by the credit for tax on prior transfers but computed without regard to any other credit is $8,000. The net appreciation in value of the 200 shares of M stock is $6,000 (the excess of the fair market value of such stock for estate tax purposes ($12,000), over the basis of such stock in the hands of A ($6,000)). The Federal estate tax attributable to the net appreciation in value of the 200 shares of M stock is $160, computed as follows:

$$\frac{\$6{,}000 \text{ (net appreciation in value of 200 shares of M stock}}{\$300{,}000 \text{ (value of gross estate)}} \times \$8{,}000 \text{ Federal estate tax} = \$160$$

Each share's proportionate share of the $160 Federal estate tax attributable to the net appreciation in value of the M stock is $0.80, computed as follows:

$$\frac{\$30 \text{ (excess of fair market value of share ($60), over A's basis ($30))}}{\$6{,}000 \text{ (aggregate appreciation in value of 200 shares of M stock)}} \times \$160 = \$0.80$$

Thus, the basis of each of the 200 shares of M stock is increased by $0.80 and the basis of each such share in the hands of B or in the hands of the estate is $30.80.

PAR. 31. Section 1.1244(c)–1 is amended by revising subdivisions (ii) and (iii) of paragraph (g)(1) to read as follows:

§ 1.1244(c)–1 Section 1244 stock defined.

* * * * *

(g) *Gross receipts.* (1) * * *

(ii) The term "royalties" as used in subdivision (i) of this subparagraph means all royalties, including mineral, oil, and gas royalties, and amounts received for the privilege of using patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, and other like property. The term "royalties" does not include amounts received upon the disposal of timber, coal, or domestic iron ore with a retained economic interest with respect

to which the special rules of section 631 (b) and (c) apply or amounts received from the transfer of patent rights to which section 1235 applies. For the definition of "mineral, oil, and gas royalties", see paragraph (e)(2) of § 1.543–12. For purposes of this subdivision, the gross amount of royalties shall not be reduced by any part of the cost of the rights under which they are received or by any amount allowable as a deduction in computing taxable income. Whether or not any portion of the corporation's adjusted ordinary gross income or, in the case of taxable years beginning before January 1, 1964, the corporation's gross income is personal holding company income as defined in section 543 and the regulations thereunder is irrelevant for purposes of this subdivision.

(iii) The term "rents" as used in subdivision (i) of this subparagraph means amounts received for the use of, or right to use, property (whether real or personal) of the corporation. The term "rents" does not include payments for the use or occupancy of rooms or other space where significant services are also rendered to the occupant, such as for the use or occupancy of rooms or other quarters in hotels, boarding houses, or apartment houses furnishing hotel services, or in tourist homes, motor courts, or motels. Generally, services are considered rendered to the occupant if they are primarily for his convenience and are other than those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only. The supplying of maid service, for example, constitutes such services; whereas the furnishing of heat and light, the cleaning of public entrances, exits, stairways, and lobbies, the collection of trash, etc., are not considered as services rendered to the occupant. Payments for the use or occupancy of entire private residences or living quarters in duplex or multiple housing units, of offices in an office building, etc., are generally "rents" under section 1244(c)(1)(E). Payments for the parking of automobiles ordinarily do not constitute rents. Payments for the warehousing of goods or for the use of personal property do not constitute rents if significant services are rendered in connection with such payments. Whether or not any portion of the corporation's adjusted ordinary gross income or, in the case of taxable years beginning before January 1, 1964, the corporation's gross income is personal holding company income as defined in section 543 and the regulations thereunder is irrelevant for purposes of this subdivision.

* * * * *

PAR. 32. Section 1.1361–2 is amended by revising subparagraphs (1) and (3) of paragraph (e) to read as follows:

§ 1.1361–2 Qualifications.

* * * * *

(e) *Nature of income.* (1) An election may not be made with respect to an enterprise unless, during the period described in paragraph (a)(1) of this section, (i) the enterprise is one in which capital is a material income-producing factor, or (ii) 50 percent or more of the gross income of the enterprise consists of gains, profits, or income derived from trading as a principal or from either buying or selling real property, stock, securities or commodities for the account of others. Income derived from trading as a principal (but not, in the case of taxable years beginning before January 1, 1964, such income which is personal holding company income as defined in §§ 1.543–1 and 1.543–2) shall be combined with income derived from buying or selling for the account of others in determining whether the 50-percent requirement is satisfied.

* * * * *

(3) The 50-percent determination described in subparagraph (1) of this paragraph is made by reference to gross income, other than those items of gross income which are excluded from gross income of the enterprise by section 1361(i)(1), relating to personal holding company income. The determination is made by reference to the gross income of the entire period described in paragraph (a)(1) of this section; it is not necessary that the 50-percent test be satisfied on each day during such period.

PAR. 33. Section 1.1361–8 is amended by revising paragraph (a), by adding a new subparagraph (3) to paragraph (b) and a new subparagraph (5) to paragraph (c), and by revising paragraph (d). These revised and added provisions read as follows:

§ 1.1361–8 Personal holding company income.

(a) *General rule.* Personal holding company income received or accrued by a section 1361 corporation shall not be included in its gross income. For this purpose, the term "personal holding company income" means any item of gross income (computed without regard to the adjustments provided in section 543(b)(3) or (4)) if such item (adjusted, where applicable, as provided in section 543(b)(3) or (4)) would constitute personal holding company income under section 543(a) and §§ 1.543–3 through 1.543–11. However, for taxable years beginning before January 1, 1964, the term "personal holding company income" means personal holding company income, as defined in section 543 (prior to its amendment by section 225(d) of the Revenue Act of 1964 (78 Stat. 81)) and §§ 1.543–1 and 1.543–2, other than income received or accrued from either buying or selling real property, stock, securities, or commodities for the account of others.

(b) *Income and deductions of owners.* * * *

(3) In the case of a section 1361 corporation which is, in a transaction occurring after April 14, 1966, a party to a reorganization described in section 368(a)(1)(F) as a result of a transfer of assets to an actual corporation during a taxable year (see paragraph (b)(2) of § 1.1361–5), the personal holding company income for the portion of such year, and the deductions attributable to such income, which are treated as the income and deductions of the owner or owners of the section 1361 corporation shall be determined by allocating such income and deductions between (i) the period beginning on the first day of such taxable year and ending with the close of the date of transfer, and (ii) the balance of such taxable year. However, such income and deductions shall be taken into account by an owner for his taxable year ending with, or within which ends, the taxable year of the corporation.

(c) *Distributions.* * * *

(5) For purposes of this paragraph, in the case of a section 1361 corporation which is, in a transaction occurring after April 14, 1966, a party to a reorganization described in section 368(a)(1)(F) as a result of a transfer of assets to an actual corporation during a taxable year (see paragraph (b)(2) of § 1.1361–5), such full taxable year shall be considered the taxable year of the section 1361 corporation in determining the taxable year of the corporation during which a distribution is made.

(d) *Special rule.* For purposes of determining whether a particular item of income is personal holding company income under section 543 for any taxable year, income otherwise excluded from the gross income of the enterprise by reason of section 1361(i)(1) shall enter into the determination of gross income, ordinary gross income, adjusted ordinary gross income, and personal holding company income. Thus, if a section 1361 corporation has gross income for each of the calendar years 1963 and 1964 of $100,000, consisting of $35,000 from a mercantile business, $25,000 from dividends, and $40,000 from rents, the gross income from rents is personal holding company income in 1963 for purposes of section 1361(i) because it does not constitute 50 percent or more of the gross income received or accrued by the corporation in such year. In addition, assuming that the corporation makes no distributions which are treated as dividends for purposes of section 543(a)(2)(B) for 1964, then (even if the adjusted income from rents constituted 50 percent or more of the corporation's adjusted ordinary gross income for 1964) the gross income from rents in 1964 is personal holding company income for purposes of section 1361(i) because the amount of the dividends (zero) does not equal or exceed $15,000, the amount by which the corporation's other personal holding company income ($25,000 from dividends) exceeds 10 percent of the ordinary gross income ($100,000) for such year.

[F.R. Doc. 68–10629; Filed, Sept. 4, 1968; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 931]

FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Expenses and Fixing of Rate of Assessment for the 1968–69 Fiscal Period and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Northwest Fresh Bartlett Pear Marketing Committee, established pursuant to the marketing agreement and Order No. 931 (7 CFR Part 931), regulating the handling of fresh Bartlett pears grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Northwest Fresh Bartlett Pear Marketing Committee, during the period July 1, 1968, through June 30, 1969, will amount to $13,431;

(2) That the rate of assessment for such period, payable by each handler in accordance with § 931.41 be fixed at one cent ($0.01) per standard western pear box or an equivalent quantity, of pears.

(3) That unexpended funds in excess of expenses incurred during the fiscal period ended June 30, 1968, in the amount of $116, be carried over as a reserve in accordance with § 931.42 of the said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: August 30, 1968.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 68–10696; Filed, Sept. 4, 1968; 8:49 a.m.]

[7 CFR Part 1040]

[Docket No. AO–225–A21]

MILK IN SOUTHERN MICHIGAN MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Southern Michigan marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the fifth day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Lansing, Michigan, on August 6, 1968, pursuant to notice thereof which was issued July 24, 1968 (33 F.R. 10747).

The material issue on the record of the hearing relates to proposed revision of the basis of qualifying supply plants for pooling, including the method of computing the "call percentage."

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issue is based on evidence presented at the hearing and the record thereof:

The minimum delivery requirements for pooling supply plants should be revised.

Under normal circumstances, a supply plant that ships as fluid milk products to pool distributing plants 40 percent of its producer milk receipts during each of the months of October through March and 30 percent of such receipts during each of the other months of the year should be eligible for pooling. Supply plants which qualify as pool plants during October through March should be permitted to retain pool status during the next April through September provided any applicable "call percentage" is met.

Nine local cooperatives, representing 90 percent of the producers regularly supplying the Southern Michigan market, jointly proposed to revise supply plant shipping requirements as a basis for pooling. Under the proposals the minimum requirement of delivery to pool distributing plants would be 50 percent of producer receipts at the supply plant each month October through March and 40 percent of receipts each month April through September. Any plant qualified for pooling in each month October through March could remain qualified for the following April through September.

Proponents' main purpose is to insure that all suppliers of milk to pool distributing plants for fluid use shall furnish such milk on a reasonably proportionate basis if they are to share uniformly in the pool proceeds.

The basic minimum monthly supply plant shipping requirement for pool plant status should be 40 percent of receipts each month October through March and 30 percent each month April through September. This compares with a minimum 25 percent of monthly receipts for each month under the present order. Whenever the "call percentage" (later discussed) is higher than the minimum percentage required, it should become the minimum to be met. Any plant qualified for pooling each month October through March should be permitted automatic pool status in the following April–September period. These provisions would have the effect of increasing somewhat the basic shipping requirements and also would lengthen the fall-winter period of shipment as a basis for automatic pooling in the following spring and summer months.

The Southern Michigan market has experienced a steady, 3-year downtrend in milk production. Deliveries in 1966 were 6.66 percent below the previous year. Similarly, deliveries in 1967 were 5.52 percent below 1966 and deliveries during the first 5 months of 1968 were 5.64 percent below the comparable period of 1967. This trend is causing a greater use of supply plant milk to accommodate bottling needs, particularly from October through March.

The transfers to pool distributing plants made by supply plants during the past 12 months were indicated in the record. The percentage of total plant receipts transferred by Southern Michigan supply plants to pool distributing plants during the 12 months ended with June this year ranged from 18.44 percent in June to 40.21 percent last November. The average of monthly shipments October through March constituted approximately 36 percent of supply plant receipts. These data include the actual shipments made from supply plants but do not represent the total of supplies furnished bottling plants, particularly the amounts furnished by cooperatives which operate supply plants. Most of the Michigan cooperatives supply, in addition, large proportions of their member producer milk on a direct-ship basis and only supplement such deliveries with supply plant milk. It is on the combined shipments of not less than 50 percent of member producer milk (direct and through plants) that their supply plants currently are qualified for pooling.

Other factors also point to future increases in shipments from individual supply plants. These are the decrease in the number of supply plants, with larger shipments being made from those remaining, and the virtual disappearance of Grade B milk available for conversion to direct-ship Grade A in Michigan. Based on these circumstances and the lower production level of recent years (affecting both direct-ship and supply

plant milk) in relation to Class I sales, producers provided an unchallenged estimate that more than 50 percent of "available" supply plant receipts will be needed in each month of the October–March period to satisfy the future bottling needs of distributing plants.

Although some increase in the minimum shipment requirement for supply plant pooling is appropriate, a minimum as high as proposed by producers is not needed to draw adequate quantities from such plants.

Producers' request contemplated that receipts available for shipment from any supply plant would be a net quantity after allowing for any use of milk for cottage cheese manufacture at the plant. Their support for a set-aside for milk used in cottage cheese was based on the fact that milk for such use returns to producers a price higher than the price for reserve milk. Such use, in the aggregate, is about 10 percent of Class I disposition.

No set-aside for this use at supply plants should be considered, however, in computing the amounts of milk available for shipment to bottling plants. While Class II use provides a slightly higher return to producers than Class III, or reserve milk, graded milk is not required for cottage cheese in this market. Regulated handlers not choosing to use graded milk may use ingredients, such as nonfat dry milk, shipped in from distant sources for this purpose.

To set aside graded milk at supply plants which could be used in higher-valued Class I use for its small extra value over the manufacturing price for use in cottage cheese also would be inconsistent with efficient utilization of market supplies which is an important factor underlying appropriate pooling requirements. It is reasonable to allow, however, as the present order does, for the plant operator's own packaged Class I sales, since he should not be required to give priority to the Class I needs of others over his own.

Also, the presence of a "call percentage" provision to require additional quantities shipped when direct-ship supplies are particularly short of Class I needs likewise lessens the necessity for a minimum performance standard as high as that proposed by producers. It is appropriate to have a more flexible arrangement in this market, while at the same time setting a minimum standard sufficient to discourage pool-riding by operators who may have little interest in giving full supply service to distributing plants and thus minimize the burden of milk handling upon regular suppliers.

Supply plant shipment requirements of not less than 40 percent of producer receipts in the October–March period and not less than 30 percent in the April–September period are reflective of the market's needs for additional supply plant milk. Such minimums will help insure that all suppliers provide for such needs on a more nearly proportionate basis in order to share in the pool proceeds. Suppliers who are furnishing well over 50 percent of their total available milk now should not be placed in the position of furnishing even greater quantities while other supply plant operators continue to qualify plants on as little as 25 percent of plant receipts over a period of a few months of the year. Adoption of the new minimum standards will tend to spread the responsibility of meeting the needs of the Class I market among all who participate in the pool.

In consideration of the prevailing market utilization patterns, the minimum requirement of 40 percent shipment in October through March adopted is reasonably related to the basic 50 percent minimum for short production months in Ohio markets to the south and the basic 40 percent requirement in the Chicago Regional order for the short production months in that market (the latter percentage may be adjusted up or down in a range of 10 points depending on short-run supply conditions).

Producers further requested that the months of highest minimum delivery percentage be extended to October–March in lieu of October–January. This is reasonable in view of the relative consistency of monthly Class I utilization in relation to receipts. The spread between the lowest and highest month's Class I utilization is about nine percent, a narrower range than is the case in markets to the south and west. Consequently, the need for substantial supply plant shipments extends over a longer period of the year than in many other markets. It is appropriate, therefore, to apply the 40 percent minimum requirement October through March, with automatic qualification for the remainder of the year for plants pooling October through March. The minimum percentage for new plants entering the market in months other than October through March would be 10 percent less, or 30 percent of receipts.

Two cooperatives, one a bargaining association and the other a plant-operating association, proposed a system, or unit, basis for pooling qualification of the one association's plant. This proposal should be adopted.

Both such cooperatives are long-time suppliers of the Southern Michigan market. One now has and the other in the past has had its own Class I outlets for member milk. The higher minimum delivery percentage adopted herein will make qualification of the plant on such basis greatly more difficult. To continue to maintain pool qualification for the plant it would be necessary for the cooperatives to transfer milk back and forth between them. Such transfers necessarily would occur within the same week as fluid needs fluctuate on a daily basis. This practice would involve, however, extra hauling cost to the proponent cooperatives and would tend to reduce net producer returns.

The order should not place undue burden upon the cooperatives to qualify the milk at this plant which is so important to the operations of both cooperatives and to handlers in the western side of the market. The plant involved is regarded as an essential outlet for reserve milk supplies of the bargaining cooperative and of such handlers. It is also a ready source of supply for any part of the Class I market when additional milk above direct-ship supplies is needed.

A provision which would permit qualification of the plant on the basis of the aggregate operations of the two cooperatives is reasonable to promote the orderly marketing of producer milk having long-term association with the Southern Michigan market.

In view of the shortening supply situation in the market during the past 3 years, the plant's supply of milk should be encouraged to remain in the market. If not qualified for pooling, the cooperative would be forced to seek a distant market in Indiana or Ohio, in order to keep returns to members competitive with those of pooled producers. This would not provide the lowest cost outlet for the member producers and would not promote orderly marketing.

The bargaining cooperative disposes of 70–80 percent of its member milk for Class I use. When combined with member milk of the other cooperative, such Class I use represents in excess of 50 percent of aggregate member deliveries. This is sufficient to indicate their primary interest in this market for member milk and warrants a provision for pooling on the basis of joint performance.

As a measure of performance it is provided that together they must maintain in pool distributing plants at least 50 percent of their combined member milk at all times. Also, the operating cooperative must certify as to the continuing availability of its entire plant supply for the Class I market.

Plants could continue, as presently provided in the order, to meet the minimum performance percentage on a unit delivery, or system, basis under certain conditions in the interest of efficient handling of milk. For the same reason the order should continue to allow any operating cooperative to qualify its supply plant on the basis that the cooperative regularly furnishes pool distributing plants with at least 50 percent of its member producer milk either by direct delivery or from its plant.

Because of the expanded nature of the milkshed, the high degree of mobility of milk and the market choices available to supply plants, a corollary provision also should be included to make clear that a plant automatically qualified as a pool plant may be withdrawn from the market if the operator so chooses. Such plant could regain pool plant status at any time by meeting the minimum monthly shipping requirements. However, to regain status under unit pooling, or as the plant of a cooperative qualifying on the combined shipments of direct-ship and plant supplies under § 1040.16(b) (2) or (3), the minimum shipment requirements should be met for at least 6 consecutive months. This will help insure regularity of association of the plant with the market as a basis for sharing in the pool proceeds.

The "call percentage" applicable to supply plant shipments should be modified.

The nine proponent cooperatives proposed revision of the method of computing the "call percentage". Their purpose was to extend its application to each month of the year rather than to the months of August through March. Also, they would base computation of the percentage on the need for supply plant supplies at all pool distributing plants rather than on the needs at those pool distributing plants which mainly rely on supply plant milk rather than direct-ship milk.

In this market a few pool distributing plants depend heavily upon plant supply milk, but most such plants receive direct-ship producer milk to fulfill the major part of their supply needs. With the decrease in total production in recent years, however, these plants have become increasingly dependent on supply plant milk on a sporadic basis. This need has been enhanced further by the 5-day bottling week, with little bottling on Wednesdays and Sundays. In view of the relatively even utilization pattern throughout the year, the need for extra milk on a temporary basis may occur in any month and for any distributing plant.

The call percentage consequently should be updated to reflect the overall needs of the fluid market above minimum shipment requirements. The obligation to supply the fluid needs of the market should extend beyond the minimum requirements for pooling when the need arises.

The desired amount may be measured appropriately by computing the quantity over and above the sum of direct-ship deliveries and minimum required shipments from supply plants relative to Class I requirements of bottling plants, including a 15 percent reserve. In computing available milk at supply plants for this purpose, allowance would be made for the Class I packaged sales made directly from supply plants, but not for milk used to produce cottage cheese (Class II) as such plants for the reason, earlier stated, that nonfat dry milk may be substituted for producer milk in the manufacture of cottage cheese by regulated handlers.

The plus balance remaining would represent the added milk over minimum required shipments to be shipped by supply plants for pool plant status during the month.

Producers proposed to remove from the order the provision which permits a cooperative's supply plant to qualify for pooling by supplying at least 50 percent of the milk received at all pool distributing plants. Similarly, they would remove the provision under which a cooperative may qualify a plant by furnishing at least two-thirds of its member producer milk by direct delivery to pool plants. Cooperatives are in position to qualify plants for pooling under the alternative methods provided. The provisions in question are not needed and therefore are deleted.

A handler proposed adoption of a definition of "reload point", i.e., a transfer point for reloading milk from farm tank trucks to an over-the-road tanker. The purpose of proponent was to insure that a reload point is not regarded on the same basis as a supply plant under the location pricing or supply plant pooling provisions.

After review of the present order, it is concluded that no reference to reload point is necessary. The definitions of "supply plant" and "pool plant" are clear that they do not embrace reload points for location pricing or meeting plant pooling requirements. There was no indication in the record that an interpretative problem had arisen in this regard. Accordingly, a definition of reload point is not adopted.

Another handler proposed that any proprietary handler be afforded the opportunity to qualify a supply plant as a pool plant on the basis of direct-deliveries to pool distributing plants as well as shipments from the plant, in the same manner as cooperatives. This proposal should not be adopted.

A cooperative may qualify member milk attached to its supply plant on the basis of a combination of direct deliveries and plant shipments because of its particular function of making its supplies available to handlers generally, furnishing their needs in the amounts and at the times desired. Cooperatives are the marketing agents for members and are in position to control delivery of milk to handlers for its efficient allocation and utilization, or disposition of the milk to other outlets when handlers do not need the milk. This type of service is made widely available to proprietary handlers.

Contrarily, the proprietary handler does not have producers as "members" and does not have control over the disposition of their milk. Normally, his interest is not similar to that of the cooperative in providing supply service to the market generally. It should be noted, however, that to qualify a plant on the basis of combination shipments, the cooperatives must make a somewhat greater total commitment to supply the market than is required of proprietary handlers. Cooperatives must furnish at least 50 percent of their total member milk as compared to the lower 40–30 percent of producer milk commitment required of the proprietary plant.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

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 aforesaid 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) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The following order amending the order as amended regulating the handling of milk in the Southern Michigan marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

1. In § 1040.16 paragraph (b) is revised to read as follows:

§ 1040.16 Pool plant.

* * * * *

(b) A supply plant which during the month meets one of the performance requirements specified in subparagraphs (1), (2), or (3) of this paragraph and any applicable call percentage: *Provided*, That all supply plants which are operated by one handler, or all the supply plants for which a handler is responsible for meeting the performance requirements of this paragraph (b) under a marketing agreement certified to the market administrator by both parties, may be considered as a unit for the purpose of meeting the performance requirements of subparagraphs (1), (2), or (3) of this paragraph upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration shall apply. Such notice and notice of any change in designation, shall be furnished on or before the fifth working day following the month to which the notice applies. In any months of April through September a unit shall not contain any

plant which was not qualified under this paragraph either individually or as a member of a unit during the previous October through March.

(1) A plant from which the milk moved during the month to a distributing plant(s) qualified under paragraph (a) of this section is not less than 40 percent or the call percentage, whichever is higher, in any month October through March, and 30 percent or the call percentage, whichever is higher, in any month April through September, of the monthly receipts of Grade A milk from dairy farmers, including receipts for which a cooperative association is the handler pursuant to § 1040.7(c), less any such receipts by diversion from another plant and any milk utilized by the handler operating the plant qualifying pursuant to this paragraph for his own Class I disposition in consumer packages. If such plant has met the required percentage during each of the months of October through March, it shall remain qualified under this subparagraph for each of the following months of April through September during which it meets any announced call percentage.

(2) A plant operated by a cooperative association which supplies distributing plants qualified under paragraph (a) of this section, either by shipment from such supply plant or by direct delivery from the farm, (i) not less than one-half of its total member producer milk in the current month, or (ii) if such plant were qualified under this subparagraph in each of the preceding 13 months, not less than one-half of its total member producers' milk for the second through the 13th preceding months, except that in either case an announced call percentage exceeding 50 percent in the current month must be met.

(3) A plant operated by a cooperative association, which plant is not otherwise qualified under this paragraph, on meeting the following conditions:

(i) The cooperative has a marketing agreement with another cooperative whose members deliver at least 50 percent of their milk during the month directly to distributing plant(s) qualified under paragraph (a) of this section;

(ii) The aggregate monthly quantity supplied by both such cooperatives to such distributing plants either by shipment from the cooperative's plant or by direct delivery from farms is not less than 50 percent or the call percentage, whichever is higher, of the combined total of their member producer milk deliveries during the month; and

(iii) The entire milk supply of the cooperative's plant is certified to the market administrator to be available at all times for shipment to distributing plants qualified under paragraph (a) of this section.

(4) On written request by the handler or cooperative for the nonpool status of any plant automatically qualified as a pool plant under this paragraph April through September, made to the market administrator prior to the beginning of any month during such period, the plant shall be a nonpool plant for such month and thereafter until it requalifies under subparagraph (1) of this paragraph on the basis of actual shipments therefrom. To requalify as a pool plant under subparagraph (2) or (3) of this paragraph or on a unit basis, such plant must first have met the shipping requirements of subparagraph (1) of this paragraph for 6 consecutive months.

2. Section 1040.17 is revised to read as follows:

§ 1040.17 Call percentage.

"Call percentage" means the monthly percentage computed by the market administrator as follows:

(a) Estimate the aggregate pounds of Class I milk utilization for the month, including an additional 15 percent thereof as an operating margin, at pool distributing plants;

(b) Subtract therefrom the estimated pounds of milk which will be received at pool distributing plants during the month directly from producers' farms and from cooperative associations pursuant to § 1040.7(c);

(c) Subtract from such net amount the estimated aggregate of minimum shipments to pool distributing plants required of plants qualifying for pool plant status under § 1040.16(b) for the month. For plants automatically qualified for the month (April through September) under § 1040.16(b)(1), a zero estimate shall be used for the purpose of this paragraph. Such estimated total shall include data for all plants which qualified under such paragraph for the preceding month, but shall exclude any such plant which the operator has removed from pool plant status for the month; and

(d) Divide any plus balance of estimated Class I milk remaining by the estimated receipts of producer milk at the supply plants included under paragraph (c) of this section, and for each month October through March add to the resulting percentage the figure 40. The figure (not less than zero) resulting from this paragraph for the month shall be known as the "call percentage" which shall be applicable to each supply plant, except that:

(1) For any month April through September, a call percentage of 30 or less shall apply only to plants having automatic qualification for such month; and

(2) A call percentage of 50 or less shall not apply to plants qualifying under § 1040.16(b) (2) or (3).

(e) The announcement of the call percentage shall be made on or before the 1st day of the month to which it applies and shall set forth the data on which the estimates of Class I utilization and producer milk supplies are based, together with appropriate explanatory comments on the computations involved; and

(f) The market administrator may reduce the call percentage at any time during the month if he determines that more milk than is needed for Class I use is being delivered to pool distributing plants. Any such reduction shall not result in a percentage requirement less than 40 in any month October through March.

Signed at Washington, D.C., on August 29, 1968.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-10697; Filed, Sept. 4, 1968; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 9105]

AIRWORTHINESS DIRECTIVES

Vickers Viscount Models 744, 745D, and 810 Series Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to Vickers Viscount Models 744, 745D, and 810 Series airplanes. There have been numerous reports of cracks in the body halves of the nose wheel steering twin relief valve on these airplanes. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed AD would require repetitive inspections and replacement of the body halves.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before October 5, 1968, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

VICKERS. Applies to Viscount Models 744, 745D and 810 Series Airplane.

Compliance required as indicated unless already accomplished.

To prevent fatigue failure of the nose wheel steering twin relief valve, P/N 70026 Sh. 35 at the valve body halves P/N 70026, Part 251 and Part 253, accomplished the following:

(a) Inspect the valve body halves as specified in paragraph (b) at the following times:

(1) Valves having less than 14,650 hours time in service on the effective date of the AD must be inspected prior to the accumulation of 15,000 hours time in service and

thereafter at intervals not to exceed 2,500 hours time in service.

(2) Valves that have accumulated 14,650 or more but less than 22,800 hours time in service on the effective date of this AD must be inspected within the next 350 hours time in service and thereafter at intervals not to exceed 1,000 hours time in service.

(3) Valves that have accumulated 22,800 or more hours time in service on the effective date of this AD must be inspected within the next 350 hours time in service.

(b) Inspect the valve body halves for cracks at the fluid transfer holes by a dye penetrant method in accordance with British Aircraft Corporation Viscount Preliminary Technical Leaflet No. 265 Issue 2 (700 Series) or No. 128 Issue 2 (810 Series) or later ARB approved issue or an FAA approved equivalent.

(c) Replace the valve body halves in accordance with paragraph (d) at the following times:

(1) If cracks are found during the inspections required by paragraph (a), replace the valve body halves prior to further flight.

(2) If no cracks are found during the inspections required by paragraph (a), replace the valve body halves as follows:

(i) Valves having less than 14,650 hours time in service on the effective date of this AD, must be replaced before the accumulation of 20,000 hours time in service.

(ii) Valves having 14,650 or more but less than 22,800 hours time in service on the effective date of this AD must be replaced before the accumulation of 23,500.

(iii) Valves having 22,800 or more hours time in service on the effective date of this AD must be replaced within the next 750 hours time in service after the effective date of this AD.

(d) Replace valve body halves with parts having the same part numbers which have been inspected and found to have no cracks or with new valve body halves P/N 70026–637–639.

(e) Valves of the same part numbers used as replacements must continue to be inspected in accordance with paragraph (a) and replaced in accordance with paragraph (c). Compliance with the inspection and replacement requirements of this AD may be discontinued when new valves P/N 70026–637–639 are incorporated.

Issued in Washington, D.C., on August 28, 1968.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 68–10675; Filed, Sept. 4, 1968; 8:47 a.m.]

[14 CFR Part 73]

[Airspace Docket No. 68–WE–31]

RESTRICTED AREA

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a restricted area near Astoria, Oreg.

Interested persons may participate in the proposed rule making by submitting such written date, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

A controlled firing area has for a number of years been established on an annual basis offshore from Warrenton, Oreg., for the use of the Oregon Army National Guard. Activities include 40-mm. antiaircraft weapon and .50 cal. machine gun firing at fixed targets and drones. Periodic firing has been conducted only during daylight hours from approximately May 1 to August 31 each year.

The FAA has completed a study of the activities conducted in the Warrenton Controlled Firing Area and believes that more effective and safer utilization of the airspace can be achieved through the designation of a part-time joint-use restricted area and establishment of an adjacent warning area.

On August 2, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 11029) as Airspace Docket No. 68–WE–27 which proposes alteration of the airways designated on the Astoria VOR to provide bypass routes when the restricted area would be activated. In addition, the second VOR approach procedure will be issued by the FAA to be utilized when the Restricted Area would be in use by the Oregon Army National Guard.

In view of the above, the FAA proposes to designate a joint-use restricted area near Warrenton, Oreg., to encompass hazardous artillery firing conducted by the Oregon Army National Guard during their annual training period as follows:

R–5705 WARRENTON, OREG.

Boundaries: Beginning at lat. 46°10'00" N., long. 124°03'00" W.; to lat. 46°09'00" N., long. 123°57'00" W.; thence along a line one-half mile east of shoreline to lat. 46°05'00" N., long. 123°55'30" W.; to lat. 46°01'00" N., long. 123°57'30" W.; to lat. 46°01'00" N., long. 123°59'50" W.; thence 3 nautical miles from and parallel to shoreline to point of beginning.

Designated altitudes: Surface to 14,500 feet MSL.

Time of designation: Various periods from June 1 to September 10 each year, with specific dates and times to be published by NOTAM.

Controlling agency: FAA, Seattle ARTC Center.

Using agency: Adjutant General Oregon National Guard.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on August 26, 1968.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 68–10684; Filed, Sept. 4, 1968; 8:48 a.m.]

[14 CFR Part 93]

[Docket No. 9113; Notice 68–20]

HIGH DENSITY TRAFFIC AIRPORTS

Notice of Proposed Rule Making and Notice of Public Hearing

The Federal Aviation Administration is considering amendments to Part 93 of the Federal Aviation Regulations that would prescribe special air traffic rules and other requirements for operations to or from airports designated in that part as high density traffic airports.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket GC–24, 800 Independence Avenue SW., Washington, D.C. 20590.

In addition to this notice, the agency will hold a public hearing at 9:30 a.m., Wednesday, September 25, 1968, at Federal Office Building 10A, 800 Independence Avenue SW., Washington, D.C. 20590, to receive the views of all interested persons on the high density traffic airports regulatory proposal. Interested persons are invited to attend the hearing and present oral or written statements on the matters set forth herein which will be made a part of the record of the hearing. Any person who wishes to make an oral statement at the hearing should notify the agency by September 18, 1968, stating the amount of time requested for his statement. All information presented at the hearing and all communications received by October 9, 1968, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of the comments and information received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The hearing will be an informal hearing conducted by a designated representative of the agency under § 11.33 of the Federal Aviation Regulations. It will not be a judicial or evidentiary type hearing so there will be no cross-examination of persons presenting statements. After all initial statements have been completed, those persons who wish to make rebuttal statements will be given an opportunity to do so in the same order in which they made their initial statements.

A transcript of the hearing will be made; anyone may buy a copy of the transcript from the reporter.

Delays of varying magnitude are encountered at many terminal areas, particularly at New York, Chicago, Washington, Boston, Miami, Los Angeles, San Francisco, and Atlanta. The situations at New York, Chicago, and Washington are the most critical. Congestion at these terminals frequently requires the imposition of traffic flow restrictions creating backup delays throughout the air transportation system.

A reduction in air traffic delays can be accomplished only by increasing the capacity of the system or decreasing the demands placed upon it. Certain changes in air traffic and airport procedures and practices are already planned by the FAA to increase aircraft handling capacity. These changes include the postponement of the commissioning of new towers at noncritical locations; the elimination of precision approach radar service at some locations; the reduction in hours of tower operation from 24 to 16 at lower level activity locations; the reduction in the hours of operation of a number of flight service stations; the curtailment of VFR flight plan services; and the reallocation of positions, freed by these changes, to those facilities now experiencing congestion problems. In addition, the FAA is initiating accelerated and more effective recruiting and training programs for air traffic controllers.

The agency is also reviewing current "additional" services provided by its air traffic control system, with a view toward possible curtailment or abolition of some of those services which are not directly related to the separation of IFR traffic. These actions would be taken to reduce the work load on controllers and permit greater concentration on the movement and separation of traffic. The so-called "flow control system", which is an integral part of the FAA air traffic control system, is being refined and improved as part of an internal effort by the agency to more effectively and equitably regulate the flow of air traffic. This revamping of the flow control system will be completed and placed in operation within the next month.

Despite these improvements, FAA believes that regulatory action must be taken to alleviate congestion. Initially, the proposed regulatory actions would be directed to the Chicago, New York, and Washington areas. However, as congestion and delay increases in other areas, regulatory control of demand would be extended as appropriate.

In arriving at the proposals contained in this notice, the FAA has consulted with industry organizations representing all major segments of aviation. A series of meetings has been held with representatives of these organizations and their comments and suggestions have been very helpful to the FAA in the development of this notice. The airport operators concerned have also been consulted in determining the allocation of operations at the airports.

The substance of the regulatory action would consist of the following amendments to Part 93 of the Federal Aviation Regulations:

1. Initially, John F. Kennedy, LaGuardia, Newark, O'Hare, and Washington National Airports would be designated as high density traffic airports. At each of these airports a fixed number of IFR operations (takeoffs and landings) per hour would be allocated for reservations.

In arriving at the number of IFR operations reservations proposed for each designated high density traffic airport, the FAA considered a number of variable factors including airport ground facilities, weather conditions, noise abatement procedures, aircraft mix, uniformity of flow, runway combinations, and the availability of alternative airports. Kennedy, La Guardia, Newark, O'Hare, and Washington National Airports would be allocated 80, 60, 60, 135, and 60 operations per hour, respectively. The specified figures are in excess of the capacities of the airports to handle IFR traffic in IFR conditions. They are selected on the basis that operations in these amounts, and additional operations, may be handled when weather conditions are better than IFR. It is believed preferable to fix the number of allowable reservations in the higher amounts, with the necessity of accepting traffic delays in IFR conditions, rather than employing lower figures, more representative of IFR capacity, which might result in unused capacity during good weather conditions. These allocations would be specified in Part 93 of the FARs as shown in § 93.123 of this proposal.

2. The proposed regulation would also allocate the reservations among the various classes of airport users. These allocations would be fixed only after additional consultation with the airport operators involved and the several classes of users and consideration of the comments and views provided by all aviation interests in response to this notice and in the hearing. The tentative allocations, on which comment is invited at this time, are specified in § 93.123.

Allocations of IFR reservations would be made to three classes of users: (1) scheduled air carriers except air taxis; (2) scheduled air taxis; and (3) all other aircraft operators. In addition, scheduled air taxis would be granted any reservations not taken by the scheduled air carriers. In the event the total reservations allocated for the scheduled air carrier and scheduled air taxi operations were not taken by those operations for any hour, the remaining reservations would be available for other operations, principally, general aviation. Accordingly, IFR general aviation would be limited to the figures specified for "other" operations only when the other classes of users take all their allocated reservations.

Prior departure or arrival reservations would be required for each flight operated IFR to or from a designated high density traffic airport. Reservations will be granted by ATC within the limits of the IFR operations allocated in Part 93 for the particular airport. Air carriers would be able to obtain these reservations by publication of the flight schedules: *Provided*, That the flight schedules are within the air carrier allocations. Other operators would contact the nearest Fight Service Station by radio, phone, in person, or any other available means. Each one would furnish his estimated time of arrival at or departure from the high density airport involved. In the case of a flight from one high density traffic airport to another, both arrival and departure times would be furnished. His request would be processed through existing agency communications and the FSS would advise him either of the approval or the nearest available reservation. For flights between two high density airports, approved reservations for the takeoff and arrival would have to be obtained prior to takeoff. After receipt of the approval, the operator would file an IFR flight plan in the usual manner. If the operator subsequently determines not to use his approved reservation, he should cancel it at the nearest ATC facility. An approved reservation would not constitute a warranty against traffic delays.

Under the proposed regulation, the use and cancellation of approved reservations would be on the honor system. In the event operations under the regulation, if adopted, demonstrate the necessity for more stringent provisions or sanctions, these would be added to the regulation.

3. In order to facilitate the flow of IFR operations allocated for the high density traffic airports, aircraft operating under an IFR allocated reservation would be required to be capable of maintaining an airspeed of not less than 150 knots while under control jurisdiction of the approach control ATC facility. In addition, all aircraft operating IFR to or from a high density traffic airport would have to be equipped with an operable coded radar beacon transponder having at least a Mode A/3 64 code capability replying to Mode A/3 interrogation with the code specified by ATC; and have a second pilot.

4. Operations in excess of the number allocated for reservation at a particular high density traffic airport would also be permitted under additional reservations granted by ATC. These would be applied for under the procedures applicable to the allocated reservations and would be granted when, due to weather or other factors, the operation could be accommodated without adverse effect on the allocated operations for the particular airport. The excess operations may be IFR, or VFR, i.e., ceiling of at least 1,000 feet and visibility of 3 miles reported at the high density traffic airport. Aircraft authorized to operate VFR on this basis need not meet the performance capabilities, flight crew and equipment requirements prescribed for the allocated operations.

If the appropriate airport and air traffic facilities are available, STOL, VTOL, helicopter, and other operations would be accommodated where possible to do so without interference with the aircraft operations under allocated reservations. These excepted operations would be ac-

commodated on a procedural basis by agreement between aircraft and airport operators and the appropriate ATC facility. The agreement may relieve the operator from the requirements of Subpart K.

The proposed allocations of reservations reflect the obligation of the Department of Transportation to provide for efficient utilization of the airspace and recognize the vital role of the certificated common carriers' scheduled operations in air transportation. For example, these air carrier operations would be given all of the allocated reservations during the peak traffic hours of 5 p.m. to 8 p.m. at Kennedy International Airport. The proposal recognizes a greater priority for scheduled air taxi operators as they are also common carriers of the public. The proposal takes into account the relative inflexibility of scheduled operations compared to unscheduled operations. The proposal accommodates all classes of users and no one would be totally denied access to any of the named airports. The proposed restrictions will affect all users if adopted.

The proposed distribution would require a reduction in scheduled certificated air carrier flights during certain hours. It is anticipated that the affected carriers will reach voluntary agreements as to how that reduction will be accomplished, subject to any Civil Aeronautics Board requirements.

In consideration of the foregoing, it is proposed to amend Part 93 of the Federal Aviation Regulations as hereinafter set forth:

1. Amend § 93.1 by adding a new paragraph (e) to read as follows:

§ 93.1 Applicability.

* * * * *

(e) Subpart K of this part designates high density traffic airports and prescribes air traffic rules and other requirements for operating aircraft to or from those airports.

2. By adding a new Subpart K to read as follows:

Subpart K—High Density Traffic Airports

§ 93.121 Applicability.

This subpart designates high density traffic airports and prescribes the aircraft equipment and performance requirements, pilot requirements, and air traffic rules for operating aircraft to or from those airports.

§ 93.123 High density traffic airports.

(a) Each of the following airports is designated as a high density traffic airport and, except as provided in § 93.129 and paragraph (b) of this section, is limited to the hourly number of allocated IFR operations (takeoffs and landings) that may be reserved for the specified classes of users for that airport:

IFR OPERATIONS PER HOUR

Class of user	John F. Kennedy Airport	LaGuardia Airport	Newark Airport	O'Hare Airport	Washington Airport
Scheduled air carriers except air taxis	70	48	40	115	40
Scheduled air taxis	5	6	10	10	8
Other	5	6	10	10	12

(b) The allocations of reservations under paragraph (a) of this section among the several classes of users do not apply 12 midnight to 6 a.m. local time, but the total hourly limitation remains applicable. The allocations of reservations under paragraph (a) of this section at John F. Kennedy Airport do not apply from 5 p.m. to 8 p.m. local time. During those hours, the total 80 reservations are allocated to scheduled air carriers except air taxis. In the case of Washington National Airport only, the allocation of 40 reservations under paragraph (a) of this section does not include extra sections of scheduled air carrier flights which may be conducted without regard to the limitation of 40 reservations. Any reservation under paragraph (a) of this section allocated to, but not taken by, scheduled air carrier operations is available for a scheduled air taxi operation. Any reservation under paragraph (a) of this section allocated to, but not taken by, a scheduled air carrier or scheduled air taxi operation is available for other operations.

§ 93.125 Arrival or departure reservation and flight plan.

Unless otherwise authorized by ATC in a letter of agreement under § 93.129 (c), no person may operate an aircraft to or from an airport designated as high density traffic airport unless—

(a) He has received for that operation an arrival or departure reservation from ATC; and

(b) He has filed under an IFR or VFR flight plan for that operation.

§ 93.127 Aircraft and pilot requirements.

(a) Unless otherwise authorized by ATC in a letter of agreement under § 93.129(c), no person may operate an aircraft IFR to or from a high density traffic airport unless the aircraft—

(1) Is equipped with an operable coded radar beacon transponder having at least a Mode A/3 64 code capability, replying to Mode A/3 interrogation with the code specified by ATC, and

(2) Has a minimum flight crew of two pilots.

(b) No person may operate an aircraft to a high density traffic airport under a reservation allocated in § 93.123 unless the aircraft is capable of maintaining an airspeed of not less than 150 knots while under the control jurisdiction of the ATC approach control facility for that airport.

§ 93.129 Additional operations.

(a) *IFR.* The operator of an aircraft may take off or land the aircraft under IFR at a designated high density traffic airport without regard to the maximum number of operations allocated for that airport if he obtains a departure or arrival reservation, as appropriate, from ATC. The reservation is granted by ATC whenever the aircraft may be accommodated without adverse effect on the operations allocated for the airport for which the reservation is requested.

(b) *VFR.* The operator of an aircraft may take off or land the aircraft under VFR at a designated high density traffic airport if he obtains a departure or arrival reservation, as appropriate, from ATC. The reservation is granted by ATC whenever the aircraft may be accommodated without adverse effect on the operations allocated for the airport for which the reservation is requested and the ceiling at the airport is at least 1,000 feet and the ground visibility reported at the airport is at least 3 miles. A VFR operation conducted under this paragraph (b) is no required to comply with the aircraft and pilot requirements of § 93.127.

(c) *Operations under letters of agreement.* The operator of an aircraft may take off or land the aircraft under either IFR or VFR at a designated high density traffic airport if he operates the aircraft without interference to any other aircraft operation and the operation is under the terms of a letter of agreement with the airport management and the appropriate ATC facility. An operation conducted under this paragraph (c) is not required to comply with the aircraft and pilot requirements of § 93.127 except to the extent specified in the applicable letter of agreement.

These amendments to Part 93 of the Federal Aviation Regulations are proposed under the authority of sections 103, 307 (a), (b), and (c), 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1303, 1348 (a), (b), and (c), 1354(a), and 1421).

Issued on September 3, 1968, in Washington, D.C.

D. D. THOMAS,
Acting Administrator.

[F.R. Doc. 68-10828; Filed, Sept. 4, 1968; 10:23 a.m.]

FEDERAL MARITIME COMMISSION

[46 CFR Part 536]

[Docket No. 68-25]

TARIFF FILING REQUIREMENTS FOR PROJECT RATES

Rescheduling of Filing Dates

AUGUST 29, 1968.

At the request of Hearing Counsel, and good cause appearing, time within which reply of Hearing Counsel may be filed is enlarged to and including September 30, 1968. Answers to Hearing Counsel's reply may be filed on or before October 10, 1968.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-10704; Filed, Sept. 4, 1968; 8:50 a.m.]

Notices

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[Directive 5]

CHIEF COUNSEL OR DEPUTY CHIEF COUNSEL

Redelegation of Authority Regarding Certain Tort Claims

Under the authority delegated to the Director of the Bureau of Narcotics and Dangerous Drugs by the Attorney General in Order No. 393–68, 33 F.R. 5580, I hereby redelegate to the Chief Counsel or, in his absence the Deputy Chief Counsel, the authority to adjust, determine, compromise, and settle any claim involving the Bureau of Narcotics and Dangerous Drugs under section 2672 of Title 28, United States Code, relating to tort claims where the amount of a proposed adjustment, compromise, settlement or award does not exceed $2,500.

Dated: August 28, 1968.

JOHN E. INGERSOLL,
Director.

[F.R. Doc. 68–10721; Filed, Sept. 4, 1968; 8:51 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

[R1664]

Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 27, 1968.

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial No. R1664, for the withdrawal of lands described below from prospecting, location, entry and purchase under the mining laws, subject to valid existing withdrawals.

The lands have previously been withdrawn for the Pine Mountain and Zaca Lake Forest Reserve by Presidential Proclamation of March 2, 1898, now the Los Padres National Forest, and as such have been open to entry under the general mining laws.

The applicant desires the exclusion of mining activity to permit use of such lands for use as an administrative site, which use is incompatible with mineral development.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502.

The Department's regulations (43 CFR 2311.1–3(c)) provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SAN BERNARDINO MERIDIAN, CALIFORNIA

LOS PADRES NATIONAL FOREST

Chuchupate Administrative Site

T. 8 N., R. 20 W.,
Sec. 8, E½NE¼NE¼;
Sec. 9, W½NW¼NW¼, NW¼SW¼NW¼.

The areas described aggregate 50 acres in Ventura County, Calif.

WALTER F. HOLMES,
Assistant Land Office Manager.

[F.R. Doc. 68–10664; Filed, Sept. 4, 1968; 8:46 a.m.]

CALIFORNIA

[R1663]

Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 28, 1968.

The Forest Service, U.S. Department of Agriculture has filed an application, Serial No. R1663, for the withdrawal of lands described below from prospecting, location, entry, and purchase under the mining laws, subject to valid existing withdrawals.

The lands have previously been withdrawn for the Sierra Forest Reserve by Presidential Proclamation of July 25, 1905, now the Inyo National Forest, and as such have been open to entry under the general mining laws.

The applicant desires the exclusion of mining activity to permit use of such lands for recreation areas, which use is incompatible with mineral development.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502.

The Department's regulations (43 CFR 2311.1–3(c)) provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's need, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, CALIFORNIA

INYO NATIONAL FOREST

June Lake Loop Recreation Area—Rush Creek Campground

T. 1 S., R. 26 E.,
Sec. 33, E½SW¼SE¼, W½SE¼SE¼.
T. 2 S., R. 26 E.,
Sec. 4, W½ of lot 1, E½ of lot 2, SW¼NE¼, NW¼SE¼NE¼, NE¼SE¼NW¼, S½SE¼NW¼, NE¼SW¼, NE¼NW¼SW¼, S½NW¼SW¼, N½NW¼SE¼, SW¼SW¼, W½SE¼SW¼.
Sec. 5, SE¼SE¼SE¼;
Sec. 8, NE¼NE¼NE¼, S½NE¼NE¼, SE¼NE¼, SE¼SW¼NE¼;
Sec. 9, W½W½NW¼, NE¼NW¼NW¼.

June Lake Beach

T. 2 S., R. 26 E.,
Sec. 1, lot 5;
Sec. 2, S½ of lot 5.

Silver Lake Campground

T. 2 S., R. 26 E.,
Sec. 8, E½ of lot 1, W½ of lot 2, E½NW¼SE¼, W½NE¼SE¼, N½NE¼NE¼SE¼.

Oh! Ridge Viewpoint

T. 2 S., R. 26 E.,
Sec. 12, lot 1.

Gull Lake Campground

T. 2 S., R. 26 E.,
Sec. 14, N½SW¼SW¼;
Sec. 15, E½E½ of lot 2.

Lone Pine Creek Recreation Area—Whitney Portal

T. 15 S., R. 34 E.,
Sec. 35, S½SE¼NE¼, SE¼SW¼NE¼, E½NW¼SE¼;
Sec. 36, E½SW¼NW¼NE¼, SE¼NW¼NE¼, W½SW¼NE¼NW¼, N½SW¼NW¼, SW¼SW¼NW¼.

Lone Pine

T. 15 S., R. 35 E.,
Sec. 29, S½N½SE¼, N½S½SE¼.

The areas described aggregate approximately 789.87 acres in Inyo and Mono Counties.

WALTER F. HOLMES,
Assistant Land Office Manager.

[F.R. Doc. 68-10665; Filed, Sept. 4, 1968; 8:47 a.m.]

[Montana 10201 (ND)]

NORTH DAKOTA

Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 27, 1968.

The Forest Service, U.S. Department of Agriculture, has filed application, Montana 10201 (ND), for the withdrawal of land described below from all forms of appropriation under the public land laws, except the mineral laws.

The applicant desires withdrawal of the lands from entry for protection and use in connection with the Little Missouri National Grassland.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, Mont. 59101.

The Department's regulations (43 CFR 2311.1-3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for the purpose other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

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

The lands involved in the application are:

FIFTH PRINCIPAL MERIDIAN, NORTH DAKOTA

T. 147 N., R. 94 W.,
Sec. 30, lots 3 and 4, E½SW¼, and SE¼.
T. 147 N., R. 95 W.,
Sec. 2, SE¼SW¼;
Sec. 8, S½SE¼ and NW¼SE¼;
Sec. 10, W½NW¼ and NW¼SW¼.
T. 148 N., R. 95 W.,
Sec. 4, lot 6;
Sec. 7, SE¼SE¼;
Sec. 8, N½, S½SW¼, and SW¼SE¼;
Sec. 9, lots 1, 2, and 3, NW¼NW¼, S½NW¼, and N½SW¼;
Sec. 17, E½, N½NW¼, SE¼NW¼, and SW¼SW¼;
Sec. 18, lot 2, NE¼NE¼, E½SW¼, and NW¼SE¼;
Sec. 19, SE¼NE¼;
Sec. 20, N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 21, lots 1, 2, 3, and 4, and W½;
Sec. 28, lots 1 and 2, NW¼, and NW¼SW¼;
Sec. 29, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 30, lots 1, 2, and 3, W½NE¼, E½NW¼, NE¼SW¼, and NW¼SE¼.
T. 147 N., R. 96 W.,
Sec. 2, S½NE¼;
Sec. 4, lot 1, SE¼NE¼, E½SE¼, and SW¼;
Sec. 6, lots 1, 2, and 3, S½NE¼;
Sec. 12, E½NW¼ and N½SE¼.
T. 148 N., R. 96 W.,
Sec. 1, SE¼NW¼;
Sec. 2, SW¼NE¼, S½NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 3, lots 1 and 2;
Sec. 5, lots 1 and 2, S½NE¼, and NW¼SE¼;
Sec. 6, lots 2, 3, 4, 5, 6, 7, and 8, NE¼SW¼, SE¼NW¼, and SW¼NE¼;
Sec. 7, lot 11, SE¼SW¼;
Sec. 8, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 9, SW¼NW¼;
Sec. 18, E½NW¼;
Sec. 19, SE¼NW¼;
Sec. 21, lot 5, S½;
Sec. 22, N½SW¼ and SW¼SW¼;
Sec. 23, SW¼NE¼ and N½SE¼;
Sec. 24, E½NE¼;
Sec. 25, S½NE¼;
Sec. 28, N½NW¼ and NE¼SE¼;
Sec. 29, NE¼NE¼, W½SW¼, and SE¼SE¼;
Sec. 30, Lots 1, 2, 3, and 4, E½W½, W½NE¼, and SE¼;
Sec. 31, SE¼NE¼, NE¼SW¼, E½SE¼, and NW¼SE¼;
Sec. 34, NW¼SW¼.
T. 146 N., R. 97 W.,
Sec. 4, SW¼SW¼;
Sec. 28, NE¼;
Sec. 30, W½NE¼.
T. 147 N., R. 97 W.,
Sec. 8, SE¼SW¼;
Sec. 18, Lots 1, 2, and 4, E½E½, and NE¼NW¼;
Sec. 30, Lots 1 and 2;
Sec. 32, NE¼NW¼ and NE¼SE¼.
T. 148 N., R. 97 W.,
Sec. 1, Lots 1, 2, 3, 4, 5, 6, 7, 8, and 11, S½NE¼, SE¼NW¼, and NE¼SW¼;
Sec. 2, Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, and W½SW¼;
Sec. 3, Lots 1, 2, 3, 4, 6, 7, 8, SW¼NE¼, NE¼SW¼, and SE¼;
Sec. 4, Lots 1, 3, and 4, SW¼NW¼, and NW¼SW¼;
Sec. 5, Lots 1, 2, and 4, S½NE¼, and SE¼;
Sec. 6, Lots 1, 2, 3, 4, 5, and 6, SE¼NW¼, and SW¼SE¼;
Sec. 10, N½NE¼, SE¼NE¼, and NE¼SE¼;
Sec. 11, E½SE¼ and NW¼NW¼;
Sec. 12, SW¼ and W½SE¼;
Sec. 13, W½NE¼, SE¼NE¼, NW¼, and S½;
Sec. 14, E½;
Sec. 19, Lot 4, SE¼SW¼, and SW¼SE¼;
Sec. 23, E½SW¼ and SE¼;
Sec. 24, All;
Sec. 25, W½;
Sec. 26, N½NE¼, SE¼NE¼, NE¼NW¼, S½SW¼, and E½SE¼;
Sec. 27, E½;
Sec. 28, SW¼NW¼;
Sec. 29, S½NE¼, E½SW¼, N½SE¼, and SW¼SE¼;
Sec. 30, Lots 2, 3, and 4, SE¼SW¼, and SW¼SE¼;
Sec. 31, Lots 1, 2, 3, 4, 5, and 6, N½NE¼, SW¼NE¼, E½NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 32, W½NE¼ and N½NW¼.
T. 147 N., R. 99 W.,
Sec. 22, NW¼NW¼.
T. 149 N., R. 99 W.,
Sec. 35, NE¼NE¼.
T. 141 N., R. 101 W.,
Sec. 10, All.
T. 141 N., R. 102 W.,
Sec. 34, SW¼, that portion of NW¼ outside boundary of Theodore Roosevelt National Memorial Park.
T. 149 N., R. 102 W.,
Sec. 17, NE¼SE¼.
T. 151 N., R. 102 W.,
Sec. 31, NE¼NW¼, that portion N of Railroad.
T. 142 N., R. 103 W.,
Sec. 32, SE¼NW¼.
T. 144 N., R. 103 W.,
Sec. 4, Lots 1, 2, 3, 4, 5, 6, 7, and 8, S½SW¼, and SE¼;
Sec. 6, Lots 1, 2, 7, 8, 9, 10, and 11, SE¼;
Sec. 8, NW¼NE¼, NW¼, N½SW¼, and SW¼SW¼;
Sec. 18, Lots 1 and 2, NE¼, NE¼SE¼, S½SE¼;
Sec. 20, E½E½;
Sec. 32, NW¼NW¼ and E½SW¼.
T. 151 N., R. 103 W.,
Sec. 19, Lot 3.
T. 144 N., R. 104 W.,
Sec. 2, Lots 2, 3, 4, 5, 6, and 12.
T. 151 N., R. 104 W.,
Sec. 26, Lots 1 and 4;
Sec. 35, SW¼NE¼, that portion N of Railroad.

The area described aggregates 18,561.03 acres.

EUGENE H. NEWELL,
Land Office Manager.

[F.R. Doc. 68-10724; Filed, Sept. 4, 1968; 8:51 a.m.]

National Park Service

CHIRICAHUA NATIONAL MONUMENT, ARIZ.

Proposed Wilderness Establishment; Hearing

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), that a public hearing will be held beginning at 9 a.m. on November 5, 1968, in the meeting room of the Elks Club, 301 South Curtis Avenue, Wilcox, Ariz., for the purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness comprising about 4,685 acres within the Chiricahua National Monument. This national monument is located in Cochise County, Ariz.

A packet containing a map depicting the preliminary boundary of the proposed wilderness and providing addi-

tional information about the proposal may be obtained from the Superintendent, Chiricahua National Monument, Dos Cabezas Star Route, Wilcox, Ariz. 85643, or the Regional Director, Southwest Regional Office, National Park Service, Old Santa Fe Trail, Post Office Box 728, Santa Fe, N. Mex. 87501.

A description of the preliminary boundary and a map of the area proposed for establishment as wilderness are available for review in the above offices, and in Room 1013 of the Department of the Interior Building at 18th and C Streets NW., Washington, D.C. The master plan for the monument, likewise, may be inspected at these three locations.

Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearing, provided they notify the hearing officer in care of the Superintendent, by November 4, 1968, of their desire to appear. Those not wishing to appear in person may submit a written statement on the wilderness proposal to the Hearing Officer, in care of the Superintendent, for inclusion in the official record, which will be held open for 30 days following conclusion of the hearing.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to a determination that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the hearing officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements.

1. Governor of the State or his representative.
2. Members of Congress.
3. Members of the State Legislature.
4. Official representatives of the county in which the proposed wilderness is located.
5. Officials of other Federal agencies or public bodies.
6. Organizations in alphabetical order.
7. Individuals in alphabetical order.
8. Others not giving advance notice, to the extent there is remaining time.

GEORGE B. HARTZOG, Jr.,
Director, National Park Service.

AUGUST 27, 1968.

[F.R. Doc. 68-10725; Filed, Sept. 4, 1968; 8:51 a.m.]

GRAND CANYON NATIONAL PARK, COLO.

Notice of Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that 30 days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Fred Harvey, Inc., authorizing it to continue to provide accommodations, facilities, and services for the public on the South Rim of Grand Canyon National Park, for a period of 30 years from January 1, 1969, through December 31, 1998.

The foregoing concessioner has performed its obligations under prior contracts to the satisfaction of the National Park Service, and, therefore, pursuant to the act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within 30 days after the publication date of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

R. W. ALLIN,
Deputy Assistant Director, National Park Service.

AUGUST 29, 1968.

[F.R. Doc. 68-10670; Filed, Sept. 4, 1968; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MONTANA, SOUTH DAKOTA, AND TENNESSEE

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Montana, South Dakota, and Tennessee, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MONTANA

Beaverhead.

SOUTH DAKOTA

Harding.

TENNESSEE

Bedford.	Lewis.
Bledsoe.	McNairy.
Giles.	Marion.
Lawrence.	Sequatchie.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1969, 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 30th day of August 1968.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 68-10699; Filed, Sept. 4, 1968; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

MICHAEL REESE HOSPITAL AND MEDICAL CENTER ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

A copy of each comment filed with the Director of the Scientific Instrument Evaluation Division must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 69-00044-33-46040. Applicant: Michael Reese Hospital and Medical Center, 29th Street and Ellis Avenue, Chicago, Ill. 60616. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments Inc., The Netherlands. Intended use of article: The article will be used for studying the vasculature of the lung and other tissues under different disease processes and experimental situations. Large areas of tissue have to be mapped out carefully

and their morphological aspect correlated at low and high magnifications. In one facet of the study, tracer particles of very low molecular weight injected into vessels are being used. Application received by Commissioner of Customs: July 18, 1968.

Docket No. 69–00046–33–46040. Applicant: Yale University, 20 Ashmum Street, New Haven, Conn. 06520. Article: Electron microscope, Model EM 300S. Manufacturer: Philips Electronics N.V.D., The Netherlands. Intended use of Article: The article will be available to advanced students receiving instruction from Departmental staff experienced in electron microscopy. In addition, the instrument will figure prominently in several research programs of individual faculty members as well as of those of visiting senior scientists. To a large extent these research programs focus on the structure of cell systems—particularly with the intent of correlating macromolecular behavior with biochemical and physiological information. Application received by Commissioner of Customs: July 19, 1968.

Docket No. 69–00052–98–72000. Applicant: Battelle Memorial Institute, Columbus Laboratories, 505 King Avenue, Columbus, Ohio 43201. Article: Weissenberg rheogoniometer, Model R.18. Manufacturer: Sangamo Controls Ltd., United Kingdom (England). Intended use of article: The article will be used for measuring rheological properties. Specifically, it will be used to measure viscosity as to shear rates, tangentical stress via oscillatory motion, normal force, and the Weissenberg effect. The research concerned will involve measurement of these characteristics and correlating them with structural properties and polymer processing conditions. Application received by Commissioner of Customs: July 22, 1968.

Docket No. 69–00060–33–46040. Applicant: San Jose State College, 125 South Seventh Street, San Jose, Calif. 95114. Article: Electron microscope, Model JEM–T7, and accessories. Manufacturer: Japan Electron Optics Co., Ltd., Japan. Intended use of article: The article will be used for training, instructional, and educational purposes in connection with the investigation of biological fine structures. The program involves studies of the ultrastructure of various biological specimens, with particular emphasis on histochemical and immuno-chemical properties of these specimens. Since the intended use of the instrument is to examine unstained biological specimens, optimal image contrast is mandatory. Application received by Commissioner of Customs: July 26, 1968.

Docket No. 69–00067–33–46040. Applicant: U.S. Department of Agriculture, Animal Husbandry Research Division, Agricultural Research Center, Beltsville, Md. 20705. Article: Electron microscope, Model EM 200. Manufacturer: N.V. Philips, The Netherlands. Intended use of article: The article will be used to accomplish the following research objectives:

1. Studies to determine the frequency of occurrence of microchomosomes in avian testes, feathers and spleens.

2. Investigation of parthenogenetic and nonparthenogenetic lines of turkeys and chickens to determine the basic cause of this phenomenon.

3. Studies concerning the basic cellular and subcellular mechanisms of ovarian follicle rupture.

4. Studies concerning the morphology of spermatozoa.

5. Investigations of the effects of endocrine state, state of pregnancy and ovarian hormones on the cellular and subcellular components of endocrine glands and uterine tissues of farm and laboratory animals.

6. Studies to elucidate the cellular and subcellular regulatory mechanisms of the uterine inflammatory response following induced infection.

Application received by Commissioner of Customs: July 26, 1968.

Docket No. 69–00068–33–46040. Applicant: The University of Texas at Austin, Box 7306, University Station, Austin, Tex. 78712. Article: Electron microscope, Model Elmiskop IA. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used for (a) Cytogenetic studies such as fine structures of chromosomes and chromosome puffs, (b) Development of new electron microscope techniques for biological materials and (c) Training of graduate students and postdoctoral fellows in the Department of Zoology. Application received by Commissioner of Customs: July 26, 1968.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 68–10642; Filed, Sept. 4, 1968; 8:45 a.m.]

NATIONAL INSTITUTES OF HEALTH, MD., ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

A copy of each comment filed with the Director of the Scientific Instrument Evaluation Division must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 69–00022–33–46040. Applicant: National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014. Article: Electron Microscope, Model EM300. Manufacturer: N. V. Philips Gloeilampenfabrieken, The Netherlands. Intended use of article: The article will be used for the following objectives assigned to the Virology Section:

1. To provide high resolution microscopy for diagnosis of viral exanthematous diseases (Smallpox, Chickenpox, Herpes, etc.) in submitted specimens. Need for rapid diagnosis.

2. To help characterize new viral agents of public health importance as they are submitted to the various units of virology section.

3. To carry out research in the pathogenesis of viral diseases in an area of importance in furthering understanding of diseases and ways to diagnose and treat them.

4. To be used in research of purified virus and viral antigens so that more may be known about viruses themselves for future improvement in identification and hopefully treatment.

5. To be used in service functions of the laboratory to help answer problems of other investigators in virologic investigations and diagnostic situations.

Application received by Commissioner of Customs July 9, 1968.

Docket No. 69–00062–33–46040. Applicant: University of California, Davis School of Medicine, Davis, Calif. 95616. Article: Electron Microscope, Model EM6B. Manufacturer: GEC–AEI Electronics, Ltd., United Kingdom (England). Intended use of article: The article will be used for biological research in the following areas:

a. Changes in the nervous system and liver in response to toxic and physical agents.

b. Mitochondrial membrane changes as related to biochemical enzyme function.

c. Examination of DNA (Deoxyribonucleic acid), proteins, and other macromolecules for differences after isolation under diverse metabolic states.

d. Cell membrane permeability to water and ions.

e. Viruses as well as their effects in producing congenital deformities.

f. Changes in the adrenal cortex of various species under various physiologic states using very low magnification and at medium high magnification.

Application received by Commissioner of Customs July 26, 1968.

Docket No. 69–00080–61–46040. Applicant: Duke University, Durham, N.C. 27706. Article: Electron Microscope, Model Elmiskop 101. Manufacturer: Siemens A.G., West Germany. Intended use of Article: The article will be used for research on ultrastructure and its genetic control, in biological materials (particularly cereal grains and tomato) which requires the highest possible resolution with the lowest contamination of specimens. The instrument provides this combination of factors, the only combination that will give these results in the

study of chloroplast initiation. Application received by Commissioner of Customs August 1, 1968.

Docket No. 69–00084–63–46070. Applicant: University of Illinois at Chicago Circle, Post Office Box 4348, Chicago Ill. 60680. Article: Scanning Electron Microscope, Model Mark IIA. Manufacturer: Cambridge Instrument Co., Ltd., Great Britain. Intended use of article: The article will be used for research in the following areas:

a. Investigation of plant micro- and macrofossils preserved in petrifications (coal balls).

b. Taxonomic and biostratigraphic investigations.

c. Studies centering around the megaspore membrane of petrified seeds of Pennsylvanian age.

d. Detailed investigations of such plants and plant parts as fern sporangia, sporangial dehisence patterns, trichome positions and patterns, fungal spores and conidia scars, and tracheid and vessel wall patterns.

Application received by Commissioner of Customs August 5, 1968.

Docket No. 69–00086–00–78050. Applicant: Southwest Research Institute, 8500 Culebra Road, San Antonio, Tex. 78228. Article: Dichroism Accessory for a Spectrophotometer, Model CD–HC–S. Manufacturer: Rehovoth Instruments, Ltd., Israel. Intended use of article: The article will be used as an accessory to an existing Cary Model 14 spectrophotometer for the measurement of circular and linear dichroism in the spectral range. Application received by Commissioner of Customs August 5, 1968.

Docket No. 69–00087–00–78050. Applicant: Southwest Research Institute, 8500 Culebra Road, San Antonio, Tex. 78228. Article: Dichroism Accessory for a Spectrophotometer, Model CD–HC–S. Manufacturer: Rehovoth Instruments, Ltd., Israel. Intended use of article: The article will be used as an accessory to an existing Cary Model 14 spectrophotometer for the measurement of circular and linear dichroism in the spectral range. Application received by Commissioner of Customs August 5, 1968.

Docket No. 69–00089–33–46040. Applicant: State University of New York at Buffalo, Office of Facilities Planning, 3258 Main Street, Buffalo, N.Y. 14214. Article: Electron Microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used in the continued expansion of research on the experimental pathology of hypertensive disease. Emphasis will be placed upon those varieties of hypertensive disease discovered by Dr. Skelton (adrenal regeneration and methylandrostenediol) and recently expanded by present members of the research group to include hypertension produced by other androgens and metopirone. The investigations in question have made important contributions thus far to the essential nature of induced dysfunction of the adrenal cortex and the juxtaglomerular apparatus of the kidney in the pathogenesis of these hypertensive disease models. Application received by Commissioner of Customs August 5, 1968.

Docket No. 69–00093–33–54500. Applicant: Albany Medical College of Union University, 47 New Scotland Avenue, Albany, N.Y. 12208. Article: Slit Lamp, Model 900. Manufacturer: Haag-Streit, A.G., Switzerland. Intended use of article: The article will be used for examination of vitreous and retina and their relationship to normal individuals, patients, and experimental laboratory animals. Application received by Commissioner of Customs August 7, 1968.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 68–10643; Filed, Sept. 4, 1968; 8:45 a.m.]

WASHINGTON UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

A copy of each comment filed with the Director of the Scientific Instrument Evaluation Division must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 69–00094–33–46040. Applicant: Washington University, Department of Biology, St. Louis, Mo. 63130. Article: Electron microscope, Model Elmiskop IA. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article will be used for studies concerning the ultrastructure of sperm flagella and correlating the differences in ultrastructure with differences in locomotory patterns. Resolving the substructure of sperm flagella, necessary for these analyses, requires an instrument which is capable of extremely high resolution and at the same time provides good specimen contrast and does not contaminate the specimen. It will also be used for studies linked with meiotic cell divisions. Cell divisions will be closely examined under the electron microscope in order to detect structural differences in chromosome structure or morphology of other components of the dividing cell that might account for the mechanism by which chromosomes move during cell division. Application received by Commissioner of Customs August 7, 1968.

Docket No. 69–00097–33–54500. Applicant: Medical College of South Carolina, 80 Barre Street, Charleston, S.C. 29401. Article: Slit Lamp, Model 900. Manufacturer: Haag-Streit, A. G., Switzerland. Intended use of article: The article will be used for viewing of the structures of the anterior segment of the eye in diagnosis of diseases and toxicities to drugs. Application received by Commissioner of Customs August 9, 1968.

Docket No. 69–00104–33–46040. Applicant: University of Nebraska, College of Dentistry, 40th and Holdrege Streets, Lincoln, Nebr. 68503. Article: Electron Microscope, Model HU–11E. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for the following research projects:

1. Ultrastructural changes in gingival epithelium in lichen planus, psoriasis and hyperkeratosis.

2. The variation in intracellular location of succinic dehydrogenase activity in normal and inflammed gingival tissue comparing basal cells with outer prickle cells.

3. Ultrastructural study of cementoblasts and the histogenesis of fibrillar formation in human cementum.

4. Ultrastructural study of oral lesions and blood samples resulting from herpes simplex infection.

5. Lysosomal membrane alterations in cells of the gingival attachment of teeth during periodontal disease.

6. Ultrastructural variation in gingival blood vessels in patients suffering diabetes mellitus.

7. An ultrastructural study of odontoblasts recently removed from a tooth as opposed to those grown in tissue culture to determine if there are significant changes which may be related to the odontoblast's ability to produce a predentin matrix when grown in tissue culture.

8. Ribosomal activity in the endoplasmic reticulum of ectopic epithethial cells found in the connective tissue of the periodontal legament.

Application received by Commissioner of Customs August 12, 1968.

Docket No. 69–00107–33–46500. Applicant: National Environmental Health Sciences Center, National Institutes of Health, Post Office Box 12233, Research Triangle Park, N.C. 27709. Article: Ultra Microtome, Model Sidea "OmU2." Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used for the preparation of single and serial ultrathin sections of a variety of tissues obtained from laboratory animals subjected to experimental manipulations appropriate to the purpose of identifying and evaluating various environmental hazards. Agents currently under study are heavy metals, pesticides and air pollutants. A wide spectrum of qualitative and quantitative

techniques will be utilized including histochemistry and autoradiography. Application received by Commissioner of Customs August 6, 1968.

Docket No. 69–00110–33–46500. Applicant: DHEW–PHS–National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014. Article: Ultramicrotome, LKB 8800A Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of Article: The article will be used to cut serial sections in the range of 80A° and of uniform thickness to be used in comparative enzyme digestions and other histochemical procedures where a variation in thickness will effect comparative results because of variation in penetration of enzyme and other solutions. One of the main problems will be to study the nature of an 80A° diameter dense granule described by us in the elementary body (virus particle) of molluscum contagiosum and seen by others in other pox viruses. Uniform serial sections of a thickness of 80A° or less will allow exposure of at least one surface of all the granules that are present in the sections. Application received by Commissioner of Customs August 14, 1968.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations Business and Defense Services Administration.

[F.R. Doc. 68–10644; Filed, Sept. 4, 1968; 8:45 a.m.]

Office of the Secretary

[Dept. Order 2–A, Amdt. 2]

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

Delegation of Authority and General Functions

AUGUST 22, 1968.

The following amendment to the order was issued by the Secretary of Commerce on August 22, 1968. This material amends the material appearing at 31 F.R. 10752 of August 12, 1966, and 33 F.R. 3444 of February 28, 1968.

Department Order 2–A, dated August 1, 1966, is hereby further amended as follows:

1. SEC. 3. *Delegation of authority.* Subparagraph .01k. is redesignated .011. and a new subparagraph .01k. is added to read:

"k. The President's Memorandum of July 5, 1968, issued in accord with Senate Concurrent Resolution 67 of May 29, 1968, furthering participation in and support of the World Weather Program by the United States. The plan to be developed annually for submission to the Congress on the proposed participation by Federal agencies in the Program shall be prepared by the Administrator for transmittal to the President by the Secretary;"

2. SEC. 5. *General functions.* A new subparagraph is added to paragraph .01 to read:

"k. Coordinate national efforts in support of the World Weather Program."

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 68–10645; Filed, Sept. 4, 1968; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

DRUGS FOR HUMAN USE—DRUG EFFICACY STUDY IMPLEMENTATION

Poisonoak Extract for Injection

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Anergex (poisonoak extract) for injection containing per milliliter 40 milligrams extractive substance obtained from Toxicodendron quercifolium; Lemmon Pharmacal Co. (Mulford Laboratories Division), Temple Avenue, Sellersville, Pa. 18960.

The Academy evaluated this drug as ineffective for use for allergic rhinitis, asthma, eczema (atopic dermatitis), food sensitivity, urticaria, hives, and angioneurotic edema—all the indications for which the drug is offered. The Food and Drug Administration concurs that there is a lack of substantial evidence that this drug has the effects it is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the new-drug application for this drug.

Prior to initiating such action, however, the Commissioner invites the holder of the new-drug application for this drug and any interested person who may be adversely affected by removal of this drug from the market to submit any pertinent data bearing on the proposal within 30 days following the date of publication of this notice in the FEDERAL REGISTER. Any data should be addressed to the Special Assistant for Drug Efficacy Study Implementation, Bureau of Medicine, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

This announcement of the proposed action and implementation of the NAS-NRC report for this drug is made to give notice to persons who might be adversely affected by withdrawal of this drug from the market. Promulgation of an order withdrawing approval of the new-drug application will cause any such drug on the market, offered for the same indication and subject to the Federal Food, Drug, and Cosmetic Act, to be a new drug for which an approved new-drug application is not in effect and will make it subject to regulatory action.

The holder of the new-drug application for this drug has been mailed a copy of the NAS-NRC report. Any interested person may obtain a copy of the NAS-NRC report on Anergex by writing to the Food and Drug Administration, Press Relations Office, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and delegated to the Commissioner (21 CFR 2.120).

Dated: August 28, 1968.

HERBERT L. LEY, JR.,
Commissioner of Food and Drugs.

[F.R. Doc. 68–10700; Filed, Sept. 4, 1968; 8:49 a.m.]

AMERICAN CYANAMID CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 9F0744) has been filed by American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540, proposing the establishment of tolerances for residues of the insecticide phorate (*O,O*-diethyl *S*-(ethylthio) methyl phosphorodithioate) in or on the raw agricultural commodities alfalfa hay at 1 part per million; alfalfa at 0.5 part per million; and sugarcane at 0.05 part per million (negligible residues).

The analytical methods proposed in the petition for determining residues of the insecticide is an oxidative-cholinesterase-delta-pH method that involves extracting the residue with chloroform, following with a benzene wash, oxidizing to the oxygen analog sulfone with peracetic acid, and determining the sulfone by a delta-pH technique.

Dated: August 28, 1968.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68–10701; Filed, Sept. 4, 1968; 8:49 a.m.]

WYANDOTTE CHEMICALS CORP.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8B2277) has been filed by Wyandotte Chemicals Corp., 1609 Biddle Avenue, Wyandotte, Mich. 48192, proposing an amendment to § 121.2520 *Adhesives* (21 CFR 121.2520) to provide for the safe use

of (1) $\alpha,\alpha',\alpha'',\alpha'''$-neopentane tetray'tetrakis [*omega*-hydroxypoly (oxypropylene) (1–2 moles)], average molecular weight 400, and (2) polypropylene glycol triether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, average molecular weight 730, as optional components of food-packaging adhesives.

Dated: August 28, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-10702; Filed, Sept. 4, 1968; 8:49 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ACTING DIRECTOR, PLANNING BRANCH, PROGRAM COORDINATION AND SERVICES DIVISION, REGION IV (CHICAGO)

Designation

David A. Johnston is hereby designated to serve as Acting Director, Planning Branch, Program Coordination and Services Division, Region IV (Chicago), during the absence of the Director, Planning Branch, Program Coordination and Services Division, with all the powers, functions, and duties redelegated or assigned to the Director, Planning Branch, Program Coordination and Services Division.

(Delegation May 4, 1962, 27 F.R. 4319; Dept. Interim Order II, 31 F.R. 815, Jan. 21, 1966)

Effective as of the 5th day of August 1968.

FRANCIS D. FISHER,
Regional Administrator, Region IV, Chicago, Ill.

[F.R. Doc. 68-10706; Filed, Sept. 4, 1968; 8:50 a.m.]

ASSISTANT REGIONAL ADMINISTRATOR FOR METROPOLITAN DEVELOPMENT AND DEPUTY ASSISTANT REGIONAL ADMINISTRATOR FOR METROPOLITAN DEVELOPMENT

Redelegations of Authority

The redelegations of authority from the Regional Administrator, Region V (Fort Worth) to the Assistant Regional Administrator for Metropolitan Development, Region V (Fort Worth) and the Deputy Assistant Regional Administrator for Metropolitan Development, Region V (Fort Worth) effective November 9, 1966 (32 F.R. 4083–4084, Mar. 15, 1967) are hereby amended under section A by adding a new paragraph 8 as follows:

SECTION A. Redelegations of authority. * * *

8. Historic Preservation Grant Program under Title VII of the Housing Act of 1961, as amended (42 U.S.C. 1500–1500e).

(Redelegations of authority by Assistant Secretary for Metropolitan Development effective May 18, 1966 (31 F.R. 7359–7360, May 20, 1966, as amended at 31 F.R. 8969, June 29, 1966, and at 33 F.R. 11099, Aug. 3, 1963))

Effective date. This amendment of redelegations of authority is effective as of September 5, 1968.

LEONARD E. CHURCH,
Acting Regional Administrator, Region V.

[F.R. Doc. 68-10707; Filed, Sept. 4, 1968; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

[CGFR 68-93]

LOUIS DREYFUS CORP.

Notice of Qualification; Citizen of United States

This is to give notice that pursuant to 19 CFR 3.21 (section 3.21, Customs Regulations), issued under the provisions of section 27A of the Merchant Marine Act, 1920, as amended by the Act of September 2, 1958 (46 U.S.C. 883-1), the Louis Dreyfus Corp. of 26 Broadway, New York, N.Y. 10004, incorporated under the laws of the State of New York, did on July 22, 1968, file with the Commandant, U.S. Coast Guard, in duplicate, an oath for qualification of a corporation as a citizen of the United States following the form of oath prescribed in Form 1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States (list of names, home addresses, and citizenship attached to the oath);

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States, or in a territory, district, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States, its territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, U.S. Coast Guard, having found this oath to be in compliance with the law and regulations, on August 6, 1968, issued to the Louis Dreyfus Corp. a certificate of compliance on Form 1262, as provided in 19 CFR 3.21 (i) (section 3.21(i), Customs Regulations). The certificate and any authorization granted thereunder will expire 3 years from the date thereof unless there first occurs a change in the corporate status requiring a report under 19 CFR 3.21(h) (section 3.21(h), Customs Regulations).

Dated: August 6, 1968.

T. R. SARGENT,
Rear Admiral, U.S. Coast Guard, Acting Commandant.

[F.R. Doc. 68-10672; Filed, Sept. 4, 1968; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 19847, 19858; Order 68-8-118]

CITY OF LOS ANGELES, CALIF., ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of August 1968.

Application of City of Los Angeles, Calif., and Los Angeles Area Chamber of Commerce, Docket 19847; for amendments of certificates of certain named air carriers so as to designate Ontario International Airport as a hyphenated point with Los Angeles International Airport; application of City of Long Beach, Calif., and Long Beach Chamber of Commerce, Docket 19858; for amendments of certificates of certain named air carriers so as to designate Long Beach Airport as a hyphenated point with Los Angeles International Airport.

On April 23, 1968, the city of Los Angeles, Calif., and the Los Angeles Area Chamber of Commerce (the Los Angeles Parties) filed an application in Docket 19847 requesting the amendment of the certificates of public convenience and necessity of certain air carriers[1] so as to designate Ontario International Airport (Ontario) as a hypenated point with Los Angeles International Airport (LA International), and concurrently filed a petition for issuance of an order to show cause why its application should not be granted. On May 1, 1968, the city of Long Beach, Calif., and the Long Beach Chamber of Commerce (the Long Beach Parties) filed an application in Docket 19858 requesting the amendment of the certificates of the same air carriers (footnote 1, supra) so as to designate Long Beach Airport (Long Beach) as a hyphenated point with LA International, and concurrently filed (1) a petition for issuance of an order to show cause why its application should not be granted, (2) a motion for consolidation of its application in Docket 19858 with the application of the Los Angeles Parties in Docket 19847, and (3) an answer endorsing and

[1] Aeronaves de Mexico, S.A.; Air Canada; Air France (Compagnie Nationale Air France); Air New Zealand, Ltd.; Air West, Inc.; American Airlines, Inc.; Continental Air Lines, Inc.; Delta Air Lines, Inc.; Flying Tiger Line, Inc.; Japan Air Lines Co., Ltd.; Los Angeles Airways; Mexicana de Aviacion; National Airlines, Inc.; Pan American World Airways, Inc.; Peruvian Airlines, Inc.; Scandinavian Airlines System, Inc.; Trans World Airlines, Inc.; Union de Transports Aeriens; United Air Lines, Inc.; Varig Airlines; Western Air Lines, Inc.

supporting Los Angeles' application and petition.

In support of its application and petition, the Los Angeles Parties allege, in pertinent part, that on November 1, 1967, the city of Los Angeles assumed full management, operation and control of Ontario; that Ontario serves an integral part of the area served by LA International; that carriers at their discretion will be able to serve Ontario directly and be responsive to operational and traffic requirements in the overall Southern California service plan; and that the redesignation request will reflect major traffic flows presently generated in the area and will increase further growth by permitting air carriers certificated in Los Angeles to add Ontario to their advertisements and promotion and show it as part of their schedules as a point to which daily service is available. The Los Angeles Parties state further that by virtue of its use as a weather alternate for LA International and by virtue of its use by several air carriers for short-haul service, a number of carriers maintain ground equipment, counter space and other facilities at Ontario; and that the geographic location of Ontario coupled with the operational and traffic conditions at LA International urgently require the availability of a second facility at the earliest possible time.

In support of its application and petition the Long Beach Parties allege, in pertinent part, that: Long Beach presently serves an integral part of the area served by LA International; a substantial volume of air passenger and air freight traffic which presently goes through LA International would be more conveniently served at Long Beach; as a hyphenated point, air carriers will be able to serve Long Beach directly on a basis responsive to operational and traffic requirements in the overall Southern California service pattern; and there is considerable congestion at LA International which can be relieved by designation of such satellite airports as Long Beach. Finally, the Long Beach Parties state that Long Beach is a modern airport capable of handling all commercial aircraft presently being flown.

Delta, TWA, United, and Air West filed answers in support of either or both of the petitions by the Los Angeles and Long Beach Parties for issuance of a show cause order.[2] Air West's support was subject, however, to clarification of a condition proposed by the petitioners. As stated by the petitioners, the condition would protect the air carriers which currently serve Ontario and Long Beach from new competitive service. We will substantially adopt the clarification proposed by Air West which will prohibit single-plane service pursuant to an award in this case through either Ontario or Long Beach in certain specified markets which are set forth below. TWA is opposed to a restrictive condition on the ground that it would unduly restrict the carriers' operating flexibility and in part defeat the purpose of hyphenation.[3]

The Board tentatively finds and concludes that the public convenience and necessity require, and the Board should order, the amendment of the certificates of the following air carriers so as to designate Ontario and Long Beach as hyphenated points with Los Angeles.[4] The air carriers whose certificates we would amend are as follows: Air West (only segments 7, 11, and 12 of Route 76), American (Route 4 only), Continental, Delta, Flying Tiger, National, TWA (Route 2 only), United (only segment 6 of Route 1), and Western (Route 35 only).[5] We will not, however, include any issue of amending Air West's certificate for segments 2, 8, and 9 of Route 76, United's certificate for segment 7 of Route 1, or Western's certificate for Route 63. Satellite airport issues, including service to Ontario and Long Beach are presently in issue in the Pacific-Northwest-California Service Investigation (Order E–25504, Aug. 8, 1967), and we desire to maintain maximum flexibility in that proceeding. We also note that Western already has certificate authority to serve Long Beach and Ontario on segment 2 of Route 63, United has authority to serve Long Beach on segment 7 of Route 1, and Air West has authority to serve Long Beach and/or Ontario on segments 2, 8, and 9 of Route 76.

In addition, we will restrict the issues in such a manner as to prohibit single-plane service pursuant to an award in this case between either Ontario or Long Beach, on the one hand, and Las Vegas, Los Angeles, Fresno, Bakersfield, Reno, Portland, Santa Barbara, San Diego, Monterey, Sacramento, Stockton, Long Beach, Ontario, Phoenix, Tucson, Seattle, San Francisco/Oakland, San Jose, or Salt Lake City, on the other hand.[5a] Competition in these markets would not in our judgment be warranted because it might be detrimental to Air West which is subsidized and which is encountering increased competition from intra-California carriers.[6]

For the reasons set forth below, we tentatively find and conclude that the public convenience and necessity require the amendment of the certificates of those carriers listed above, to the extent indicated, so as to designate Ontario and Long Beach as hyphenated points with Los Angeles. Both Ontario and Long Beach serve an area which is an integral part of the area served by LA International. Additionally, airports in these two cities are in a position to relieve congestion at LA International.

We tentatively find that the redesignation requested by the Los Angeles and Long Beach Parties, to the extent we have indicated, will afford the air carriers certificated to serve Los Angeles the operating flexibility to serve Ontario and Long Beach on a basis responsive to the traffic requirements in the overall southern California service area. Furthermore, hyphenated point status will permit these air carriers to add Ontario and Long Beach to their advertising and to show these points as part of their schedules and tariffs as points to which service is available. Moreover, permitting these carriers to show these airports in their advertising and schedules will result in benefits both to the carriers and the traveling public.

In granting interested persons the opportunity to show why our tentative findings and conclusions should not be adopted, we expect such persons to direct their objections, if any, to specific markets and to support such objections with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objection should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. General, vague and unsupported objections will not be entertained.

Those air carriers desiring amendments of their certificates pursuant to the tentative findings and conclusions

[2] TWA filed a timely telegraphic answer and was requested by the Board to file a formal answer. We will accept TWA's late-filed answer.

[3] TWA states that it has no firm plans at present to institute service at the two satellite airports and that it is making no commitment in this regard.

[4] Although the petitioners have requested the designation of Ontario International Airport and Long Beach Airport as hyphenated points with Los Angeles International Airport, no reasons have been submitted to indicate why the airports rather than the respective cities should be designated. Under these circumstances, we will follow our usual practice of designating cities rather than airports.

[5] We shall not amend the foreign air carrier permits of the carriers listed in footnote 1 of this order, nor amend the certificates for the international routes of American, Pan American, TWA, or Western. No need is shown for amending these permits and certificates, and there is no indication that, if allowed, services would be provided by these carriers to Ontario and Long Beach. Furthermore, no evidence has been presented indicating that travelers could be processed by immigration and customs authorities at these airports. In addition, the Board will defer the matter of amending Pan American's certificate for Route 117 and United's certificate for Route 118 (these routes include Hawaii-Los Angeles service). With respect to Los Angeles Airways, Inc. (LAA), there has been no need demonstrated for enlarging its certificate authority in this manner, nor has any evidence been submitted indicating that such additional service would be economical. Moreover, LAA has submitted no filing. Accordingly, we shall also deny the request to amend LAA's certificate.

[5a] Although Air West has also requested that the Spokane-Long Beach/Ontario and Boise-Long Beach/Ontario markets be subject to the above restriction, we have decided to deny this request. Air West does not appear to have the necessary certificate authority to provide effective single-plane service in these markets and therefore imposition of this additional restriction would be unnecessary.

[6] Similar protection was afforded Pacific Air Lines, Inc. (which has since merged into Air West), by the Board in designating San Jose as a coterminal point with San Francisco in orders E–25644, Sept. 7, 1967, and E–25346, June 23, 1967.

set forth herein should file appropriate certificate applications with the Board within the time period set forth below. These applications should include estimates of the first year's gross transport revenue increase within the ranges specified in § 389.25(a)(2)(i).

Accordingly, it is ordered, That:

1. The motion of Trans World Airlines, Inc., for leave to file an unauthorized document be and it hereby is granted;

2. All interested parties are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein; and

(a) Amending the certificates of public convenience and necessity held by Air West, Inc., for Route 76 (segments 7, 11, and 12 only); American Airlines, Inc., for Route 4; Continental Air Lines, Inc., for Route 29; Delta Air Lines, Inc., for Route 24; the Flying Tiger Line, Inc., for Route 100; National Airlines, Inc., for Route 39; Trans World Airlines, Inc., for Route 2; United Air Lines, Inc., for Route 1, and Western Air Lines, Inc., for Route 35, as follows:

Air West, Inc.	Route 76, redesignate the terminal point Los Angeles as Los Angeles-Long Beach-Ontario on Segments 7, 11, and 12 only;
American Airlines, Inc.	Route 4, redesignate the terminal point Los Angeles as Los Angeles-Long Beach-Ontario on Segments 1 and 3, and the terminal point Los Angeles-Long Beach as Los Angeles-Long Beach-Ontario on Segment 5;
Continental Air Lines, Inc.	Route 29, redesignate the terminal point Los Angeles as Los Angeles-Long Beach-Ontario on Segment 6, and the terminal point Los Angeles-Long Beach as Los Angeles-Long Beach-Ontario on Segment 8;
Delta Air Lines, Inc.	Route 24, redesignate the terminal point Los Angeles-Long Beach as Los Angeles-Long Beach-Ontario on Segments 1 and 2;
The Flying Tiger Line, Inc.	Route 100, redesignate the terminal point Los Angeles as Los Angeles-Long Beach-Ontario;
National Airlines, Inc.	Route 39, redesignate the terminal point Los Angeles-Long Beach as Los Angeles-Long Beach-Ontario;
Trans World Airlines, Inc.	Route 2, redesignate the intermediate point Los Angeles as Los Angeles-Long Beach-Ontario on Segments 1, 2, 3, and 5;
United Air Lines, Inc.	Route 1, redesignate the terminal point Los Angeles as Los Angeles-Long Beach-Ontario on Segment 6 only;
Western Air Lines, Inc.	Route 35, redesignate the terminal point Los Angeles as Los Angeles-Long Beach-Ontario on Segment 4; and

(b) Making any service operated by any carrier except Air West pursuant to an award amending the certificates of public convenience and necessity as set forth in (a) above subject to a restriction prohibiting single-plane service between Ontario or Long Beach, on the one hand, and Las Vegas, Los Angeles, Fresno, Bakersfield, Reno, Portland, Santa Barbara, San Diego, Monterey, Sacramento, Stockton, Long Beach, Ontario, Phoenix, Tucson, Seattle, San Francisco/Oakland, San Jose, or Salt Lake City, on the other hand.

3. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendments set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections.

4. All air carriers filing certificate amendment applications shall file the applications within 20 days after service of a copy of this order.

5. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board.[7]

6. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the case will be submitted to the Board for final action.

7. A copy of this order shall be served upon the following persons who are hereby made parties to this proceeding: Air West, Inc., American Airlines, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., The Flying Tiger Line Inc., Los Angeles Airways, Inc., National Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., the city of Los Angeles, Calif., and Los Angeles Area Chamber of Commerce, the city of Long Beach, Calif., and Long Beach Chamber of Commerce, and city of Ontario.

[7] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests or petitions for reconsideration of this order will be entertained.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 68-10719; Filed, Sept. 4, 1968; 8:51 a.m.]

[Docket No. 19967]

FRONTIER AIRLINES, INC.

Notice of Hearing

Application of Frontier Airlines, Inc., for amendment of its certificates of public convenience and necessity pursuant to Subpart M of the Board's rules of practice.

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 September 13, 1968, at 10 a.m., e.d.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Merritt Ruhlen.

Dated at Washington, D.C., August 29, 1968.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 68-10720; Filed, Sept. 4, 1968; 8:51 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 18295-18300; FCC 68-856]

ORANGE COUNTY BROADCASTING CO. ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: Orange County Broadcasting, Inc., Monte E. Livingston, Edward D. Tisch, Frank L. Bret, Thomas Walker and Richard S. Stevens doing business as Orange County Broadcasting Co.,[1] Anaheim, Calif., Docket No. 18295, File No. BPCT-4018; Orange County Communications, Anaheim, Calif., Docket No. 18296, File No. BPCT-4045; The Voice of the Orange Empire, Inc., Ltd., Anaheim, Calif., Docket No. 18297, File No. BPCT-4046; Orange Empire Telecasters, Inc., Frederick Berkowitz, Bennett R. Berkhausen, Ronald H. Rodman, James A. O'Neil, Gordon C. Atkinson, Ilse M. Byrnes, Max H. Fulton, Alfred L. Caruso, Francis F. Welsh, Jr., J. Kenneth Cameron, Daniel H. Ninburg, Henry J.

[1] Hereinafter referred to as Orange County Broadcasting Co.

Cail, Peter A. Brittain, Thomas E. Williams, Lucien Brack, Murray W. Sporn, John J. Hall, National Golf Courses, Inc., Richard G. Braley, Thomas A. Key, and Richard P. B. Tyson doing business as Orange Empire Broadcasting Co.,[2] Anaheim, Calif., Docket No. 18298, File No. BPCT-4089; Dana Communications Corp., Anaheim, Calif., Docket No. 18299, File No. BPCT-4102; Golden Orange Broadcasting Co., Inc., Anaheim, Calif., Docket No. 18300, File No. BPCT-4113; for construction permit for new television broadcast station.

1. The Commission has before it for consideration the above-captioned applications each requesting a construction permit for a new television broadcast station to operate on Channel 56, Anaheim, Calif.

2. There appears to be a significant disparity in the proposed Grade B contours of the applicants. In accordance with the Commission's policy, evidence with respect to which of the proposals would represent a more efficient use of the frequency may be adduced under the comparative issue.[3]

3. With respect to the issues set forth below the following considerations are pertinent:

Based on the information contained in the application of Orange Empire Broadcasting Co., cash in the amount of $1,490,368 will be needed for the construction and first-year operation of the proposed station, consisting of down payment on equipment—$197,789; first-year payments on equipment including interest—$172,079; other items—$150,000; first-year interest on bank loan—$110,500; first-year cost of operation—$860,000. To meet these cash requirements, the applicant relies upon the availability of a $1,700,000 bank loan from the Inland Bank, Pomona, Calif. The proposed bank loan is in excess of Inland Bank's lending limits and the applicant has submitted a letter from The Bank of California addressed to the Inland Bank which states, in part, that The Bank of California is "favorably inclined toward a participation" in the proposed loan. Since the letter does not contain a definite commitment to participate in the proposed loan and since The Bank of California does not set forth the conditions of repayment and security, if any, which it will require, it cannot be determined that the proposed $1,700,000 loan will be available to the applicant. Accordingly, financial issues have been specified.

4. Since the transmitter sites specified by Orange County Broadcasting Co., The Voice of the Orange Empire, Inc., Ltd., Orange Empire Broadcasting Co., Dana Communications Corp., and Golden Orange Broadcasting Co., Inc., are located on Sierra Peak, which is on National Forest lands, and the Department of Agriculture has not made a determination as to whether these sites are or will be available, an appropriate issue has been specified.

5. The transmitter proposed by Golden Orange Broadcasting Co., Inc., has not been type accepted by the Commission. Accordingly, in the event of a grant of the application of Golden Orange Broadcasting Co., Inc., the grant shall be made subject to the condition that, prior to licensing, the permittee shall submit acceptable data for type acceptance of the proposed transmitter in accordance with § 73.640 of the Commission's rules.

6. Since J. D. Wrather, Jr., and Monte E. Livingston, principals of Orange County Broadcasting Co. have interests in CATV systems and since Philip C. Davis, Carolyn L. Davis, and W. Thomas Davis, principals of The Voice of the Orange Empire, Inc., Ltd., have interests in a CATV system and the Commission has issued a Notice of Inquiry into Developing Patterns of Ownership in the CATV Industry, Docket No. 17371, 7 FCC 2d 853, in the event of a grant of either application, the grant shall be made without prejudice to whatever action the Commission may deem appropriate as a result of the pending proceeding in Docket No. 17371.

7. Orange County Communications is qualified to construct, own and operate the proposed new television broadcast station and except as indicated by the issues set forth below, Orange County Broadcasting Co., The Voice of the Orange Empire, Inc., Ltd., Orange Empire Broadcasting Co., Dana Communications Corp., and Golden Orange Broadcasting Co., Inc., are qualified to construct, own, and operate the proposed new television broadcast station. The applications are, however, mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. The Commission is, therefore, unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to the application of Orange Empire Broadcasting Co.:

(a) Whether the applicant will have available a bank loan of $1,700,000 to finance the construction and first-year operation of the proposed station.

(b) Whether, in the light of the evidence adduced pursuant to the foregoing, Orange Empire Broadcasting Co. is financially qualified.

2. To determine whether the respective transmitter sites specified by Orange County Broadcasting Co., The Voice of the Orange Empire, Inc., Ltd., Orange Empire Broadcasting Co., Dana Communications Corp., and Golden Orange Broadcasting Co., Inc., are or will be available.

3. To determine which of the proposals would best serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

It is further ordered, That, in the event of a grant of the application of Golden Orange Broadcasting Co., Inc., such application shall be granted subject to the condition that, prior to licensing, the permittee shall submit acceptable data for type acceptance of its proposed transmitter in accordance with the requirements of § 73.640 of the Commission's rules.

It is further ordered, That in the event of a grant of the application of Orange County Broadcasting Co. or the grant of the application of The Voice of the Orange Empire, Inc., Ltd., the grant shall be without prejudice to whatever action the Commission may deem appropriate as a result of the pending proceeding in Docket No. 17371.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594 (g) of the rules.

Adopted: August 21, 1968.

Released: August 30, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-10708; Filed, Sept. 4, 1968; 8:50 a.m.]

[2] Hereinafter referred to as Orange Empire Broadcasting Co.

[3] Harriscope, Inc., FCC 65-1165, 2 FCC 2d 223.

[4] Commissioner Cox concurring in the result. Commissioner Wadsworth absent.

FEDERAL MARITIME COMMISSION

ISRAEL/U.S. NORTH ATLANTIC PORTS WESTBOUND FREIGHT CONFERENCE

Notice of Petition Filed for Approval

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the petition (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of application to modify an approved Exclusive Patronage (Dual Rate) Contract filed by:

Mr. M. Ronn, Secretary, p.t., Israel/U.S. North Atlantic Ports Westbound Freight Conference, Post Office Box 1723, Ha'atzmauth Road 7–9, Haifa, Israel.

There has been filed on behalf of the Israel/U.S. North Atlantic Ports Westbound Freight Conference (Agreement No. 8420, as amended) an application to modify its form of merchant's contract pursuant to section 14b of the Shipping Act, 1916. The proposed contract modification adds currency devaluations to those conditions beyond the control of the Conference under which it may suspend the effectiveness of the contract or increase any rate or rates affected thereby in order to meet such conditions on not less than 15 days' written notice to the Merchant who retains the right to notify the Conference in writing of his intent to suspend the contract insofar as such increase is concerned.

Dated: August 30, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68–10705; Filed, Sept. 4, 1968; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. DA–146–Arizona U.S. Geological Survey]

LANDS WITHDRAWN IN WATER POWER DESIGNATION 5 AND POWER SITE RESERVE 606

Finding Under Section 24 of the Federal Power Act

August 22, 1968.

The Bureau of Land Management, Department of the Interior, has forwarded for Commission consideration under section 24 of the Federal Power Act, a request by the U.S. Geological Survey for cancellation of Water Power Designation No. 5 and Power Site Reserve No. 606 insofar as they affect the lands of the United States described in the attached Land Schedule.

The subject lands, involving nearly 7,000 acres, lie along Oak Creek, a tributary of the Verde River, and are located within the boundary of the Coconino National Forest. Water Power Designation No. 5, dated February 9, 1917, was made to protect the potential power value of stretches of the Verde River and Oak Creek. Power Site Reserve No. 606, dated April 14, 1917, covered lands along Oak Creek.

The subject request was instigated on behalf of the U.S. Forest Service to permit the consummation of three land exchanges involving part of the subject lands. The selected forest lands are scattered among, or are adjacent to privately owned lands, and have little value for National Forest purposes. The U.S. Geological Survey has added additional lands along Oak Creek which, the Survey states, have insufficient power value.

Some of the lands withdrawn in Water Power Designation No. 5 and Power Site Reserve No. 606 have been patented without reservations for future power development following Commission consideration under section 24 of the Federal Power Act: Hence those lands are not included in the attached schedule. Some of the lands included in the attached schedule, which have been the subject of application to permit approval of Forest Homestead and Forest Exchanges, have been patented subject to section 24. Several tracts included in the attached schedule (in Tps. 17 and 18 N., R. 6 E.) are also withdrawn pursuant to application for license for transmission line Project No. 1363 or Project No. 1402 to which the Commission's general determination of April 17, 1922, is applicable.

Under earlier classification standards the subject lands were considered valuable for power development by the diversion-conduit method. However, 14 years of records of a gaging station located on Oak Creek at Cornville, Ariz., shows the water supply of Oak Creek is insufficient to justify continued consideration of the stream as a potential electric power source. There are no known plans for development of Oak Creek for power purposes.

The Commission finds: The lands described in the attached schedule have no significant value for power development. Accordingly, it has no objection to the cancellation or revocation of Water Power Designation No. 5 and Power Site Reserve No. 606 insofar as they affect the subject lands.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

LAND SCHEDULE

ARIZONA

Gila and Salt River Meridian, Arizona

T. 15 N., R. 4 E.,
Sec. 2, E½, SE¼SW¼;
Sec. 10, SE¼NE¼, NE¼SE¼;
Sec. 11, N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼, N½SW¼.
T. 16 N., R. 4 E.,
Sec. 14, SW¼NE¼, SE¼NW¼, SW¼, NW¼SE¼;
Sec. 23, NW¼NE¼, S½NE¼, NW¼NW¼, E½W½, SE¼;
Sec. 25, SW¼NW¼, W½SW¼;
Sec. 26, NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 35, E½NE¼, SE¼;
Sec. 36, W½NW¼, NW¼SW¼.
T. 17 N., R. 5 E.,
Sec. 13, SE¼SE¼;
Sec. 23, SE¼SE¼;
Sec. 24, NE¼, SE¼NW¼, S½;
Sec. 25, NE¼NE¼, W½NE¼, NW¼, NW¼SW¼;
Sec. 26, NE¼, NE¼NW¼, S½NW¼, S½.
T. 17 N., R. 6 E.,
Sec. 4, W½NE¼, NW¼, N½SW¼, SW¼SW¼;
Sec. 5, S½NE¼, NE¼SW¼, SW¼SW¼SW¼, W½SE¼SW¼SW¼, N½SE¼SW¼, NE¼SE¼SE¼SW¼, S½SE¼SE¼SW¼, SE¼;
Sec. 7, SE¼NE¼, N½NE¼SE¼, N½S½NE¼SE¼, W½SE¼, SE¼SE¼;
Sec. 8, NE¼NE¼, W½NE¼, NE¼NE¼NW¼, SE¼NW¼NE¼NW¼, S½NE¼NW¼, W½NW¼, SE¼NW¼, SW¼, NW¼SE¼;
Sec. 17, W½W½;
Sec. 18, N½NE¼, SW¼NE¼, W½W½SE¼NE¼, E½NW¼, NE¼NE¼SW¼, W½NE¼SW¼, NW¼SW¼, W½E½SW¼SW¼, W½SW¼SW¼, W½W½NE¼SE¼, NW¼SE¼, E½SE¼SE¼;
Sec. 19, NE¼NE¼NE¼, S½N½NE¼, S½NE¼, NW¼NE¼NW¼, S½NE¼NW¼, W½NW¼, SE¼NW¼, SW¼, NW¼SE¼;
Sec. 20, NW¼NW¼.
T. 18 N., R. 6 E.,
Sec. 27, S½SW¼;
Sec. 33, SE¼NE¼, E½SE¼;
Sec. 34, NW¼, N½SW¼, SW¼SW¼.

(Approximately 6,765 acres.)

[F.R. Doc. 68–10648; Filed, Sept. 4, 1968; 8:45 a.m.]

[Docket No. CP69–32]

AMERICAN GAS COMPANY OF WISCONSIN, INC., AND NORTHERN NATURAL GAS CO.

Notice of Application

AUGUST 23, 1968.

Take notice that on August 15, 1968, American Gas Company of Wisconsin, Inc. (Applicant), 546 South 24th Avenue, Omaha, Nebr. 68105, filed in Docket No. CP69–32 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Northern Natural Gas Co. (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant, and to sell and deliver to Applicant the volumes of natural gas required for distribution in the communities of Ettrick and Galesville, Trempleau County, Wis., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that Applicant proposes to construct and operate natural gas distribution systems within the town borders of Ettrick and Galesville. Further, the application states that Respondent will construct the necessary lateral line extension from a point on its existing lateral line terminating at Blair, Wis., to the city gates of Ettrick and Galesville.

The estimated third year peak day and annual requirements of Applicant are 693 Mcf and 116,471 Mcf, respectively.

The total estimated cost of constructing the proposed distribution systems is $248,978.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before September 18, 1968.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 68-10649; Filed, Sept. 4, 1968; 8:45 a.m.]

[Docket No. CP69-34]

CITIES SERVICE GAS CO.

Notice of Application

AUGUST 23, 1968.

Take notice that on August 19, 1968, Cities Service Gas Co. (Applicant), Post Office Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP69-34 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, installation and operation of pipelines, measuring, regulating and appurtenant facilities and the sale of natural gas to The Gas Service Co. (Gas Service) for resale which will provide initial natural gas service to seven communities in Kansas and Missouri, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authority herein to:

(1) Install approximately 0.8 mile of 3-inch pipeline and measuring and regulating facilities to sell and deliver gas to Gas Service for resale in and about the community of Goodman, McDonald County, Mo.

(2) Install approximately 0.9 mile of 3-inch pipeline and measuring and regulating facilities to sell and deliver gas to Gas Service for resale in and about the community of Anderson, McDonald County, Mo.

(3) Install approximately 1.4 miles of 3-inch pipeline and measuring and regulating facilities to sell and deliver gas to Gas Service for resale in and about the community of Lanagan, McDonald County, Mo.

(4) Install approximately 1.6 miles of 3-inch pipeline and measuring and regulating facilities to sell and deliver gas to Gas Service for resale in and about the community of Pineville, McDonald County, Mo.

(5) Install approximately 4.2 miles of 3-inch pipeline and measuring and regulating facilities to sell and deliver gas to Gas Service for resale in and about the community of Noel and the village of North Noel, McDonald County, Mo.

(6) Install measuring and regulating facilities to sell and deliver gas to Gas Service for resale in and about the Indian Ridge Subdivision, Jefferson County, Kans.

(7) Install measuring and regulating facilities to sell and deliver gas to Gas Service for resale in the Eureka School Area, Reno County, Kans.

The total estimated cost of Applicant's proposed facilities is $196,830, which cost will be paid from treasury cash.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before September 20, 1968.

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 without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-10650; Filed, Sept. 4, 1968; 8:45 a.m.]

[Docket Nos. E-7410, E-7426]

PUBLIC SERVICE CO. OF INDIANA, INC., ET AL.

Order Providing for Hearing; Consolidating Proceedings; and Permitting Intervention Out of Time

AUGUST 23, 1968.

Public Service Co. of Indiana, Inc., Docket No. E-7410; Bartholomew County Rural Electric Membership Corp. et al. v. Public Service Co. of Indiana, Inc., Docket No. E-7426.

This order directs a hearing on the Application and Formal Complaint pursuant to sections 202 (b) and (c) of the Federal Power Act in Docket No. E-7426 by 15 Indiana rural electric membership corporations,[1] grants the petition to intervene by Decatur County Rural Electric Membership Corp. (Decatur) in Docket No. E-7410, and consolidates for hearing and decision the matters raised in the joint application and formal complaint with those now pending before the Commission in Docket No. E-7410.[2]

On June 21, 1968, the 15 Indiana Cooperatives referred to above filed a joint Application and Formal Complaint, requesting that the Commission (1) direct Public Service Co. of Indiana, Inc. (PSCI), pursuant to the provisions of section 202(b) of the Federal Power Act, to connect its transmission facilities with those of each of the Cooperatives and sell electric energy to each of them; and (2) require PSCI, pursuant to the provisions of section 202(c) of the Act, to make a temporary connection of its facilities with those of each of the Cooperatives and deliver energy to each of them for the duration of a prospective emergency on their electric systems. Cooperatives allege inter alia that (1) each of them purchases its wholesale electric requirements from PSCI under filed rate schedules, certain of which the Company attempted to terminate by notices of cancellation (except regarding Decatur REMC) suspended by the Commission's order of April 22, 1968, in Docket No. E-7410, and has no alternative source of power supply till completion of the generating and transmission system in 1969 by the Hoosier Energy Division (Hoosier) of Indiana Statewide Rural Electric Cooperative, Inc.; (2) they are unable to enter new 5-year contracts proffered by PSCI because of their commitment to the Hoosier project when its system commences operation anticipated in 1969; (3) although the Commission is empowered to prevent PSCI from discontinuing electric service prior to commencement of Hoosier project operations under sections 205 and 206 of the Act participants at the prehearing conference expressed the view that they should proceed also under sections 202 (b) and (c) of the Act; (4) a critical emergency involving a discontinuance of electric service to a substantial part of the State of Indiana will result if the Commission does not take remedial action prior to midnight of March 31, 1969, the date beyond which PSCI has not agreed to continue service to the Cooperatives; and (5) the proceeding relating to issues in the joint application and complaint should be consolidated with Docket No. E-7410 for hearing purposes.

On July 22, 1968, PSCI filed an answer opposing the joint application and complaint, but concurring in the request that the proceedings in Docket Nos. E-7426 and E-7410 be consolidated for hearing purposes. PSCI argues princi-

[1] Bartholomew County Rural Electric Membership Corp. (REMC), Daviess-Martin County REMC, Decatur County REMC, Dubois Rural Electric Cooperative, Inc., Fayette-Union County REMC, Harrison County REMC, Johnson County REMC, Knox County REMC, Morgan County REMC, Orange County REMC, Rush County REMC, Shelby County REMC, Southeastern Indiana REMC, Sullivan County REMC, and Utilities District of Western Indiana REMC.

[2] By Commission order issued Apr. 22, 1968, as amended June 21, 1968, the Commission suspended for a period of 5 months after their respective proposed termination of service dates and directed a hearing on the lawfulness of certain Notices of Cancellation filed by Public Service Co. of Indiana, Inc., in regard to its filed rate schedules for electric service at 51 delivery points to 14 of the 15 Indiana Cooperatives filing the joint application and formal complaint in Docket No. E-7426.

pally that this Commission has no jurisdiction under sections 205 and 206 of the Act to compel continuance of electric service beyond expiration of the respective suspension dates of its Notices of Cancellation of filed rate schedules, and a requirement of continued service pursuant to section 202(b) is neither necessary nor appropriate in the public interest. PSCI contends that the Hoosier project will result in an uneconomic and needless duplication of existing facilities and is so uncertain as a future source of power as to deprive the Commission of authority to issue a compulsory service order; PSCI's other customers and investors will be burdened unduly by the losses caused by terminating PSCI's long-continued supply of the Cooperatives' energy requirements; and no prospective "emergency" exists to warrant issuance of a compulsory service order under section 202(c) of the Act.

On June 12, 1968, Decatur filed a petition for leave to intervene in Docket No. E-7410, to which PSCI responded on June 13, 1968. Petitioner states that it also is a member of Hoosier and will be subject to Notices of Cancellation of electric service by PSCI in the future. Petitioner further states that all of the general allegations made in the joint petition to intervene filed on May 3, 1968, by Bartholomew County REMC et al.[3] are relevant to Decatur and the instant petition results from a statement at the prehearing conference by PSCI's counsel that the same issues now present in Docket No. E-7410 also will be applicable to Decatur in the near future. In its response PSCI does not object to intervention by Decatur, but contends that any order requiring PSCI to continue serving Decatur would not be valid without assessing Decatur a share of the termination costs that will be incurred as a result of Decatur's change of bulk power suppliers.

Upon consideration of the contentions by the Cooperatives and PSCI, we conclude that the issues raised in the Cooperatives' joint application and formal complaint should be set for public hearing. Inasmuch as the same general subject matter and parties are concerned both in that pleading and the currently pending Docket No. E-7410, it appears that the requested consolidation of the two proceedings would effect an orderly, expeditious resolution of the issues. It further appears that Decatur has a substantially identical interest to that of the other 14 Cooperatives in Docket No. E-7410 and its participation out of time as an intervener therein may be in the public interest.

The Commission further finds:

(1) In view of the foregoing, it is necessary and appropriate for the purposes of carrying out the provisions of the Federal Power Act, and particularly but not in limitation thereof, sections 202, 205, 206, 207, 306, 307, 308, and 309, that a public hearing be ordered respecting the issues presented in the joint application and formal complaint by Bartholomew County REMC et al. and PSCI's answer thereto; and that the aforesaid matters and those in Docket No. E-7410 currently pending before the Commission be consolidated and set for hearing.

(2) Good cause exists for the acceptance of the petition for leave to intervene filed by Decatur on June 12, 1968. Participation of Decatur in Docket No. E-7410 may be in the public interest.

The Commission orders:

(A) A public hearing shall be held concerning the issues presented in the joint application and formal complaint by Bartholomew County REMC et al. in Docket No. E-7426 and PSCI's answer thereto; and the matters in that proceeding and those in Docket No. E-7410 now before a Presiding Examiner are hereby consolidated for hearing purposes.

(B) The petitioner, Decatur, is hereby permitted to intervene in Docket No. E-7410, subject to the rules and regulations of the Commission: *Provided, however,* That the nature of the participation in the proceeding by said intervener shall be limited to matters affecting asserted rights and interests specifically set forth in the petition for leave to intervene; and, *Provided further,* That the admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in that proceeding.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 68-10651; Filed, Sept. 4, 1968; 8:46 a.m.]

[3] By order issued June 4, 1968, the Commission permitted Bartholomew County REMC and 13 other Indiana cooperatives to intervene in Docket No. E-7410.

[Docket No. CP69-35]

TENNESSEE GAS PIPELINE CO., AND ALGONQUIN GAS TRANSMISSION CO.

Notice of Application

AUGUST 27, 1968.

Take notice that on August 19, 1968, Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (Tennessee), Post Office Box 2511, Houston, Tex. 77001, and Algonquin Gas Transmission Co. (Algonquin), 1284 Soldiers Field Road, Boston, Mass. 02135, filed in Docket No. CP69-35 a joint application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for permission and approval of the abandonment, effective November 1, 1968, of the service which Tennessee renders to Algonquin by delivering natural gas to the Hartford Gas Co. (Hartford) at the Bloomfield delivery point, Hartford County, Conn., and the deletion by Algonquin of the Bloomfield delivery point from its service agreements with Hartford. Further, Tennessee requests a certificate of public convenience and necessity authorizing it to operate the existing delivery facilities at Bloomfield for the delivery facilities at Bloomfield for the delivery of gas directly to Hartford, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee presently delivers gas to Hartford at the Bloomfield delivery point for the account of Algonquin. The application states that Hartford desires to receive gas from Tennessee rather than as a customer of Algonquin.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before September 23, 1968.

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 without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 68-10652; Filed, Sept. 4, 1968; 8:46 a.m.]

[Docket No. CP69-37]

UNITED FUEL GAS CO.

Notice of Application

AUGUST 27, 1968.

Take notice that on August 20, 1968, United Fuel Gas Co. (Applicant), Post Office Box 1273, Charleston, W. Va. 25325, filed in Docket No. CP69-37 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to establish near the community of Phelps, Pike County, Ky., an additional point of delivery to Columbia Gas of Kentucky, Inc. (Columbia of Kentucky), an existing wholesale customer of Applicant. Further, Applicant requests an increase in its maximum daily delivery to Columbia of Kentucky, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests authorization to construct and operate a measuring station, together with a main line tap and appurtenant facilities, at a point on its system near the community of Phelps, and to deliver volumes of gas through said facilities directly to Phelps Gas Co., Inc., for the account of Columbia of Kentucky. Applicant also requests authorization to increase its maximum daily deliveries to Columbia of Kentucky during the 1968–69 winter season by the amount of 300 Mcf. Applicant states that gas service to the community of Phelps will be initial service.

Total estimated cost of the proposed construction will be $3,150, which cost will be financed from cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.20) on or before September 23, 1968.

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 without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–10653; Filed, Sept. 4, 1968; 8:46 a.m.]

[Docket No. RI69–14 etc.]

WARREN PETROLEUM CORP. AND TEXAS INC.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

AUGUST 15, 1968.

In order providing for hearings on and suspension of proposed changes in rates, issued July 26, 1968, and published in the FEDERAL REGISTER August 6, 1968 (F.R. Doc. 68–9290), 33 F.R. 11130, Docket Nos. RI69–14 et al., Appendix "A", line 19, second paragraph: Change "December 6, 1968" to read "December 6, 1978".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–10658; Filed, Sept. 4, 1968; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

HUNTINGTON BANCSHARES, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842 (a)), by Huntington Bancshares, Inc., which is a bank holding company located in Columbus, Ohio, for the prior approval of the Board of the acquisition by Applicant of 80 percent or more of the voting shares of the Farmers Bank of Ashland, Ashland, Ohio.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Cleveland.

Dated at Washington, D.C., this 28th day of August 1968.

By order of the Board of Governors.

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[F.R. Doc. 68–10655; Filed, Sept. 4, 1968; 8:46 a.m.]

SOUTHEAST BANCORPORATION, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Southeast Bancorporation, Inc., which is a bank holding company located in Miami, Fla., for the prior approval of the Board of the acquisition by Applicant of 80 percent or more of the voting shares of First City Bank of Tampa, Tampa, Fla.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination of conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Dated at Washington, D.C., this 28th day of August 1968.

By order of the Board of Governors.

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[F.R. Doc. 68–10656; Filed, Sept. 4, 1968; 8:46 a.m.]

VALLEY BANCORPORATION

Order Approving Application Under Bank Holding Company Act

In the matter of the application of Valley Bancorporation, Appleton, Wis., for approval of the acquisition of 80 percent or more of the voting shares of Seymour State Bank, Seymour, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and section 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Valley Bancorporation, Appleton, Wis., a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Seymour State Bank, Seymour, Wis.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Banks for the State of Wisconsin, and requested his views and recommendation. The Commissioner offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 6, 1968 (33 F.R. 5480), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement [1] of this date, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of the order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

Dated at Washington, D.C., this 26th day of August 1968.

By order of the Board of Governors.[2]

[SEAL] ROBERT C. HOLLAND, *Secretary.*

[F.R. Doc. 68-10657; Filed, Sept. 4, 1968; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-2948]

DRAVO CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 28, 1968.

In the matter of application of the Pittsburgh Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Dravo Corp., common stock, $1 par value, File No. 7-2948.

Upon receipt of a request, on or before September 12, 1968, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10685; Filed, Sept. 4, 1968; 8:48 a.m.]

[File No. 7-2956]

LORILLARD CORP. (DELAWARE)

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 29, 1968.

In the matter of application of the Midwest Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Lorillard Corp. (Delaware), File No. 7-2956.

Upon receipt of a request, on or before September 13, 1968, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10687; Filed, Sept. 4, 1968; 8:48 a.m.]

[File No. 7-2953]

LORILLARD CORP. (DELAWARE)

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 29, 1968.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Lorillard Corp. (Delaware), File No. 7-2953.

Upon receipt of a request, on or before September 13, 1968, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10688; Filed, Sept. 4, 1968; 8:48 a.m.]

[File No. 7-2954]

LORILLARD CORP. (DELAWARE)

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 29, 1968.

In the matter of application of the Pacific Coast Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago. Dissenting statement of Governor Maisel also filed as part of the original document and available upon request.

[2] Voting for this action: Chairman Martin and Governors Mitchell, Brimmer, and Sherrill. Voting against this action: Governors Robertson and Maisel. Absent and not voting: Governor Daane.

the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Lorillard Corp. (Delaware), File No. 7-2954.

Upon receipt of a request, on or before September 13, 1968, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10689; Filed, Sept. 4, 1968; 8:49 a.m.]

[File No. 7-2955]

LORILLARD CORP. (DELAWARE)

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 29, 1968.

In the matter of application of the Detroit Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Lorillard Corp. (Delaware), File No. 7-2955.

Upon receipt of a request, on or before September 13, 1968, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10690; Filed, Sept. 4, 1968; 8:49 a.m.]

[File Nos. 7-2949-2952]

SANTA FE INTERNATIONAL CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 29, 1968.

In the matter of applications of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Santa Fe International Corp.	7-2949
The Bunker-Ramo Corp.	7-2950
I-T-E Imperial Corp. (Delaware)	7-2951
Lorillard Corp. (Delaware)	7-2952

Upon receipt of a request, on or before September 13, 1968, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10686; Filed, Sept. 4, 1968; 8:48 a.m.]

[812-2352]

TEXAS CAPITAL CORP.

Notice of Filing of Application

AUGUST 29, 1968.

Notice is hereby given that Texas Capital Corp. ("Texas Capital"), Post Office Box 139, Georgetown, Tex. 78626, a Texas corporation registered as a closed-end, nondiversified, management investment company under the Investment Company Act of 1940 ("Act") has filed an application pursuant to section 6(c) and section 17(b) of the Act requesting an order of the Commission for certain exemptions from sections 12(e), 17(a), and 17(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Texas Capital, licensed under the Small Business Investment Act of 1958, was organized and commenced operations in 1958 and first offered its shares to the public in 1960. Texas '68, Inc. ("SBIC subsidiary") was incorporated by Texas Capital as a wholly owned subsidiary on April 1, 1968. Other than organizational matters, the SBIC subsidiary has not engaged in any business.

In order to provide a framework within which it can retain and operate a portion of its assets under the Small Business Administration program and at the same time free the major portion of its assets to enable it to take advantage of investment opportunities not contemplated under that program, Texas Capital proposes, subject to stockholder approval, to cause its name, its license as a small business investment company and certain of its assets which qualify as SBIC assets to be transferred to the SBIC subsidiary. The subsidiary, under the name "Texas Capital Corporation," will thereafter operate as a small business investment company, engaged in the business of furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, reorganizing companies, and similar activities. The parent, Texas Capital, will change its name to "TeleCom Corporation" and will be primarily engaged in the business of operating its majority owned subsidiaries. Approximately 21 percent of the assets of Texas Capital will be represented by the stock of the SBIC subsidiary.

Section 12(d)(1) of the Act, as here pertinent, prohibits the acquisition by Texas Capital of more than 5 percent of the total outstanding voting stock of the SBIC subsidiary, an investment company whose policy is to concentrate its investments in a particular industry or group of industries.

Section 12(e) of the Act provides, among other things, that notwithstanding the provisions of section 12(d)(1), Texas Capital may utilize up to 5 percent of the value of its assets to acquire securities issued by another investment company engaged in the business of underwriting, furnishing capital to industry, financing promotional enter-

prises, purchasing securities of issuers for which no ready market is in existence and reorganizing companies or similar activities, provided that the securities issued by such other investment company consist solely of one class of common stock. Texas Capital seeks an exemption from section 12(e) to enable it to invest more than 5 percent of the value of its assets in the SBIC subsidiary and to permit the SBIC subsidiary to issue more than one class of securities, viz. common stock to be held by Texas Capital and debt to be held by the SBA and other persons, as described below.

Section 17(a) of the Act, as here pertinent, prohibits the SBIC subsidiary, an affiliated person of Texas Capital, a registered investment company, from acquiring assets of Texas Capital without an exemptive order of the Commission. Section 17(b) of the Act provides that the Commission, by order upon application, may exempt a transaction otherwise prohibited by section 17(a) of the Act if the terms of the proposed transaction are reasonable and fair and do not involve overreaching and the proposed transaction is consistent with the policies of the registered investment companies involved and with the general purposes of the Act. Texas Capital seeks an order pursuant to section 17(b) so that the proposed reorganization may be accomplished.

Section 17(d) of the Act and Rule 17d-1 thereunder, as here pertinent, provide that it shall be unlawful for Texas Capital or the SBIC subsidiary, acting as principal, to participate in, or effect, any transaction in connection with any joint enterprise or arrangement in which the other party is a participant unless an order permitting such arrangement has been granted by the Commission. Texas Capital seeks an exemption from this provision so that it and the SBIC subsidiary may participate in joint transactions.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Texas Capital submits that approval of the requested exemptions is in the public interest in that the SBIC subsidiary is a wholly owned subsidiary of Texas Capital and that the proposed plan of reorganization provides almost $11 million in assets for the SBIC program, is reasonable and fair and does not involve overreaching on the part of any person concerned, is consistent with the policy of each registered investment company concerned, is consistent with the protection of investors and is consistent with the policy and provisions of the Act.

Texas Capital has agreed that the Order of the Commission that may issue pursuant to this notice may be conditioned upon the following:

1. Texas Capital will not consummate the proposed plan of reorganization until the plan has been approved by a requisite vote of its stockholders.

2. Immediately upon the transfer of assets to the SBIC subsidiary, Texas Capital will amend its fundamental policies consistent with the plan and will cause the SBIC subsidiary to register as an investment company in accordance with Section 8 of the Act.

3. Texas Capital will not make any investment in the SBIC subsidiary if the aggregate value of any existing investment plus the cost of any additional investment in the SBIC subsidiary would exceed 25 percent of the value of Texas Capital's total assets on an unconsolidated basis, provided that initially Texas Capital may transfer to the SBIC subsidiary assets the aggregate value of which, less the amount of debt of Texas Capital assumed by the SBIC subsidiary, does not exceed 25 percent of the value of Texas Capital's total assets on an unconsolidated basis prior to such transfer.

4. Texas Capital will at all times continue to own and hold, beneficially and of record, all of the outstanding capital stock of the SBIC subsidiary.

5. Texas Capital will not cause or permit the SBIC subsidiary to enter into, renew or perform any investment advisory or underwriting contracts or agreements, written or oral, as contemplated by section 15 of the Act, unless the terms of such contracts or agreements and any renewal thereof shall have been approved in compliance with section 15 of the Act. Any vote of the stockholders of the SBIC subsidiary as required by Section 15 of the Act will be deemed to require a vote of Texas Capital's stockholders. Any action of the directors of the SBIC subsidiary as required by section 15 of the Act will be deemed to require a vote of the directors of Texas Capital, including a majority of those directors who are not parties to any such contract or agreement or affiliated persons of any such party.

6. Texas Capital will not cause or permit the SBIC subsidiary to change any of its fundamental investment policies, or take any other action referred to in section 13(a) of the Act, unless such action shall have been authorized by Texas Capital as the holder of all of the outstanding voting securities of the SBIC subsidiary after approval of such action by the vote of a majority (as defined in the Act) of Texas Capital's outstanding voting securities.

7. Subject always to Texas Capital, individually, and Texas Capital and its consolidated subsidiaries (including the SBIC sibsidiary) on a consolidated basis, having the asset coverage required by section 18(a) of the Act immediately after the issuance or sale of any senior securities, Texas Capital may issue and sell to one or more banks or to one or more insurance companies (but not to both banks and insurance companies) its unsecured promissory notes or other unsecured evidences of indebtedness in consideration of any loan, extension, or renewal thereof made by private arrangement: *Provided*, That such notes or evidences of indebtedness are not intended to be publicly distributed: *And provided further*, That such notes or evidences of indebtedness are not convertible into, exchangeable for, or accompanied by any options to acquire any equity security. The SBIC subsidiary may borrow funds from the SBA on such terms as the SBA may from time to time make available to small business investment companies and as may be permitted under the Act and applicable rules thereunder: *Provided, however*, That Applicant will not guarantee any such borrowings. The SBIC subsidiary, as part consideration for the transfer of assets pursuant to the plan of reorganization, may also assume the indebtedness of Applicant to the SBA, and the indebtedness of Applicant not in excess of $431,274 to others. Except for indebtedness specifically assumed by the SBIC subsidiary as contemplated by the plan of reorganization, Applicant will not guarantee any borrowings by the SBIC subsidiary. As to indebtedness specifically assumed by the SBIC subsidiary, pursuant to the plan of reorganization, Applicant may remain secondarily liable to the extent of the debt assumed, but not as to any extensions of renewals thereof. SBIC subsidiary will incur no indebtedness with parties other than Applicant or the SBA other than debt assumed as part of the plan of reorganization not in excess of $431,274. Applicant will not itself hereafter and will not cause or permit the SBIC subsidiary hereafter, to issue any class of senior securities otherwise than as set out in this paragraph.

8. Texas Capital will file with the Commission and transmit to its stockholders reports prescribed and required by section 30 of the Act, including separate financial statements of the SBIC subsidiary. Texas Capital also will cause the SBIC subsidiary to file with the Commission copies of all reports which the SBIC subsidiary will be required to file with the SBA. Any independent public accountant who signs a financial statement filed by Texas Capital or the SBIC subsidiary with the Commission shall be selected and approved for Texas Capital in compliance with section 32(a) of the Act by a majority (as defined in the Act) of Texas Capital's outstanding voting securities.

9. All of the directors of the SBIC subsidiary are and will be directors of Texas Capital and all of the officers of the SBIC subsidiary will hold corresponding positions with Texas Capital.

Notice is further given that any interested person may, not later than September 18, 1968, 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 reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of

such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Texas Capital at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 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 information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It is ordered, That the Secretary of the Commission shall send a copy of this notice by registered mail to the Associate Administrator for Investment, Investment Division, Small Business Administration, Washington, D.C. 20416.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68–10691; Filed, Sept. 4, 1968; 8:49 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order No. 13–68]

ASSISTANT SECRETARY FOR ADMINISTRATION

Delegation Authority Regarding Procurement and Contracts

1. *Purpose.* This Order delegates to the Assistant Secretary for Administration procurement and contracting officer authority vested in the Secretary of Labor.

2. *Authority and directives affected.* (a) This Order is issued pursuant to Title III of the Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 393; 41 U.S.C. 251); Act of March 4, 1913 (37 Stat. 736); 5 U.S.C. 301 and 302(b); Reorganization Plan No. 6 of 1950 (64 Stat. 1263); and such other laws as may affect the procurement and contracting responsibilities of the Secretary of Labor.

(b) Secretary's Order No. 10–64 is cancelled. Such cancellation, in and of itself, shall not impair actions taken pursuant to that Order or contractual obligations incurred thereunder. All other orders, instructions, directives, and memoranda of the Secretary of Labor and other Department officials are superseded to the extent that they are inconsistent herewith.

3. *Delegation of authority.* The following authority of the Secretary of Labor is delegated to the Assistant Secretary for Administration:

(a) The authority to prescribe policies and procedures regarding the solicitation, award, and administration of all Departmental procurements; i.e., contracts, agreements, orders, grants (excluding funds paid out of the appropriation "Grants to States for Unemployment Insurance and Employment Service Administration," commonly referred to as "the Trust Fund Operation") and similar instruments which obligate Federal funds for the purpose of obtaining property and services for the Department and/or third parties or for the purpose of promoting Departmental programs or objectives through financial assistance.

(b) The authority to procure property and services for the United States Government under Title III of the Federal Property and Administrative Services Act of 1949 (63 Stat. 393).

(c) The authority to redelegate any authority vested in him by this order.

4. *Action required.* (a) The Assistant Secretary for Administration shall publish such regulations and provide for such redelegations of the procurement authority herein delegated to him as he may deem necessary to carry out his responsibilities under this order.

(1) Such regulations shall include the provision, among others, that all Departmental procurement, as defined earlier herein, effected under the Manpower Development and Training Act of 1962, as amended, and under delegations to the Department of Labor of responsibility for parts of the Economic Opportunity Act of 1964, as amended, and the Social Security Act, as amended, shall be written and administered in compliance with the Federal Procurement Regulations.

(2) Where necessary, because of program requirements or other considerations, exceptions to specific provisions of the Federal Procurement Regulations will be granted, e.g., financial assistance type programs arising after the effective date of this order.

(b) All procurements entered into under the authority of this order which are prepared on standard forms, or forms previously approved by the Solicitor, are not required to be submitted to the Assistant Secretary for Administration for review and approval. All procurements which do not utilize such forms, or incorporate changes which may affect legal obligations, shall be submitted to the Assistant Secretary for Administration for review and approval.

(c) All questions and requests for interpretations, legal and otherwise, by Administrations and Offices (A&O's) concerning the Federal Procurement Regulations as they apply to Departmental procurement, shall be addressed to the Assistant Secretary for Administration for his response. The Solicitor shall have responsibility for legal advice and assistance through rulings and interpretations of applicable laws and regulations and for drafting services as specified in section 1, Chapter 5–600, of the Manual of Administration. When required, the Assistant Secretary for Administration shall obtain the advice of the Solicitor, which advice shall be furnished by the Solicitor directly to the Assistant Secretary for Administration, or his designee, who shall then make an appropriate response to the A&O making the inquiry.

5. *Effective date.* This order is effective immediately.

Signed at Washington, D.C., this 5th day of August 1968.

WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 68–10727; Filed, Sept. 4, 1968; 8:51 a.m.]

[Secretary's Order No. 15–68]

DIRECTOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE (EEO)

Delegation of Authority

1. *Purpose.* To delegate authority for the discharge of responsibilities assigned to the Secretary of Labor under Parts II, III and IV of Executive Order 11246 (30 F.R. 12319), as amended by Executive Order 11375 (32 F.R. 14303).

2. *Background.* The Secretary of Labor under Executive Order 11246 has been responsible for achieving equal opportunity in employment by Federal contractors and subcontractors and by construction contractors on federally assisted construction contracts regardless of race, creed, color or national origin.

Executive Order 11375 amended that Order by adding a provision that prohibits discrimination in these employment areas on the basis of sex. Beginning in October 1968, as provided for in Executive Order 11375, the Department of Labor will be authorized to carry out the same activities with respect to sex discrimination as it has heretofore with respect to all other forms of discrimination covered by Executive Order 11246.

3. *The Office of Federal Contract Compliance (EEO).* There is in the Department of Labor an Office of Federal Contract Compliance (EEO) headed by a Director who shall report to the Secretary of Labor.

4. *Delegation of authority and assignment of responsibilities.* Under the general direction of the Secretary of Labor, the Director of the Office of Federal Contract Compliance (EEO) is hereby delegated authority and assigned responsibility for:

(a) Carrying out the responsibilities assigned to the Secretary of Labor in Parts II, III, and IV of Executive Order 11246, as amended by Executive Order 11375, except issuing rules and regulations of a general nature.

(b) Developing and recommending to the Secretary rules and regulations necessary or appropriate to achieve the purposes of Executive Order 11246, as amended by Executive Order 11375.

(c) Coordinating with the Equal Employment Opportunity Commission and the Department of Justice on matters relating to Title VII of the Civil Rights Act of 1964 and maintaining liaison with other agencies having civil rights and

equal employment opportunity activities.

(d) Providing regular reports to the Secretary of Labor concerning the activities of the Office and problems requiring the Secretary's attention.

5. *Directives affected.* This order cancels Secretary's Order No. 26–65.

6. *Effective date.* This order is effective immediately.

Signed at Washington, D.C., this 8th day of August 1968.

WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 68–10726; Filed, Sept. 4, 1968; 8:51 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 30, 1968.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41422—*C&NW-MN&S routing via Savage, Minn.* Filed by the Chicago & North Western Railway Co. (No. 100), for itself and on behalf of interested rail carriers. Rates on various commodities, between points in the United States, also Canada, on traffic to, from or via Kansas City, Kans.-Mo., and Council Bluffs, Iowa-Omaha, Nebr., when interchanged between the Chicago & North Western Railway Co. and the Minneapolis, Northfield & Southern Railway Co. at Savage, Minn.

Grounds for relief—Carrier competition.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–10709; Filed, Sept. 4, 1968; 8:50 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

AUGUST 30, 1968.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. 2395, filed July 25, 1968. Applicant: CURRY MOTOR FREIGHT LINES, INC., 700 Northeast Third Street, Amarillo, Tex. Applicant's representative: Grady L. Fox, 222 Amarillo Building, Amarillo, Tex. Certificate of public convenience and necessity sought to operate a freight service as follows: *General commodities*, over regular routes between Fredericksburg, Tex., and Stonewall, Tex., over U.S. Highway 290, serving all intermediate points and coordinating with all other existing authority. Both interstate and intrastate authority sought.

HEARING: Not shown. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Railroad Commission of Texas, Transportation Division, Post Office Drawer EE, Capitol Station, Austin, Tex. 78711, and should not be directed to the Interstate Commerce Commission.

State Docket No. MC–4479 (Sub-No. 7) (Correction), filed date not given, published FEDERAL REGISTER issue of August 14, 1968, corrected August 21, 1968, and republished as corrected, this issue. Applicant: KNOXVILLE-MARYVILLE MOTOR EXPRESS, INC., 1910 University Avenue, Knoxville, Tenn. Applicant's representative: Clarence Evans, Third National Bank Building, Nashville, Tenn. 37219. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General property*, except used household goods, liquid commodities in bulk, fly ash, dry cement, and dry fertilizer in bulk, and dry acids and dry chemicals in bulk over the following routes, to be used in conjunction with all of the applicant's existing authority, and with each other, in both interstate and intrastate commerce, serving all intermediate points: (1) From Vonore via Tennessee Highway 72 to Loudon, and thence via U.S. Highway 11 to Knoxville, and return over the same route, (2) from junction of U.S. Highway 411 and Tennessee Temporary Highway 95 near Greenback, via Tennessee Temporary Highway 95 to Lenoir City, and return over the same route, (3) from Maryville via county roads to Friendsville, thence via county roads to Tennessee Temporary Highway 95 southwest of Friendsville, and return over the same route, (4) as an alternate route only, between Lenoir City and Knoxville via U.S. Highway 11 and Interstate Highway 75, and such connecting roads as from time to time may be necessary between these two said highways, and (5) between Loudon and Kingston via Tennessee Highway 72 and Tennessee Highway 58 with closed doors at all intermediate points. Both intrastate and interstate authority sought. NOTE: The purpose of this republication is to correctly set forth authority sought in (1) above, which was erroneously published in previous publication.

HEARING: Monday, September 9, 1968, at 9:30 a.m., Tennessee Public Service Commission, C–1–110 Cordell Hull Building, Nashville, Tenn. 37219. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Nashville, Tenn. 37219, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–10710; Filed, Sept. 4, 1968; 8:50 a.m.]

[Notice 514]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

AUGUST 30, 1968.

The following letter-notices of proposals to operate over deviation routes for operating convenience only 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 730 (Deviation No. 36), PACIFIC INTERMOUNTAIN EXPRESS, CO., 1417 Clay Street, Post Office Box 958, Oakland, Calif. 94604, filed August 19, 1968. Carrier's representative: Alfred G. Krebs, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, *general commodities*, with certain exceptions, over a deviation route as follows: From Cordelia, Calif., over California Highway 21 to junction Interstate Highway 680, thence over Interstate Highway 680 to Martinez, Calif., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Salt Lake City, Utah, over U.S. Highway 40 via Wendover, Utah, Fernley, Nev., and Sacramento, Calif., to San Francisco, Calif., and (2) from Stockton,

Calif., over California Highway 4 to junction U.S. Highway 40, thence over U.S. Highway 40 to San Francisco, Calif., and return over the same routes.

No. MC 2202 (Deviation No. 107) (Cancels Deviation No. 60), ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309, filed August 19, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From New York, N.Y., over Interstate Highway 95 to junction Interstate Highway 20 at or near Florence, S.C., thence over Interstate Highway 20 to Atlanta, Ga., and (2) from New York, N.Y., over Interstate Highway 95 junction Interstate Highway 16 at or near Savannah, Ga., thence over Interstate Highway 16 to Macon, Ga., thence over Interstate Highway 75 to Atlanta, Ga., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From New York, N.Y., over U.S. Highway 1 to Sanford, N.C., thence over U.S. Highway 501 to Carthage, N.C., thence over North Carolina Highway 27 to Charlotte, N.C., thence over U.S. Highway 29 to Atlanta, Ga., and return over the same route.

No. MC 2202 (Deviation No. 108) ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309, filed August 19, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Indianapolis, Ind., over Interstate Highway 65 to Nashville, Tenn., thence over Interstate Highway 40 to Oklahoma City, Okla., and (2) from Indianapolis, Ind., over Interstate Highway 65 to Nashville, Tenn., thence over Interstate Highway 40 to Little Rock, Ark., thence over Interstate Highway 30 to Dallas, Tex., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Indianapolis, Ind., over U.S. Highway 40 to St. Louis, Mo., thence over U.S. Highway 66 to Oklahoma City, Okla., and (2) from Indianapolis, Ind., over U.S. Highway 40 to St. Louis, Mo., thence over U.S. Highway 66 to junction U.S. Highway 69, thence over U.S. Highway 69 to Denison, Tex., and thence over U.S. Highway 75 to Dallas, Tex., and return over the same routes.

No. MC 2202 (Deviation No. 109), ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309, filed August 19, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Atlanta, Ga., over Interstate Highway 85 to Montgomery, Ala., thence over Interstate Highway 65 to Mobile, Ala., thence over Interstate Highway 10 to San Antonio, Tex., and (2) from Atlanta, Ga., over Interstate Highway 85 to Montgomery, Ala., thence over Interstate Highway 65 to Mobile, Ala., thence over Interstate Highway 10 to junction Interstate Highway 12 near Slidell, La., thence over Interstate Highway 12 to Baton Rouge, La., thence over Interstate Highway 10 to San Antonio, Tex., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Atlanta, Ga., over U.S. Highway 78 to Austill, Ga., thence over U.S. Highway 278 to Gadsden, Ala., thence over U.S. Highway 411 to junction Alabama Highway 23, thence over Alabama Highway 23 to St. Clair, Ala., thence over U.S. Highway 11 to Meridian, Miss., thence over U.S. Highway 80 to Dallas, Tex., thence over U.S. Highway 77 to Hillsboro, Tex., thence over U.S. Highway 81 to San Antonio, Tex., and return over the same route.

No. MC 19778 (Deviation No. 5), THE MILWAUKEE MOTOR TRANSPORTATION COMPANY, 516 West Jackson Boulevard, Chicago, Ill. 60606, filed August 23, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Madison, Wis., and Beloit, Wis., over Interstate Highway 90, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Madison, Wis., over U.S. Highway 18 to junction U.S. Highway 51, thence over U.S. Highway 51 via Edgerton and Janesville, Wis., to Beloit, Wis., and return over the same route.

No. MC 106943 (Deviation No. 28), EASTERN EXPRESS, INC., 1450 Wabash Avenue, Terre Haute, Ind. 47808, filed August 19, 1968. 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 278 to junction Interstate Highway 95 at or near Linden, N.J., thence over Interstate Highway 95 to junction Interstate Highway 295 at or near Wilmington, Del., thence over Interstate Highway 295 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction Interstate Highway 695, thence over Interstate Highway 695 to junction Interstate Highway 95, thence over Interstate Highway 95 to Washington, D.C., thence over Interstate Highway 66 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction Interstate Highway 64, thence over Interstate Highway 64 to St. Louis, Mo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From St. Louis, Mo., over U.S. Highway 50 to Cincinnati, Ohio, thence over U.S. Highway 42 to Lafayette, Ohio, thence over U.S. Highway 40 via Cambridge, Ohio, to Washington, Pa., thence over U.S. Highway 19 to Pittsburgh, Pa., thence over U.S. Highway 22 to Newark, N.J., thence over U.S. Highway 1 to New York, N.Y., and return over the same route.

No. MC 106943 (Deviation No. 29), EASTERN EXPRESS, INC., 1450 Wabash Avenue, Terre Haute, Ind. 47808, filed August 15, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Baltimore, Md., over Interstate Highway 70N to junction Interstate Highway 70 at or near Frederick, Md., thence over Interstate Highway 70 to junction Interstate Highway 81 at or near Hagerstown, Md., thence over Interstate Highway 81 to junction U.S. Highway 50 at or near Winchester, Va., thence over U.S. Highway 50 to junction Interstate Highway 79 at or near Bridgeport, W. Va., thence over Interstate Highway 79 to junction Interstate Highway 64 at or near Charleston, W. Va., thence over Interstate Highway 64 to junction Interstate Highway 75 at or near Lexington, Ky., thence over Interstate Highway 75 to Cincinnati, Ohio, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Cincinnati, Ohio, over U.S. Highway 42 to Lafayette, Ohio, thence over U.S. Highway 40 via Cambridge, Ohio, to Washington, Pa., thence over U.S. Highway 19 to Pittsburgh, Pa., thence over U.S. Highway 22 to Harrisburg, Pa., thence over U.S. Highway 11 to Baltimore, Md., and return over the same route.

MOTOR CARRIER OF PASSENGERS

No. MC 2866 (Deviation No. 8), EDWARDS MOTOR TRANSIT COMPANY, 56 East Third Street, Williamsport, Pa. 17701, filed August 20, 1968. Carrier's representative: Gavin W. O'Brien, 2000 L Street NW., Washington, D.C. 20036. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction Interstate Highway 80 and U.S. Highway 220 (Interstate Highway 80, Exit No. 23) near Milesburg, Pa., over Interstate Highway 80 to Interstate Highway 80, Exit No. 13 at junction Pennsylvania Highway 153 near Anderson Creek, Pa., thence over Pennsylvania Highway 153 to junction Pennsylvania Highway 410, with the following access route: From Clearfield, Pa., over Pennsylvania Highway 879 to junction Interstate Highway 80, and (2) from junction Interstate Highway 80 and U.S. Highway 322 (Interstate Highway 80, Exit No. 11) near Corsica, Pa., over Interstate Highway 80 to junction U.S. Highway 62 near Hubbard, Ohio, with the following access routes: (a) From Clarion, Pa., over Pennsylvania Highway 68 to junction Interstate Highway 80, (b) from junction U.S. Highway 322 and Pennsylvania Highway 38 over Pennsylvania Highway 38 to junction Pennsylvania Highway 478, thence over Pennsylvania Highway 478 to junction

Interstate Highway 80, (c) from junction U.S. Highway 62 and Pennsylvania Highway 8 near Franklin, Pa., over Pennsylvania Highway 8 to junction Interstate Highway 80, (d) from Mercer, Pa., over U.S. Highway 19 to junction Interstate Highway 80, and (e) from Sharon, Pa., over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Muncy, Pa., over U.S. Highway 220 via Williamsport, Mill Hall and Milesburg, Pa., to Port Matilda, Pa., thence over U.S. Highway 322 to junction U.S. Highway 219, thence over U.S. Highway 219 to Du Bois, Pa., thence over Pennsylvania Highway 950 to junction U.S. Highway 322, thence over U.S. Highway 322 to junction Pennsylvania Highway 257, thence over Pennsylvania Highway 257 to Oil City, Pa., thence over U.S. Highway 62 to Youngstown, Ohio, and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-10711; Filed, Sept. 4, 1968; 8:50 a.m.]

[Notice 1214]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

AUGUST 30, 1968.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 114211 (Sub-No. 115) filed August 29, 1968. Applicant: WARREN TRANSPORT, INC., 305 Whitney Road, Post Office Box 420, Waterloo, Iowa 50704. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural implements, farm machinery, farm equipment, and agricultural implement parts and attachments, farm machinery parts and attachments, farm equipment parts and attachments*, from Bethany, Mo., to points in the United States (except Alaska and Hawaii), and (2) *materials, supplies, and equipment*, used in the manufacture, processing, sale, and distribution of agricultural implements, farm machinery and farm equipment, from points in the United States (except Alaska and Hawaii), to Bethany, Mo.

HEARING: September 16, 1968, at Room 302, Federal Office Building, 911 Walnut Street, Kansas City, Mo., before Examiner Rene J. Mittelbronn.

No. MC 1756 (Sub-No. 11) (Republication) filed January 8, 1968, published FEDERAL REGISTER issue February 8, 1968, and republished this issue. Applicant: PEOPLES EXPRESS CO., a corporation, 497 Raymond Boulevard, Newark, N.J. 07105. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. By application filed January 8, 1968, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of (1) empty containers, not to exceed 1 gallon in capacity, on automated trailers, between Paterson, N.J., and South Norwalk, Conn.; and (2) glass bottles, on automated trailers, from Wharton and Millville, N.J., to the F. & M. Schaefer Brewing Co., at Albany and Brooklyn, N.Y. The application was referred to the Board for disposition and the modified procedure has been followed. A report and order of the Commission, Review Board No. 3, decided August 14, 1968, and served August 26, 1968, finds that operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of (1) *containers*, between Paterson, N.J., and South Norwalk, Conn., and (2) *glass bottles*, from Millville, N.J., to the facilities of the F. & M. Schaefer Brewing Co., at Albany and Brooklyn, N.Y. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this report, a notice of the authority for which a need has been found will be published in the FEDERAL REGISTER and issuance of any certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 94201 (Sub-No. 60) (Republication), filed October 2, 1967, published FEDERAL REGISTER issue of October 19, 1967, and republished this issue. Applicant: BOWMAN TRANSPORTATION, INC., 1010 Stroud Avenue, East Gadsden, Ala., also Post Office Box 2188, East Gadsden, Ala. Applicant's representative: R. J. Hager, Post Office Box 17744, Atlanta, Ga. 30316. In the above-entitled proceeding, the examiner recommended the granting to applicant a certificate of public convenience and necessity, authorizing operation in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes of general commodities (except those of unusual value, classes A and B explosives, livestock, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, and household goods as defined by the Commission), between the plantsite of the American Cyanamid Co. at or near Pace, Fla., on the one hand, and, on the other, points in Georgia on and north of U.S. Highway 80 and points in North Carolina and South Carolina, restricted to the transportation of shipments originating at or destined to the plantsite of the American Cyanamid Co., at or near Pace, Fla. To the extent that the authority granted herein duplicates any authority presently held by applicant, it shall be construed as conferring only a single operating right.

A decision and order of the Commission, Review Board No. 3, dated August 14, 1968, and served August 26, 1968, as modified, finds that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, over irregular routes, of *general commodities* (except those of unusual value, Classes A and B explosives, livestock, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission), between the plantsite of the American Cyanamid Co. at or near Pace, Fla., on the one hand, and, on the other, points in Georgia on and north of U.S. Highway 80 and points in North Carolina and South Carolina, restricted to the transportation of shipments originating at or destined to the plantsite of the American Cyanamid Co., at or near Pace, Fla. To the extent that the authority granted herein duplicates any authority presently held by applicant, it shall be construed as conferring only a single operating right; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that the other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129826 (Republication), filed April 10, 1968, published FEDERAL REGISTER issue of May 2, 1968, and republished this issue. Applicant: ROBERT HOWARD SIMPSON, East South Lane, Marion, Va. 24354. Applicant's representative: Robert I. Asbury, North Park Street, Marion, Va. 24354. By application

filed April 10, 1968, applicant seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of air freight and air express, (1) between Marion and Sugar Grove, Va., and Tri-City Airport, in Virginia, and (2) between Marion and Sugar Grove, Va., and Woodrum Airport, Roanoke, Va., under contract with Brunswick Corp., Marion, Va. A report and order of the Commission, Operating Rights Board, dated August 14, 1968, and served August 27, 1968, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, of *general commodities* (except classes A and B explosives, commodities in bulk, and those requiring special equipment), between Marion and Sugar Grove, Va., on the one hand, and, on the other, Woodrum Airport at or near Roanoke, Va., and Tri-City Airport, near Bristol, Kingsport, and Johnson City, Tenn., under a continuing contract with Brunswick Corp., of Marion, Va., restricted to the transportation of shipments having an immediately prior or immediately subsequent movement by air, will be consistent with the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 113678 (Sub-No. 63) (Notice of Filing of Petition To Modify Certificate), filed July 11, 1968. Petitioner: CURTIS, INC., Denver, Colo. Petitioner's representative: Richard A. Paterson, 521 South 14th Street, Post Office Box 806, Lincoln, Nebr. 68501. Petition holds authority in MC 113678 (Sub-No. 63) in part, to operate as a *common carrier*, by motor vehicle, over regular routes, in the transportation of: *Fresh meats*, and *packinghouse products, equipment, and supplies*, when moving to or from the warehouses, plants, or other facilities of meat packinghouses, between Denver, Colo., and Chicago, Ill., serving the intermediate points of Omaha, Nebr., and Des Moines, Iowa, and the off-route point of Ottumwa, Iowa; 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 30 to junction Alternate U.S. Highway 30, thence over U.S. Highway 30 via Dixon, Ill., to Chicago, and return over the same route. From Denver over U.S. Highway 6 to Princeton, Ill., and thence over U.S. Highway 34 to Chicago, and return over the same route. By the instant petition, petitioner requests that the said portion of certificate No. MC–113678 (Sub-No. 63) be modified by elimination of the restriction "when moving to or from the warehouses, plants or other facilities of meat packinghouses", and asserts that the imposition in its certificate of the said restriction was held to be improper by the U.S. Supreme Court in United States et al., v. J. B. Montgomery, Inc., 376 U.S. 389. Any interested person desiring to participate, may file an original and six copies of his written representation, views, or arguments in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 128598 (Sub-No. 1) (Notice of Filing of Petition To Amend Permit), filed August 21, 1968. Petitioner: BEVARD BROTHERS, INC., Silver Hill, Md. Petitioner's representative: Francis J. Ortman, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006. Petitioner is authorized in Permit MC 128598 Sub 1 to transport sand and gravel, from points in Prince Georges County, Md., to Washington, D.C., Alexandria, Fairfax, and Falls Church, Va., and points in Arlington, Fairfax (except Herndon), Loudoun, and Prince William Counties, Va., with no transportation for compensation or return except as otherwise authorized, under a continuing contract or contracts with Silver Hill Sand & Gravel Co., Silver Hill, Md., and Indland Materials, Inc., Clinton, Md. By the instant petition, petitioner seeks to add Landover Sand Co. as a contracting shipper. Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

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 109397 (Sub-No. 161), filed August 20, 1968. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, Post Office Box 113, Interstate Business Route I–44, Joplin, Mo. 64802. Applicant's representative: Max G. Morgan, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Explosives, blasting agents, blasting materials, and supplies*, between points in Colorado. NOTE: Applicant indicates it will tack between Louviers, Colo., and points within 5 miles thereof, on the one hand, and, on the other, Du Pont, Wash., and points in Arizona, California, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming and plantsite at Simsbury and Avon, Conn. This application is a matter directly related to Docket No. MC–F–10228, published in FEDERAL REGISTER issue of August 28, 1968. If a hearing is deemed necessary, applicant does not specify a location.

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 sections 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–10233. Authority sought for control by FOX TRANSPORT SYSTEM, Bourse Building, 21 South Fifth Street, Philadelphia, Pa. 19106, of PRIDE TRANSPORTATION CO., Post Office Box 8, 3075 Richmond Terrace, Staten Island (New York), N.Y. 10303, and for acquisition by FREDERICK W. FOX, also of Philadelphia, Pa., of control of PRIDE TRANSPORTATION CO., through the acquisition by FOX TRANSPORT SYSTEM. Applicants' attorney: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, Pa. 19102. Operating rights sought to be controlled: *General commodities*, except those of unusual value, and except dangerous explosives, household goods (when transported as a separate and distinct service in connection with so-called "household movings"), commodities in bulk, and those injurious or contaminating to other lading, as a *common carrier*, over irregular routes, between points in New York, New Jersey, and Connecticut within 75 miles of Columbus Circle, New York, N.Y. FOX TRANSPORT SYSTEM, is authorized to operate as a *common carrier* in Pennsylvania, New Jersey, New York, Delaware, Virginia, Maryland, West Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10234. Authority sought for purchase by BELFORD TRUCKING CO., INC., 3500 Northwest 79th Avenue, Miami, Fla. 33148, of a portion of the operating rights of MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629, and for acquisition by MIDWEST EMERY FREIGHT SYSTEM, INC., and, in turn by MILTON D. RATNER, also of Chicago, Ill., of control of such rights through the purchase. Applicants' attorneys: Axelrod, Goodman and Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be transferred: *Frozen foodstuffs*, as a *common carrier*, over irregular routes, from Burlington, Ky., to points in Alabama, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin. Vendee is authorized to operate as a *common carrier* in Florida, Illinois, Missouri, Indiana, Kentucky, Ohio, Iowa, Kansas, Wisconsin, South Carolina, New York, Pennsylvania, Delaware, Virginia, Maryland, Massachusetts, New Jersey, Rhode Island, Georgia, Ar-

kansas, California, Colorado, Maine, Michigan, Minnesota, Nebraska, New Hampshire, Oklahoma, Oregon, Texas, Vermont, Washington, Tennessee, Alabama, Louisiana, North Carolina, South Dakota, Mississippi, Nevada, Utah, Idaho, West Virginia, North Dakota, New Mexico, Arizona, Connecticut, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10235. Authority sought for control by THE TRANS-LEASE GROUP (a noncarrier), 62 Everett Street, Westwood, Mass. 02090, of (1) McCARTHY TRANSPORT, INC., 217 Read Street, Portland, Maine 04104, (2) WAREHOUSE TRANSPORT, INC., 211 Plainfield Street, Springfield, Mass. 01107, and (3) WESTWOOD CARTAGE, INC., 56 Everett Street, Westwood, Mass. 02090, and for acquisition by JOHN J. McCARTHY, JOHN J. McCARTHY, JR., and BERNARD S. CURRAN, all of 62 Everett Street, Westwood, Mass. 02090, of control of McCARTHY TRANSPORT, INC., WAREHOUSE TRANSPORT, INC., and WESTWOOD CARTAGE, INC., through the acquisition by THE TRANS-LEASE GROUP. Applicants' attorney: David G. Macdonald, 1000 16th Street NW., Washington, D.C. 10036. Operating rights sought to be controlled: (1) *Such merchandise* as is dealt in by retail chain grocery stores, and, in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, as a *contract carrier*, over irregular routes, between points in Maine, on the one hand, and, on the other, points in New Hampshire, from Portland, Maine to points in Vermont; (2) *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, as a *contract carrier*, over irregular routes, between certain specified points in Massachusetts and New Hampshire, between points in the above territory on the one hand, and, on the other Springfield, Mass., Providence, R.I., and Portland, Maine, between certain specified points in Connecticut, Massachusetts, and Rhode Island, between certain specified points in Connecticut, Massachusetts, New Hampshire, and Vermont, between points in the above territory, on the one hand, and, on the other, Providence, R.I.; with restriction; and

(3) *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, as a *contract carrier*, over irregular routes, between certain specified points in Massachusetts and New Hampshire, between points in the above-specified territory, on the one hand, and, on the other, Springfield, Mass., Providence, R.I., and Portland, Maine; between certain specified points in Connecticut, Massachusetts, and Rhode Island, with restriction; *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 (except commodities in bulk, in tank vehicles), from Boston, Mass., to Concord, N.H., certain specified points in Maine, to the Atlantic Ocean, points in Westchester County, N.Y., and certain specified points in Connecticut and Massachusetts, with restriction, from Boston and Springfield, Mass., and North Haven, Conn., to points in New York and New Jersey, with restriction, from Dedham, Mass., to Salem, N.H., with restriction; and *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 (except commodities in bulk), from certain specified points in Massachusetts, to Concord, N.H., to certain specified points in Maine, to the Atlantic Ocean, to points in New York and New Jersey, and to certain specified points in Connecticut and Massachusetts, with restriction. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10236. Authority sought for purchase by ACE-ALKIRE FREIGHT LINES, INC., 4143 East 43d Street, Des Moines, Iowa 50317, of a portion of the operating rights and certain property of LINDSAY TRANSFER, INC., Post Office Box 384, Sutton, Nebr. 68979, and for acquisition by L. W. EASTER, E. M. EASTER, M. E. EASTER, L. D. EASTER, L. B. EASTER, R. L. EASTER, J. L. EASTER, T. C. MILLER, and EDNA MORSE, all also of Des Moines, Iowa, of control of such rights and property through the purchase. Applicants' representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Operating rights sought to be transferred: *Agricultural machinery, implements and parts thereof, and binder twine*, as a *common carrier*, over irregular routes, from certain specified points in Illinois to certain specified points in Nebraska, from certain specified points in Illinois to certain specified points in Kansas and Nebraska. Vendee is authorized to operate as a *common carrier* in Missouri, Kansas, Oklahoma, Iowa, Illinois, Nebraska, Minnesota, Wisconsin, North Dakota, South Dakota, and Indiana. Application has not been filed for temporary authority under section 210a (b).

No. MC–F–10237. Authority sought for (1) control and merger by PAUL W. WILLS, INC., 2535 Center Street, Cleveland, Ohio 44113, of the operating rights and property of SALT TRANSPORT, INC., 2535 Center Street, Cleveland, Ohio 44113, and (2) purchase by HAROLD W. STEWART, INC., 2535 Center Street, Cleveland, Ohio 44113 of the operating rights of PAUL W. WILLS, INC., 2535 Center Street, Cleveland, Ohio 44113, and for acquisition by PAUL W. WILLS, also of Cleveland, Ohio, of control of such rights and property through the transaction. Applicants' attorney: Paul F. Beery, 88 East Broad Street, Columbus, Ohio 43215. Operating rights sought to be (1) controlled and merged and (2) transferred: (1) *Salt*, in bulk, in dump-truck vehicles, as a *common carrier*, over irregular routes, from Detroit, Mich., to points in Illinois and Indiana; *rock salt* in bags or other containers, in dump equipment, when moving in mixed shipments with rock salt in bulk, from the plantsite of the International Salt Co. at Detroit, Mich., to points in Indiana and Illinois; and *salt*, from Detroit, Mich., to points in Kentucky; and (2) *rock salt*, in bulk, as a *common carrier*, over irregular routes, from Detroit, Mich., to points in Ohio; *salt*, from Cleveland and Fairport, Ohio, to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Pensylvania, Virginia, West Virginia, and the District of Columbia, from Akron and Rittman, Ohio, to points in Delaware, Maryland, New Jersey (except points in New Jersey in the Philadelphia, Pa., commercial zone, as defined by the Commission, and the New York, N.Y., commercial zone, as defined by the Commission), and Kentucky (except Covington, Louisville, and Newport, Ky.), from the sites of the shipping facilities used by the International Salt Co., at Cincinnati, Ohio, to certain specified points in Ohio, Indiana, and Kentucky.

Salt, in bulk, from Watkins Glen, N.Y., to points in Indiana, Michigan, and Ohio, from the sites of the shipping facilities used by the International Salt Co., at Cincinnati, Ohio, to certain specified points in Ohio; from the U.S. ports between the United States and Canada located on the St. Marys, St. Clair, Detroit, Niagara, and St. Lawrence Rivers; Saginaw Bay, and on the Lakes St. Clair, Ontario, Erie, Huron, Michigan, and Superior, to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia, with restrictions; between points in Indiana, Kentucky, Michigan, Ohio, Pennsylvania, West Virginia, and points in Allegany and Garrett Counties, Md., with restriction, between points in Illinois, Indiana, Kentucky, Ohio, Pennsylvania, and West Virginia, with restriction; *rock salt*, in dump or hopper-type vehicles, from Detroit, Mich., to certain specified points in Pennsylvania and West Virginia; *salt*, in dump trucks, from Detroit, Mich., to certain specified points in West Virginia; *fertilizer and fertilizer ingredients*, in bulk, in dump vehicles, from Cairo and Washington Court House, Ohio, to points in the Lower Peninsula of Michigan; *cut stone and rip rap stone*, in bulk, in dump vehicles, from Bluffton, Ohio, and points within 5 miles thereof, to points in the Lower Peninsula of Michigan; *gravel, limestone, and sand*, for bridge, airport, and road building purposes only, and

Materials, except cement, mortar, and slag, for road maintenance purposes only, in dump trucks and dump trailers, between points in Ohio (except those in Lucas, Wood, Fulton, Ottawa, Sandusky, Erie, Henry, Williams, and Defiance Counties), on the one hand, and, on the other, points in Michigan (except those in Lenawee, Monroe, Hillsdale, Jackson, Washtenaw, and Wayne Counties), with restriction; *limestone*, for bridge, airport, and road maintenance purposes only, in

dump trucks and dump trailers, from North Baltimore and Bellevue, Ohio, and points within 2 miles of North Baltimore and Bellevue, to points in Michigan, with restriction; *gravel, limestone, and sand,* for bridge, airport, and road building purposes only, and *materials,* except cement, mortar, slag, and rock salt, for road maintenance purposes only, between certain specified points in Michigan, on the one hand, and, on the other, points in Ohio (except Carey, Ohio), with restriction; *limestone,* in bulk, in dump vehicles, from points within 10 miles of Paulding, Ohio, to points in Indiana on that portion of the right-of-way of the Indiana East-West Toll Road (also known as the Indiana Turnpike) lying between the Ohio-Indiana State line, and the intersection of such toll road with U.S. Highway 27, with restriction; *crushed limestone, sand, and pebbles,* from points in Steuben County, Ind., to certain specified points in Ohio, with restriction; *limestone,* in bulk, from certain specified points in Ohio, to certain specified points in Indiana, with restriction; *crushed raw limestone,* in bulk, in dump vehicles, from points in Ohio (except points in Ottawa and Sandusky Counties), to points in Michigan, with restrictions; and *fluorspar,* in bulk, in dump vehicles, from points in Hamilton County, Ohio, to points in the Lower Peninsula of Michigan, with restriction; and *scrap metal,* in dump vehicles, as a *contract carrier,* over irregular routes, from Elkton and Lapeer, Mich., to the port of entry on the United States-Canada boundary line located at or near Port Huron, Mich., with restrictions. HAROLD W. STEWART, INC., is authorized to operate as a *common carrier* in Michigan, Ohio, Indiana, Illinois, Iowa, Kentucky, Missouri, New York, Pennsylvania, Wisconsin, and West Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10238. Authority sought for purchase by HUDSON TRANSIT CORPORATION, Harriman, N.Y., of a portion of the operating rights of HUDSON TRANSIT LINES, INC., 17 Franklin Turnpike, Mahwah, N.J. 07430, and for acquisition by SHORT LINE TERMINAL AGENCY, INC., also of Mahwah, N.J., DAVID RUKIN, BARNETT RUKIN, both of 153 Allendale Road, Saddle River, N.J., and JULIUS EISEN, 54 Riverview Terrace, Upper Saddle River, N.J., of control of such rights through the purchase. Applicants' attorney: John R. Sims, Jr., 1700 Pennsylvania Avenue NW., Washington, D.C. 20006. Operating rights sought to be transferred: Passengers and their baggage, and express and newspapers, in the same vehicle with passengers, as a *common carrier,* over regular routes, between Binghamton, N.Y., and Jamestown, N.Y., serving all intermediate points, with restrictions, between junction New York Highways 17C and 26 at Endicott, N.Y., and junction New York Highways 17 and 26 at Vestal, N.Y., serving no intermediate points. HUDSON TRANSIT CORPORATION, holds no authority from this Commission. However, DAVID RUKIN, one of its controlling stockholders is affiliated with WEST FORDHAM TRANSPORTATION CORP., 439 West 203d Street, New York, N.Y., which is authorized to operate as a *common carrier* in New York and Connecticut; and LIMOUSINE RENTAL SERVICE, INC., Short Line Building, Mahwah, N.J. 07430, which is authorized to operate as a *common carrier* in Pennsylvania, New York, and New Jersey. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-10712; Filed, Sept. 4, 1968; 8:50 a.m.]

[Notice 1216]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

AUGUST 30, 1968.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

The applications immediately following are assigned for hearing at the time and place designated in the notice of filing as here published in each proceeding. All of the proceedings are subject to the special rules of procedure for hearing outlined below:

SPECIAL RULES OF PROCEDURE FOR HEARING

(1) All of the testimony to be adduced by applicant's company witnesses shall be in the form of written statements which shall be submitted at the hearing at the time and place indicated.

(2) All of the written statements by applicant's company witnesses shall be offered in evidence at the hearing in the same manner as any other type of evidence. The witnesses submitting the written statements shall be made available at the hearing for cross-examination, if such becomes necessary.

(3) The written statements by applicant's company witnesses, if received in evidence, will be accepted as exhibits. To the extent the written statements refer to attached documents such as copies of operating authority, etc., they should be referred to in written statement as numbered appendices thereto.

(4) The admissibility of the evidence contained in the written statements and the appendices thereto, will be at the time of offer, subject to the same rules as if the evidence were produced in the usual manner.

(5) Supplemental testimony by a witness to correct errors or to supply inadvertent omissions in his written statement is permissible.

No. MC 113495 (Sub-No. 35) (Republication), filed August 5, 1968, published in FEDERAL REGISTER August 22, 1968, and republished this issue. Applicant: GREGORY HEAVY HAULERS, INC., 51 Oldham Street, Post Office Box 5266, Nashville, Tenn. 37213. Applicant's representative: Wilmer B. Hill, 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except those with vehicle beds, bed frames, or fifth wheels); (2) *agricultural implements and machinery;* and (3) *attachments for, and equipment designed for use with the foregoing articles when moving in mixed loads with such articles,* (a) between points in the Davenport, Iowa, Rock Island and Moline, Ill., commercial zone, as defined by the Commission, and (b) from points in said commercial zone to points in Tennessee, North Carolina, Virginia, West Virginia, and Arkansas. Restriction: The authority herein sought shall be limited to traffic originating at the plantsites of, or storage or distribution facilities used by International Harvester Co., and terminating in the aforesaid States of destination; provided that this restriction shall not prevent the handling of traffic in foreign commerce. The purpose of this republication is to reflect the hearing information.

HEARING: October 31, 1968, Room 474, U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Ill., before an Examiner to be later designated.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-10713; Filed, Sept. 4, 1968; 8:50 a.m.]

[Notice 682]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 30, 1968.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its author-

ized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 113514 (Sub-No. 103 TA), filed August 28, 1968. Applicant: Smith Transit, Inc., 3300 Republic Bank Building, Dallas, Tex. 75201. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica gel catalyst*, in bulk, from Lake Charles, La., to Scottsbluff, Nebr. NOTE: Carrier does not intend to tack existing authority, for 180 days. Supporting shipper: W. R. Grace & Co., Davison Chemical Division, 101 North Charles Street, Baltimore, Md. 21203. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 125946 (Sub-No. 1 TA), filed August 28, 1968. Applicant: G. Lee Massey, doing business as Mountain Terrace, Victor, W. Va. 25938. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, (a) from Waynesburg and East Canton, Ohio, Darlington and Kittanning, Pa., and Pierpont, Va., to points in West Virginia, and (b) from Barboursville and Charleston, W. Va., to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Tennessee, Virginia, and the District of Columbia, for 180 days. Supporting shippers: West Virginia Brick Co., Post Office Box No. 1071, Charleston, W. Va. 25324, Attention: Mr. Paul E. Schneider, sales manager, Barboursville Clay Manufacturing Co., Post Office Box No. 1048, Charleston, W. Va. 25324, Attention: Mr. Kelly, secretary-treasurer. Send protests to: H. R. White, District Supervisor, 3202 Interstate Commerce Commission, Bureau of Operations, Federal Office Building, Charleston, W. Va. 25301.

No. MC 133056 (Sub-No. 1 TA), filed August 28, 1968. Applicant: Executive-Yankee Airlines, Inc., doing business as Yankee Air Freight System, Pittsfield Airport, Pittsfield, Mass. 01201. Applicant's representative: Joseloff, Murrett & Knierim, 410 Asylum Street, Hartford, Conn. 06103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in Berkshire County, Mass., on the one hand, and, on the other, Bradley Field, Windsor Locks, Conn., limited to shipments having an immediately prior or subsequent movement by air, for 150 days. Supporting shippers: Stratton Coats, Inc., 512 Seventh Avenue, New York, N.Y. 10018, Ben Franklin Press, Inc., Silver Street, Sheffield, Mass. 01257, A. H. Rice Co., Pittsfield, Mass. 01201, General Electric Co., 1 Plastics Avenue, Pittsfield, Mass. 01201, Peter J. Schweitzer Division, Kimberly-Clark Corp., Lee, Mass. 01238, Crane & Co., Inc., Dalton, Mass. 01226. Send protests to: District Supervisor Joseph W. Balin, Bureau of Operations, Interstate Commerce Commission, 338 Federal Building, Springfield, Mass. 01103.

No. MC 59488 (Sub-No. 30 TA), filed August 28, 1968. Applicant: SOUTHWESTERN TRANSPORTATION COMPANY, 733 South Poydras Street, Dallas, Tex. 75202. Applicant's representative: Lloyd M. Roach, 1517 West Front Street, Tyler, Tex. 75702. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving Lock and Dam No. 5 (near Wright, Ark.), as an off route point in connection with existing authority. NOTE: Applicant intends to tack with existing authority, for 180 days. Supporting shipper: Martin K. Eby Construction Co., Inc., Post Office Box 5299, Pine Bluff, Ark. 71601. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-10714; Filed, Sept. 4, 1968; 8:50 a.m.]

[Notice 202]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 30, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), 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-70644. By order of August 23, 1968, the Transfer Board approved the transfer to Hall & Wilson Transfer Co., a corporation, Fremont, Nebr., of the operating rights in certificate No. MC-18475 issued March 30, 1956, to Marvin H. Rabe and Jesse G. Hall, doing business as Hall & Wilson Transfer Co., Fremont, Nebr., authorizing the transportation of: General commodities, with the usual exceptions, between points in Nebraska. Neil W. Schilke, First National Bank Building, Fremont, Nebr. 68025, attorney for applicants.

No. MC-FC-70662. By order of August 23, 1968, the Transfer Board approved the transfer to Thomas L. Haugen, doing business as Traveloque Tours, Duluth, Minn., of license No. MC-12779, issued May 3, 1962, to Lake Country Travel Service, Inc., Duluth, Minn., authorizing broker operations of passengers and their baggage, in round trip special and charter operations, beginning and ending at Duluth, Minn., and extending to points in Minnesota, Wisconsin, and Michigan. Joseph B. Johnson, 811 First American National Bank Building, Duluth, Minn. 55802, attorney for applicants.

No. MC-FC-70726. By order of August 23, 1968, the Transfer Board approved the transfer to John Morris, Jr., doing business as John Morris, Jr., Trucking, Sussex, N.J., of the operating rights in certificate No. MC-116447 issued October 29, 1965, to Ted Dunn, Inc., Sussex, N.J., authorizing the transportation, over irregular routes, of coal from points in Lackawanna County, Pa., and points in Luzerne County, Pa. (except Hazleton, Pa., and points within 8 miles thereof), to Andover, Branchville, Franklin, Ogdensburg, and Sussex, N.J. Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006, representative for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-10715; Filed, Sept. 4, 1968; 8:51 a.m.]

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