

FEDERAL REGISTER

VOLUME 20 1934 NUMBER 199

Washington, Wednesday, October 12, 1955

TITLE 7—AGRICULTURE

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

[1023 (Peanuts-56)-1, Amdt. 1]

PART 729—PEANUTS

CHANGE OF DATE

Basis and purpose. The amendment herein is issued under the peanut marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended (7 U. S. C. 1301-1393), for the purpose of correcting an error. Since the amendment is to make a correction, it is hereby determined and found that compliance with the notice, public procedure and effective date requirements of the Administrative Procedure Act (5 U. S. C. 1003) is unnecessary, and the amendment contained herein shall be effective upon the publication of this document in the FEDERAL REGISTER.

Section 729.720 (a) of the Marketing Quota Regulations for the 1956 Crop of Peanuts (20 F. R. 6033) line 31, is amended by changing the year "1955" to "1956".

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375)

Done at Washington, D. C., this 6th day of October 1955. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 55-8257; Filed, Oct. 11, 1955; 8:53 a. m.]

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

[Tokay Grape Order 2, Amdt. 1]

PART 951—TOKAY GRAPES GROWN IN SAN JOAQUIN AND SACRAMENTO COUNTIES IN CALIFORNIA

LIMITATION OF SHIPMENTS

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

No. 51, as amended (7 CFR Part 951), regulating the handling of Tokay grapes grown in San Joaquin and Sacramento Counties in California, effective under the applicable provision of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendations of the Industry Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such grapes that may be handled during specified allotment periods, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) In the instance of deciduous fruits, determination as to the need for, and the extent of, regulation must be deferred awaiting development of the particular crop. Recommendations for this amendment was made at a meeting of said Industry Committee on October 8, 1955, after consideration of all available information relative to supply and demand conditions for Tokay grapes. It is hereby further found, therefore, 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 hereof until 30 days after publication in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that the time intervening between the date when information upon which this amendment is based and the time when this amendment 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 date, and good cause exists for making the provisions hereof effective not later than October 13, 1955. Shipments of Tokay grapes of the current crop are subject to regulation by grades and sizes pursuant to Tokay Grape Order 1 (§ 951.319; 20 F. R. 6244), which has been in effect since August 27, 1955, and is to continue until January 1, 1956; the total quantity of such of the Tokay grapes as are eligible for shipment on the basis of such Tokay Grape Order 1 during each allotment period was fixed at 414,375 standard packages

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Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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Title 32: Parts 400-699 (\$5.75)
Parts 800-1099 (\$5.00)
Part 1100 to end (\$4.50)
Title 43 (Revised, 1954) (\$6.00)

Previously announced: Title 3, 1954 Supp. (\$1.75); Titles 4-5 (\$0.70); Title 6 (\$2.00); Title 7: Parts 1-209 (\$0.60); Parts 210-899 (\$2.50); Part 900 to end (\$2.25); Title 8 (\$0.45); Title 9 (\$0.65); Titles 10-13 (\$0.50); Title 14: Parts 1-399 (\$2.25); Part 400 to end (\$0.65); Title 15 (\$1.25); Title 16 (\$1.25); Title 17 (\$0.55); Title 18 (\$0.50); Title 19 (\$0.40); Title 20 (\$0.75); Title 21 (\$1.75); Titles 22-23 (\$0.75); Title 24 (\$0.75); Title 25 (\$0.50); Title 26 (1954) (\$2.50); Title 26: Parts 1-79 (\$0.35); Parts 80-169 (\$0.50); Parts 170-182 (\$0.50); Parts 183-299 (\$0.30); Part 300 to end and Title 27 (\$1.25); Titles 28-29 (\$1.25); Titles 30-31 (\$1.25); Title 32: Parts 1-399 (\$4.50); Parts 700-799 (\$3.75); Title 32A, Revised December 31, 1954 (\$1.50); Title 33 (\$1.50); Titles 35-37 (\$0.75); Title 38 (\$2.00); Title 39 (\$0.75); Titles 40-42 (\$0.50); Titles 44-45 (\$0.75); Title 46: Parts 1-145 (\$0.40); Part 146 to end (\$1.25); Titles 47-48 (\$1.25); Title 49: Parts 1-70 (\$0.60); Parts 71-90 (\$0.75); Parts 91-164 (\$0.50); Part 165 to end (\$0.60); Title 50 (\$0.55)

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pursuant to Tokay Grape Order 2 (§ 951.320; 20 F. R. 6813); Tokay Grape Order 2 will terminate, unless its termination date is postponed, at 12:01 a. m., P. s. t., October 13, 1955; a reasonable determination as to the need for continued regulation of the volume of shipments of Tokay grapes after October 12, 1955, must await the availability of information relative to the probable supply and demand conditions for such grapes; information available to the committee on October 8, 1955, was to the effect that, without regulation of the volume of shipments during the period from October 13, 1955, through October 16, 1955, the supply of eligible Tokay grapes will exceed the demand therefor, and recommendation and supporting information for continued regulation on the same basis as set forth in said Tokay Grape Order 2 was forwarded promptly to the Department and made available to handlers and producers of Tokay grapes; the provisions of this amendment, including the period during which it will be effective, are the same as the aforesaid recommendation of the committee; and compliance with the provisions of this amendment will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

Order, as amended. Tokay Grape Order 2 (§ 951.320; 20 F. R. 6813) is

hereby amended by deleting from § 951.320 (b) (1) the date "October 13, 1955" and inserting, in lieu thereof, the date "October 17, 1955."

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: October 10, 1955.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 55-8306; Filed, Oct. 11, 1955;
8:57 a. m.]

TITLE 5—ADMINISTRATIVE
PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE
COMPETITIVE SERVICE

DEPARTMENT OF STATE

Effective upon publication in the FEDERAL REGISTER, subparagraphs (6) and (13) of paragraph (a) of § 6.302 are amended as set out below.

§ 6.302 *Department of State.*
(a) *Office of the Secretary.* * * *
(6) One Special Assistant for International Cooperation Affairs to the Under Secretary.

(13) One Private Secretary to the Special Assistant for International Cooperation Affairs to the Under Secretary.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, March 31, 1953, 18 F. R. 1823, 3 CFR 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 55-8273; Filed, Oct. 11, 1955;
8:56 a. m.]

PART 6—EXEMPTIONS FROM THE
COMPETITIVE SERVICE

HOUSING AND HOME FINANCE AGENCY

Effective upon publication in the FEDERAL REGISTER, paragraph (a) (8) of § 6.342 is revoked.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, March 31, 1953, 18 F. R. 1823, 3 CFR 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 55-8272; Filed, Oct. 11, 1955;
8:56 a. m.]

TITLE 16—COMMERCIAL
PRACTICES

Chapter I—Federal Trade Commission

[Docket 6291]

PART 13—DIGEST OF CEASE AND DESIST
ORDERS

MASTERLINE CORP. ET AL.

Subpart—Advertising falsely or misleadingly: § 13.70 Fictitious or mislead-

ing guarantees: § 13.75 Free goods or services: § 13.110 Indorsements, approval and testimonials: § 13.155 Prices: Comparative; Product or quantity covered: § 13.170 Qualities or properties of product or service: § 13.260 Terms and conditions. Subpart—Claiming or using indorsements or testimonials falsely or misleadingly: § 13.330 Claiming or using indorsements or testimonials falsely or misleadingly. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1955 Free goods: § 13.1980 Guarantee, in general; § 13.2080 Terms and conditions. In connection with the sale or distribution of aluminum storm doors, aluminum storm windows, or aluminum awnings in commerce, and on the part of respondent corporation, its officers, agents, etc. (the complaint having been dismissed as to individual respondents), representing, directly or by implication: (1) That credit customers have free use of items for the period preceding the due date of the initial payment, when in fact they are charged with interest during such period; (2) that any of said products are fully guaranteed, or are unconditionally guaranteed, or are sold with a lifetime guarantee, or that installations are guaranteed for a lifetime of service or that the guarantee assures users of a lifetime of trouble-free performance; (3) that any of said products are guaranteed unless the nature and extent of the guarantee and the manner in which the guarantor will perform are clearly and conspicuously disclosed; (4) that their Aluminum windows are nationally approved; (5) that the locks or latches with which their storm doors and windows are equipped are burglar proof; (6) that any of said products are free or may be purchased at reduced prices, without clearly and conspicuously disclosing in immediate conjunction with any such offer all of the terms and conditions thereof, including the need to purchase additional merchandise, if such is the case; (7) that any of said products are offered at America's lowest price; (8) by pictorial illustrations or otherwise, that the advertised price of any of said products includes any equipment or accessories for which an additional charge is made; and (9) that products are offered for sale when such offer is not a bona fide offer to sell the products, so, and as, offered; prohibited.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Masterline Corporation et al., Philadelphia, Pa., Docket 6291, September 1, 1955]

In the Matter of Masterline Corporation, a Corporation, and Morris Marder, Henry Yusem, Myrna Yusem, and Rita Marder, Individually and as Officers of Said Corporation

This proceeding was heard by Earl J. Kolb, hearing examiner, upon the complaint of the Commission which charged respondents with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the Federal Trade Commission Act in connection with the sale and distribution of aluminum storm windows, aluminum storm doors, and aluminum awnings.

Respondent corporation failed to file its answer in the proceeding or to appear before the hearing examiner on the date set for initial hearing in the complaint, and was declared in default. Upon motion of the attorney in support of the complaint, the proceeding was continued to May 12, 1955, when he presented an affidavit executed by two of the individual respondents stating that they were officers of respondent corporation at the time of issuance of the complaint and that the other two individuals were nominal officers and not engaged in operation of said corporation; that said corporation was declared bankrupt by order of the U. S. District Court, Eastern District of Pennsylvania, and its assets were being disposed of by a receiver in bankruptcy appointed by said court; that said respondents were no longer engaged in the storm window business and did not intend to resume said business; and that in any business in which they might engage in the future they would not permit themselves to be part of practices of the types alleged in the complaint.

Attorney in support of the complaint thereupon moved that the individual respondents be dismissed, which motion having been sustained by the hearing examiner and default having been entered against corporate respondent, the hearing examiner made his findings as to the facts,¹ conclusions¹ drawn therefrom, and order.

Thereafter said initial decision, including said order as announced and decreed by "Decision of the Commission and Order To File Report of Compliance", dated September 22, 1955, became, on September 1, 1955, pursuant to § 3.21 of the Commission's rules of practice, the decision of the Commission.

Said order to cease and desist is as follows:

It is ordered, That respondent Masterline Corporation, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device in connection with the sale or distribution of aluminum storm doors, aluminum storm windows, or aluminum awnings in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That credit customers have free use of items for the period preceding the due date of the initial payment, when in fact they are charged with interest during such period.

2. That any of said products are fully guaranteed, or are unconditionally guaranteed, or are sold with a lifetime guarantee, or that installations are guaranteed for a lifetime of service or that the guarantee assures users of a lifetime of trouble-free performance.

3. That any of said products are guaranteed unless the nature and extent of the guarantee and the manner in which the guarantor will perform are clearly and conspicuously disclosed.

¹ Filed as part of original document.

4. That their Alumatic windows are nationally approved.

5. That the locks or latches with which their storm doors and windows are equipped are burglar proof.

6. That any of said products are free or may be purchased at reduced prices, without clearly and conspicuously disclosing in immediate conjunction with any such offer all of the terms and conditions thereof, including the need to purchase additional merchandise, if such is the case.

7. That any of said products are offered at America's lowest price.

8. By pictorial illustrations or otherwise, that the advertised price of any of said products includes any equipment or accessories for which an additional charge is made.

9. That products are offered for sale when such offer is not a bona fide offer to sell the products, so, and as, offered.

It is further ordered, That the complaint be, and the same is hereby, dismissed as to the individual respondents Morris Marder, Henry Yusem, Myrna Yusem and Rita Marder.

By said "Decision of the Commission," etc., report of compliance was required as follows:

It is ordered, That respondent Masterline Corporation, a corporation, shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: September 22, 1955.

By the Commission.

[SEAL]

JOHN R. HEIM,
Acting Secretary.

[F. R. Doc. 55-8277; Filed, Oct. 11, 1955;
8:57 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53917]

PART 11—PACKING AND STAMPING; MARKING; TRADEMARKS AND TRADE NAMES; COPYRIGHTS

METHOD OF MARKING TO INDICATE COUNTRY OF ORIGIN OF IMPORTED ARTICLES (OR CONTAINERS)

In order to clarify the marking requirements with respect to articles imported into a possession of the United States and reshipped to the United States, § 11.8 (f) of the Customs Regulations is amended to read as follows:

(f) Articles of foreign manufacture or production imported into any possession of the United States outside its customs territory (section 401 (k), Tariff Act of 1930, as amended) and reshipped to the United States are subject to all marking requirements applicable to like articles of foreign origin imported directly from a foreign country to the United States.

(Sec. 624, 46 Stat. 759; 19 U. S. C. 1624. Interprets or applies sec. 304, 46 Stat. 687, as amended; 19 U. S. C. 304)

[SEAL]

RALPH KELLY,
Commissioner of Customs.

Approved: October 5, 1955.

DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 55-8269; Filed, Oct. 11, 1955;
8:56 a. m.]

[T. D. 53919]

MISCELLANEOUS AMENDMENTS TO CHAPTER

It has become evident that collectors of customs and their staffs have become conversant with the standards for settling claims for liquidated damages under various customs bonds and that delegation of greater authority to settle such claims in the field is warranted. Therefore, to more effectively serve the public by promoting the prompt disposition of such claims, the Customs Regulations are amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. Section 10.39 is hereby amended as follows:

a. Paragraph (e) is amended by substituting "\$20,000" for "\$1,000" in the second sentence.

b. Paragraph (f) is amended by substituting "\$20,000" for "\$1,000".

(Secs. 308, 623, 46 Stat. 690, as amended 759, as amended; 19 U. S. C. 1308, 1623)

2. Section 10.92 is hereby amended by deleting the parenthetical matter at the end of paragraph (c) and adding a new paragraph (d) reading as follows:

(d) The collector of customs may cancel liquidated damages not in excess of \$20,000 incurred under a bond mentioned in this section upon payment of less than the full amount, or without the payment of any amount if no loss of revenue is involved, as he may deem appropriate under the law and in view of the circumstances.

(Par. 1101, sec. 1, 46 Stat. 646, as amended; 19 U. S. C. 1001 (Par. 1101))

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

PART 11—PACKING AND STAMPING; TRADEMARKS AND TRADE NAMES, COPYRIGHTS

Section 11.11 (d) is amended by substituting "\$20,000" for "\$1,500".

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624. Interprets or applies secs. 304, 623, 46 Stat. 687, as amended, 759, as amended; 19 U. S. C. 1304, 1623)

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

Section 18.8 is hereby amended by deleting the parenthetical matter at the

end of paragraph (c) and by adding a new paragraph (d) reading as follows:

(d) In any case in which liquidated damages imposed in accordance with this section do not aggregate over \$20,000 and the collector is satisfied by evidence submitted to him that all the merchandise in respect of which the liquidated damages were incurred has actually been exported or destroyed, and that any failure to obtain customs supervision was without any intent to evade any law or regulation, he may cancel the claim for such liquidated damages upon the payment of any lesser amount, or without the payment of any amount, as he may deem appropriate under the circumstances.

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624. Interprets or applies secs. 551, 623, 46 Stat. 742, as amended, 623, as amended; 19 U. S. C. 1551, 1623)

PART 21—CARTAGE AND LIGHTERAGE

Section 21.8 is hereby amended by adding a new paragraph (c) reading as follows:

(c) The collector may cancel liquidated damages not in excess of \$20,000 incurred under a cartman's bond or a lighterman's bond upon the payment of such lesser amount, or without the payment of any amount, as he may deem appropriate under the circumstances.

(Secs. 565, 624, 46 Stat. 747, 759; 19 U. S. C. 1565, 1624. Interprets or applies sec. 623, 46 Stat. 759, as amended; 19 U. S. C. 1623)

PART 25—CUSTOMS BONDS

Section 25.17 is hereby amended as follows:

1. Paragraph (g) is deleted, paragraph (h) is redesignated as (g), and redesignated paragraph (g) is amended by substituting "\$200" for "\$100".

2. A new paragraph (h) is added, reading as follows:

(h) If the interested party is not satisfied with the collector's decision on any application for relief from liquidated damages under a bond given pursuant to a law or regulation administered by the Customs Service, he may file a further application with the collector to be forwarded to the Bureau for reconsideration of the case. A statement to that effect shall be contained in the notification to the applicant of the collector's action.

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624. Interprets or applies sec. 623, 46 Stat. 759, as amended; 19 U. S. C. 1623)

[SEAL]

RALPH KELLY,
Commissioner of Customs.

Approved: October 4, 1955.

DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 55-8270; Filed, Oct. 11, 1955;
8:56 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter G—Regulations Under Tax Conventions

[T. D. 6149]

PART 509—THE SWISS CONFEDERATION

General regulations under the income tax convention between the United States and the Swiss Confederation, proclaimed by the President of the United States on October 1, 1951, subject to the protocol of exchange signed on September 27, 1951.

- | | |
|---------|--|
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| 509.122 | Swiss partnerships. |

AUTHORITY: §§ 509.101 to 509.122, issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

On June 16, 1955, notice of proposed rule making regarding the general regulations under the income tax convention between the United States and the Swiss Confederation, proclaimed by the President of the United States on October 1, 1951, was published in the FEDERAL REGISTER (20 F. R. 4211). No comments regarding the regulations proposed were received during the 30-day period prescribed in such notice, and the regulations set forth below are hereby adopted:

§ 509.101 *Introductory.* The income tax convention between the United States and the Swiss Confederation, signed May 24, 1951, and proclaimed by the President of the United States on October 1, 1951, subject to the understanding expressed in the protocol of exchange, hereinafter referred to as the convention, provides as follows, effective for taxable years beginning on or after January 1, 1951:

ARTICLE I

(1) The taxes referred to in this Convention are:

(a) In the case of the United States of America: The Federal income taxes, including surtaxes and excess profits taxes.

(b) In the case of The Swiss Confederation: The federal, cantonal and communal taxes on income (total income, earned income, income from property, industrial and commercial profits, etc.).

(2) The present Convention shall also apply to any other income or profits tax of a substantially similar character imposed by either contracting State subsequently to the date of signature of the present Convention.

ARTICLE II

(1) As used in this Convention:

(a) The term "United States" means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) The term "Switzerland" means The Swiss Confederation.

(c) The term "permanent establishment" means a branch, office, factory, workshop, warehouse or other fixed place of business, but does not include the casual and temporary use of merely storage facilities, nor does it include an agency unless the agent has and habitually exercises a general authority to negotiate and conclude contracts on behalf of an enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a commission agent, broker or custodian or other independent agent acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation. The maintenance within the territory of one of the contracting States by an enterprise of the other contracting State of a warehouse for convenience of delivery and not for purposes of display shall not of itself constitute a permanent establishment within that territory even though offers of purchase have been obtained by an agent of the enterprise in that territory and transmitted by him to the enterprise for acceptance.

(d) The term "enterprise of one of the contracting States" means, as the case may be, "United States enterprise" or "Swiss enterprise".

(e) The term "United States enterprise" means an industrial or commercial enterprise or undertaking carried on in the United States by a resident (including an individual, fiduciary and partnership) of the United States or by a United States corporation or other entity; the term "United States corporation or other entity" means a corporation or other entity created or organized under the law of the United States or of any State or Territory of the United States.

(f) The term "Swiss enterprise" means an industrial or commercial enterprise or undertaking carried on in Switzerland by an individual resident in Switzerland or by a Swiss corporation or other entity; the term "Swiss corporation or other entity" means a corporation or institution or foundation having juridical personality, or a partnership (association "en nom collectif" or "en commandite"), or other association without juridical personality, created or organized under Swiss laws.

(g) The term "competent authorities" means, in the case of the United States, the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury; and in the case of Switzerland, the Director of the Federal Tax Administration as authorized by the Federal Department of Finances and Customs.

(h) The term "industrial or commercial profits" includes manufacturing, mercantile, mining, financial and insurance profits, but does not include income in the form of dividends, interest, rents or royalties, or remuneration for personal services: Provided, however, that such excepted items of income shall, subject to the provisions of this Convention, be taxed separately or together with industrial or commercial profits in accordance with the laws of the contracting States.

(2) In the application of the provisions of the present Convention by one of the contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under its own tax laws.

ARTICLE III

(1) (a) A Swiss enterprise shall not be subject to taxation by the United States in respect of its industrial and commercial profits unless it is engaged in trade or business in the United States through a permanent establishment situated therein. If it is so engaged the United States may impose its tax upon the entire income of such enterprise from sources within the United States.

(b) A United States enterprise shall not be subject to taxation by Switzerland in respect of its industrial and commercial profits except as to such profits allocable to its permanent establishment situated in Switzerland.

(2) No account shall be taken in determining the tax in one of the contracting States of the mere purchase of merchandise therein by an enterprise of the other State.

(3) Where an enterprise of one of the contracting States is engaged in trade or business in the territory of the other contracting State through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(4) In the determination of the industrial or commercial profits of the permanent establishment there shall be allowed as deductions all expenses which are reasonably applicable to the permanent establishment, including executive and general administrative expenses so applicable.

(5) The competent authorities of the two contracting States may lay down rules by agreement for the apportionment of industrial and commercial profits.

ARTICLE IV

Where an enterprise of one of the contracting States, by reason of its participation in the management or the financial structure of an enterprise of the other contracting State, makes with or imposes on the latter, in their commercial or financial relations, conditions different from those which would be made with an independent enterprise, any profits which would normally have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE V

Income which an enterprise of one of the contracting States derives from the operation of ships or aircraft registered in that State shall be taxable only in the State in which such ships or aircraft are registered.

ARTICLE VI

(1) The rate of tax imposed by one of the contracting States upon dividends derived from sources within such State by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall not exceed 15 percent: Provided, however, that this paragraph shall have no application to Swiss tax in the case of dividends derived from Switzerland by a Swiss citizen (who is not also a citizen of the United States) resident in the United States.

(2) It is agreed, however, that such rate of tax shall not exceed five percent if the shareholder is a corporation controlling, directly or indirectly, at least 95 percent of the entire voting power in the corporation paying the dividend, and if not more than 25 percent of the gross income of such paying corporation is derived from interest and dividends, other than interest and dividends received from its own subsidiary corporations: Such reduction of the rate to five percent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

(3) Switzerland may collect its tax without regard to paragraphs (1) and (2) of this Article but will make refund of the tax so collected in excess of the tax computed at the reduced rates provided in such paragraphs.

ARTICLE VII

(1) The rate of tax imposed by one of the contracting States on interest on bonds, securities, notes, debentures or on any other form of indebtedness (including mortgages or bonds secured by real property) derived from sources within such contracting State by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall not exceed five percent: Provided, however, that this paragraph shall have no application to Swiss tax in the case of interest derived from Switzerland by a Swiss citizen (who is not also a citizen of the United States) resident in the United States.

(2) Switzerland may collect its tax without regard to paragraph (1) of this Article but will make refund of the tax so collected in excess of the tax computed at the reduced rate provided in such paragraph.

ARTICLE VIII

Royalties and other amounts derived, as consideration for the right to use copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trademarks, and other like property and rights (including rentals and like payments in respect to motion picture films or for the use of industrial, commercial or scientific equipment), from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from taxation in such former State.

ARTICLE IX

(1) Income from real property (including gains derived from the sale or exchange of such property but not including interest from mortgages or bonds secured by real property) and royalties in respect of the operation of mines, quarries, or other natural resources, shall be taxable only in the contracting State in which such property, mines, quarries, or other natural resources are situated.

(2) A resident or corporation or other entity of one of the contracting States deriving any such income from such property within the other contracting State may, for any taxable year, elect to be subject to the tax of such other contracting State, on a net basis, as if such resident or corporation or entity

were engaged in trade or business within such other contracting State through a permanent establishment therein during such taxable year.

ARTICLE X

(1) An individual resident of Switzerland shall be exempt from United States tax upon compensation for labor or personal services performed in the United States (including the practice of the liberal professions and rendition of services as director) if he is temporarily present in the United States for a period or periods not exceeding a total of 183 days during the taxable year and either of the following conditions is met:

(a) His compensation is received for such labor or personal services performed as an employee of, or under contract with, a resident or corporation or other entity of Switzerland, or

(b) His compensation received for such labor or personal services does not exceed \$10,000.

(2) The provisions of paragraph (1) of this Article shall apply mutatis mutandis, to an individual resident of the United States with respect to compensation for such labor or personal services performed in Switzerland.

(3) The provisions of this Article shall have no application to the income to which Article XI (1) relates.

(4) The provisions of paragraph (1) (a) of this Article shall not apply to the compensation, profits, emoluments or other remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

ARTICLE XI

(1) (a) Wages, salaries and similar compensation, and pensions paid by the United States or by the political subdivisions or territories thereof to an individual (other than a Swiss citizen who is not also a citizen of the United States) shall be exempt from Swiss tax.

(b) Wages, salaries and similar compensation and pensions paid by Switzerland or by any agency or instrumentality thereof or by any political subdivisions or other public authorities thereof to an individual (other than a United States citizen who is not also a citizen of Switzerland) shall be exempt from United States tax.

(2) Private pensions and life annuities derived from within one of the contracting States and paid to individuals residing in the other contracting State shall be exempt from taxation in the former State.

(3) The term "pensions", as used in this Article, means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(4) The term "life annuities" as used in this Article, means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE XII

A professor or teacher, a resident of one of the contracting States, who temporarily visits the other contracting State for the purpose of teaching for a period not exceeding two years at a university, college, school or other educational institution in the other contracting State, shall be exempted in such other contracting State from tax on his remuneration for such teaching for such period.

ARTICLE XIII

A student or apprentice, a resident of one of the contracting States, who temporarily visits the other contracting State exclusively for the purposes of study or for acquiring business or technical experience shall not be taxable in the latter State in respect of re-

mittances received by him from abroad for the purposes of his maintenance or studies.

ARTICLE XIV

(1) Dividends and interest paid by a corporation other than a United States domestic corporation shall be exempt from United States tax where the recipient is a nonresident alien as to the United States resident in Switzerland or a Swiss corporation, not having a permanent establishment in the United States.

(2) Dividends and interest paid by a corporation other than a Swiss corporation shall be exempt from Swiss tax where the recipient is a resident or corporation of the United States, not having a permanent establishment in Switzerland.

ARTICLE XV

(1) It is agreed that double taxation shall be avoided in the following manner:

(a) The United States in determining its taxes specified in Article I of this Convention in the case of its citizens, residents or corporations may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income taxable under the revenue laws of the United States as if this Convention had not come into effect. The United States shall, however, subject to the provisions of section 131, Internal Revenue Code, as in effect on the date of the entry into force of this Convention, deduct from its taxes the amount of Swiss taxes specified in Article I of this Convention. It is agreed that by virtue of the provisions of subparagraph (b) of this paragraph, Switzerland satisfies the similar credit requirement set forth in section 131 (a) (3), Internal Revenue Code.

(b) Switzerland, in determining its taxes specified in Article I of this Convention in the case of its residents, corporations or other entities, shall exclude from the basis upon which such taxes are imposed such items of income as are dealt with in this Convention, derived from the United States and not exempt from, and not entitled to the reduced rate of, United States tax under this Convention; but in the case of a citizen of the United States resident in Switzerland there shall be excluded all items of income derived from the United States. Switzerland, however, reserves the right to take into account in the determination of the rate of its taxes also the income excluded as provided in this paragraph.

(2) The provisions of this Article shall not be construed to deny the exemptions from United States tax or Swiss tax, as the case may be, granted by Article XI (1) of this Convention.

ARTICLE XVI

(1) The competent authorities of the contracting States shall exchange such information (being information available under the respective taxation laws of the contracting States) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the like in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

(2) Each of the contracting States may collect such taxes imposed by the other contracting State as though such taxes were the taxes of the former State as will ensure that the exemption or reduced rate of tax granted under Articles VI, VII, VIII and XI (2) of the present Convention by such other State shall not be enjoyed by persons not entitled to such benefits.

(3) In no case shall the provisions of this Article be construed so as to impose upon either of the contracting States the obligation to carry out administrative measures at variance with the regulations and practice of either contracting State or which would be contrary to its sovereignty, security or public policy or to supply particulars which are not procurable under its own legislation or that of the State making application.

ARTICLE XVII

(1) Where a taxpayer shows proof that the action of the tax authorities of the contracting States has resulted, or will result, in double taxation contrary to the provisions of the present Convention, he shall be entitled to present the facts to the State of which he is a citizen or a resident, or, if the taxpayer is a corporation or other entity, to the State in which it is created or organized. Should the taxpayer's claim be deemed worthy of consideration, the competent authority of such State shall undertake to come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

(2) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to Conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

ARTICLE XVIII

(1) The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers.

(2) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of one of the contracting States in the determination of the tax imposed by such State.

(3) The citizens of one of the contracting States shall not, while resident in the other contracting State, be subjected therein to other or more burdensome taxes than are the citizens of such other contracting State residing in its territory. The term "citizens" as used in this Article includes all legal persons, partnerships and associations created or organized under the laws in force in the respective contracting States. In this Article the word "taxes" means taxes of every kind or description, whether Federal, State, cantonal, municipal or communal.

ARTICLE XIX

(1) The competent authorities of the two contracting States may prescribe regulations necessary to carry into effect the present Convention within the respective States.

(2) The competent authorities of the two contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

ARTICLE XX

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible. It shall have effect for the taxable years beginning on or after the first day of January of the year in which such exchange takes place: Provided, however, that if such exchange takes place on or after October 1 of such year, Article VI (except paragraph (2) thereof) and Article VII of the Convention shall have effect only for taxable years beginning on or after the first day of January of the year immediately following the year in which such exchange takes place.

(2) The present Convention shall continue effective for a period of five years begin-

ning with the calendar year in which the exchange of the instruments of ratification takes place and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given and, in such event, the present Convention shall cease to be effective for the taxable years beginning on or after the first day of January next following the expiration of the six-month period.

Done at Washington, in duplicate, in the English and German languages, the two texts having equal authenticity, this 24th day of May, 1951.

For the President of the United States of America:

[SEAL]

DEAN ACHESON.

For the Swiss Federal Council:

[SEAL]

CHARLES BRUGGMANN.

PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES DATED OCTOBER 1, 1951

And whereas the Senate of the United States of America, by their resolution of September 17, 1951, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the aforesaid convention, subject to a reservation, as follows:

"The Government of the United States of America does not accept paragraph (4) of Article X of the Convention, relating to the profits or remuneration of public entertainers."

And whereas the text of the aforesaid reservation was communicated by the Government of the United States of America to the Government of the Swiss Confederation and the aforesaid reservation was accepted by the Government of the Swiss Confederation;

And whereas the aforesaid convention was duly ratified by the President of the United States of America on September 20, 1951, in pursuance of the aforesaid advice and consent of the Senate and subject to the aforesaid reservation, and the aforesaid convention was duly ratified on the part of the Swiss Confederation;

And whereas the respective instruments of ratification of the aforesaid convention were duly exchanged at Bern on September 27, 1951, and a protocol of exchange of instruments of ratification, in the English and French languages, was signed at that place and on that date by the respective Plenipotentiaries of the United States of America and the Swiss Confederation, the said protocol containing a statement that it is understood by the two Governments that the convention aforesaid, upon entry into force in accordance with its provisions, is modified in accordance with the aforesaid reservation, so that, in effect, paragraph (4) of Article X of the convention is deemed to be deleted;

And whereas, so far as appertains to an exchange of instruments of ratification prior to October 1 of any year, it is provided in Article XX of the aforesaid convention that upon the exchange of instruments of ratification the convention shall have effect for the taxable years beginning or [sic] or after the first day of January of the year in which such exchange takes place;

Now, therefore, be it known that I, Harry S. Truman, President of the United States of America, do hereby proclaim and make public the aforesaid convention to the end that the said convention and each and every article and clause thereof, subject to the aforesaid reservation, may be observed and fulfilled with good faith by the United States of America and by the citizens of the United

States of America and all other persons subject to the jurisdiction thereof.

§ 509.102 *Applicable provisions of law*—(a) *General*. The Internal Revenue Code of 1954 provides in part as follows:

SUBTITLE A—INCOME TAXES

SEC. 894. *Income exempt under treaty*. Income of any kind, to the extent required by any treaty obligation of the United States, shall not be included in gross income and shall be exempt from taxation under this subtitle.

SUBTITLE F—PROCEDURE AND ADMINISTRATION

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

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

(b) *Internal Revenue Code of 1939*. Any reference in §§ 509.101 to 509.122 to any provision of the Internal Revenue Code of 1954 shall, where applicable, be deemed also to refer to the corresponding provision of the Internal Revenue Code of 1939.

(c) *Effective date of regulations*. Pursuant to sections 894 and 7805 of the Internal Revenue Code of 1954, Article XIX of the convention, and other provisions of the internal revenue laws, §§ 509.101 to 509.122 are hereby prescribed effective for taxable years beginning on or after January 1, 1951. All regulations inconsistent herewith are modified accordingly.

§ 509.103 *Scope of the convention*—

(a) *Purposes of convention*. The primary purposes of the convention, to be accomplished on a reciprocal basis, are to avoid double taxation upon certain items of income derived from sources in one country by residents or corporations or other entities of the other country and to provide for administrative cooperation between the competent tax authorities of the two countries looking to the avoidance of double taxation and the prevention of fiscal evasion.

(b) *Exemption from United States tax*. The following items of income from sources within the United States are exempt from United States tax for taxable years beginning on or after January 1, 1951, subject to the respective articles of the convention:

(1) Industrial and commercial profits of a Swiss enterprise having no permanent establishment in the United States (Article III);

(2) Income derived by a Swiss enterprise from the operation of ships or aircraft registered in Switzerland (Article V);

(3) Patent and copyright royalties, and other like amounts, including mo-

tion picture film rentals, derived by a nonresident alien who is a resident of Switzerland, or by a Swiss corporation or other entity, if such alien, corporation, or other entity has no permanent establishment in the United States (Article VIII);

(4) Compensation, subject to certain limitations, for personal services performed in the United States by a nonresident alien individual who is a resident of Switzerland (Article X);

(5) Compensation and pensions paid by Switzerland to an alien individual, and to a citizen of Switzerland who is also a citizen of the United States, including such items as are from sources without the United States (Article XI);

(6) Private pensions and life annuities paid to a nonresident alien individual who is a resident of Switzerland (Article XI);

(7) Remuneration derived from certain teaching in the United States by a professor or teacher who is a nonresident alien residing in Switzerland (Article XII); and

(8) Dividends and interest paid by a foreign corporation to a nonresident alien who is a resident of Switzerland, or to a Swiss corporation, if such alien or corporation has no permanent establishment in the United States (Article XIV).

(c) *Students or apprentices*. Remittances received from abroad for the purpose of maintenance or studies by a student or apprentice, a nonresident alien residing in Switzerland, who is temporarily present in the United States under specified circumstances are also exempt from United States tax (Article XIII).

(d) *Reduced rates of United States tax*. Dividends and interest derived from sources within the United States by a nonresident alien who is a resident of Switzerland, or by a Swiss corporation or other entity, are subject to United States tax at reduced rates, if such alien, corporation, or other entity has no permanent establishment in the United States (Articles VI and VII).

(e) *Withholding regulations*. For regulations pertaining to the release of excess tax withheld, and to exemption from, or reduction in the rate of, withholding of United States tax at source, in the case of dividends, interest, patent and copyright royalties, film rentals, private pensions, and life annuities, received from sources within the United States by a nonresident alien who is a resident of Switzerland, or by a Swiss corporation or other entity, see Treasury Decision 5867, approved November 21, 1951 (26 CFR (1939) 7.300 through 7.309).

(f) *United States citizens, residents, and corporations*. (1) Any citizen of Switzerland who is a resident of the United States is liable to United States tax as though the convention had not come into effect; however, such alien resident of the United States is entitled to the foreign tax credit in accordance with Article XV and is also entitled to the benefits of Article XI (1) and Article XVIII.

(2) A citizen of the United States, even though resident in Switzerland, or a domestic corporation, even though en-

gaged in trade or business in Switzerland through a permanent establishment situated therein, is also liable to United States tax as though the convention had not come into effect but is entitled to the foreign tax credit and, to the extent, applicable, to the benefits of Article XI (1).

(g) *Other provisions applicable to Swiss residents and corporations*. Except as otherwise expressly provided by the convention, the United States tax liability of a nonresident alien who is a resident of Switzerland, or of a Swiss corporation or other entity, is determined in accordance with the provisions of the Internal Revenue Code of 1954 relating to nonresident alien individuals and foreign corporations.

§ 509.104 *Definitions*—(a) *General*. Any term defined in the convention or §§ 509.101 to 509.122 shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws of the United States.

(b) *Specific terms*. As used in §§ 509.101 to 509.122—

(1) *United States tax*. The term "United States tax" means the Federal income taxes, including surtaxes and excess profits taxes, and any other income or profits tax of a substantially similar character imposed by the United States after May 24, 1951.

(2) *Swiss tax*. The term "Swiss tax" means the federal, cantonal, and communal taxes on income—that is, on total income, earned income, income from property, industrial and commercial profits, etc.—and any other income or profits tax of a substantially similar character imposed by Switzerland after May 24, 1951.

(3) *United States*. The term "United States" means the United States of America; and, when used in a geographical sense, means the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(4) *Switzerland*. The term "Switzerland" means the Swiss Confederation.

(5) *Permanent establishment*—(1) *Fixed place of business*. The term "permanent establishment" means an office, factory, workshop, warehouse, branch, or other fixed place of business, but does not include the casual and temporary use of merely storage facilities. It implies the active conduct of a business enterprise. The mere ownership, for example, of timberlands or a warehouse in the United States by a Swiss enterprise does not mean that such enterprise, in the absence of any business activity therein, has a permanent establishment in the United States. Moreover, the maintenance within the United States by a Swiss enterprise of a warehouse for convenience of delivery, and not for purposes of display, does not of itself constitute a permanent establishment in the United States, even though offers of purchase have been obtained by an agent therein of the Swiss enterprise and transmitted by him to the Swiss enterprise for acceptance. The fact that a Swiss enterprise maintains in the United States an office or other fixed

place of business used exclusively for the purchase for such enterprise of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise.

(ii) *Subsidiary corporation.* The fact that a Swiss corporation has a domestic subsidiary corporation, or a foreign subsidiary corporation which is engaged in trade or business in the United States through a permanent establishment situated therein, does not of itself constitute either subsidiary corporation the United States permanent establishment of the Swiss parent corporation.

(iii) *Agency.* A Swiss enterprise which has an agency in the United States does not thereby have a permanent establishment in the United States, unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or unless he has a stock of merchandise from which he regularly fills orders on its behalf. If the enterprise has an agent in the United States who has power to contract on its behalf, but only at fixed prices and under conditions determined by such principal, it does not thereby necessarily have a permanent establishment in the United States. The mere fact that an agent of a Swiss enterprise—assuming he has no general authority to negotiate and conclude contracts on behalf of his principal—maintains samples, or occasionally fills orders from incidental stocks of goods maintained, in the United States does not of itself mean that such enterprise has a permanent establishment in the United States. The mere fact that salesmen, employees of a Swiss enterprise, promote the sale of their employer's products in the United States or that a Swiss enterprise transacts business in the United States by means of mail order activities does not mean that such enterprise has a permanent establishment in the United States. A Swiss enterprise shall not be deemed to have a permanent establishment in the United States merely because it carries on business dealings in the United States through a commission agent, broker, custodian, or other independent agent, acting in the ordinary course of his business as such.

(6) *Enterprise.* The term "enterprise" means any commercial or industrial enterprise or undertaking carried on by any person, for example, by an individual partnership, or corporation. It includes such activities as manufacturing, merchandising, mining, processing, banking, and insuring. It does not include the rendition of personal services. Hence, a nonresident alien individual who is resident of Switzerland and who performs personal services is not, merely by reason of such services, engaged in a Swiss enterprise within the meaning of the convention; consequently, his liability to United States tax is not determined under Article III of the convention, if he has not otherwise carried on a Swiss enterprise.

(7) *Swiss enterprise.* The term "Swiss enterprise" means an enterprise carried on in Switzerland by a nonresident alien individual who is a resident of Switzerland, or by a Swiss corporation or

other entity. Thus, an enterprise carried on wholly outside Switzerland by a Swiss corporation is not a Swiss enterprise within the meaning of the convention.

(8) *Swiss corporation or other entity.* The term "Swiss corporation or other entity" means a corporation or institution or foundation having juridical personality, or a partnership (association "en nom collectif" or "en commandite"), or other association without juridical personality, created or organized under Swiss laws.

(9) *United States enterprise.* The term "United States enterprise" means an enterprise carried on in the United States by a resident of the United States (including an individual, fiduciary, and partnership) or by a United States corporation or other entity.

(10) *United States corporation or other entity.* The term "United States corporation or other entity" means a corporation or other entity created or organized under the law of the United States or of any State or Territory of the United States.

(11) *Industrial and commercial profits.* The term "industrial and commercial profits" means profits arising from industrial, commercial, mercantile, manufacturing, and like activities of an enterprise, including mining, financial, and insurance profits. It does not include income in the form of dividends, interests, rents, royalties, or remuneration for personal services. In determining the industrial and commercial profits from sources within the United States of a Swiss enterprise, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the United States by such enterprise. Moreover, in determining such profits of the United States permanent establishment of such enterprise, there shall be allowed as deductions all expenses which are reasonably applicable to the permanent establishment, including executive and general administrative expenses so applicable. See sections 861 through 864, Internal Revenue Code of 1954, and the regulations thereunder.

(12) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue or his authorized representative.

(13) *Director of the Federal Tax Administration.* The term "Director of the Federal Tax Administration" means the Director of the Federal Tax Administration (Direktor der eidgenössischen Steuerverwaltung) of Switzerland.

§ 509.105 *Industrial and commercial profits—(a) General.* (1) Article III of the convention adopts the principle that an enterprise of one of the contracting States shall not be taxable by the other contracting State upon its industrial and commercial profits unless it is engaged in trade or business in the latter State through a permanent establishment situated therein. Accordingly, a Swiss enterprise is subject to United States tax upon its industrial and commercial profits, to the extent of such profits from sources within the United States, only if it is engaged in trade or business in the United States at some time during the

taxable year through a permanent establishment situated therein.

(2) From the standpoint of the United States tax the article has application only to a Swiss enterprise and its industrial and commercial profits from sources within the United States. Thus, a nonresident alien individual who is a citizen of Switzerland, or a Swiss corporation or other entity, carrying on an enterprise which is not Swiss, is subject to tax on such income of such enterprise pursuant to section 871 (c) or section 882 (a), Internal Revenue Code of 1954, if such alien, corporation, or other entity has engaged in trade or business in the United States at any time during the taxable year, even though it has not had a permanent establishment therein at any time within such year.

(b) *No United States permanent establishment.* A Swiss enterprise is not subject to United States tax upon its industrial and commercial profits from sources within the United States, nor shall such profits be included in gross income, if it has not at any time during the taxable year engaged in trade or business in the United States through a permanent establishment situated therein. For example, if during the taxable year an enterprise carried on in Switzerland by a nonresident alien individual who is a resident of Switzerland, or by a Swiss corporation, were to sell merchandise, such as watches, dairy products, or liqueurs, in the United States through a commission agent or broker in the United States acting in the ordinary course of his business as such agent or broker, the profits arising from such sale would not be included in gross income and would be exempt from United States tax under Article III of the convention. Similarly, if during the taxable year such enterprise were to secure orders in the United States for such merchandise through its sales agents whose sole function in the United States is sales promotion, the orders being transmitted to Switzerland for acceptance, then the profits arising from such sales would not be included in gross income and would be exempt from United States tax.

(c) *United States permanent establishment—(1) General.* A Swiss enterprise is subject to United States tax upon its industrial and commercial profits from sources within the United States to the same extent as are nonresident aliens or foreign corporations which are subject to tax pursuant to section 871 (c) or section 882 (a), Internal Revenue Code of 1954, if such enterprise has at any time during the taxable year engaged in trade or business in the United States through a permanent establishment situated therein. If it is so engaged, it is subject to United States tax upon its entire income from sources within the United States except to the extent otherwise exempt from United States tax.

(2) *Allocation of profits.* In the determination of the income taxable to such enterprise for purposes of the United States tax, all industrial and commercial profits from sources within the United States shall be deemed to be allocable to the permanent establishment in the United States. Hence, if a Swiss

enterprise which has a permanent establishment in the United States at some time during the taxable year were to sell in the United States, through a commission agent therein acting in the ordinary course of his business as such, merchandise which has been produced in Switzerland, the profits arising from such sale would be allocable to the permanent establishment to the extent they are derived from sources within the United States, even though the sale is made independently of the permanent establishment.

(3) *Independent basis.* The industrial and commercial profits of the permanent establishment in the United States shall be determined as if the establishment were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length, or on an independent basis, with the enterprise of which it is a permanent establishment.

§ 509.106 *Control of a United States enterprise by a Swiss enterprise.* In effect, Article IV of the convention provides that, if a Swiss enterprise by reason of its control of a United States enterprise imposes on the latter enterprise conditions different from those which would result from normal business relations between independent enterprises, the accounts between the enterprises shall be adjusted in order to ascertain the true taxable income of each enterprise. The purpose is to place the controlled United States enterprise on a tax parity with an uncontrolled United States enterprise by determining, according to the standard of an uncontrolled enterprise, the true taxable income from the property and business of the controlled enterprise. The basic objective of the article is that, if the accounting records do not truly reflect the taxable income from the property and business of the United States enterprise, the Commissioner shall intervene and, by making such distributions, apportionments, or allocations as he may deem necessary of gross income, deductions, credits, or allowances, or of any item or element affecting taxable income, between the United States enterprise and the Swiss enterprise by which it is controlled or directed, shall determine the true taxable income of the United States enterprise. The provisions of section 482 of the Internal Revenue Code of 1954, and the regulations thereunder, shall, insofar as applicable, be followed in the determination of the taxable income of the United States enterprise.

§ 509.107 *Income from operation of ships or aircraft.* Under Article V of the convention so much of the income from sources within the United States of a Swiss enterprise as consists of earnings derived from the operation of ships or aircraft documented or registered in Switzerland shall not be included in gross income and shall be exempt from United States tax, even though at some time during the taxable year such enterprise has engaged in trade or business in the United States through a permanent establishment situated therein.

§ 509.108 *Dividends—(a) General.*

(1) The rate of United States tax imposed by the Internal Revenue Code of 1954 upon dividends derived from sources within the United States by a nonresident alien individual who is a resident of Switzerland, or by a Swiss corporation or other entity, shall not exceed 15 percent under the provisions of Article VI of the convention, if such alien, corporation, or other entity at no time during the taxable year in which such dividends are derived has a permanent establishment in the United States.

(2) If, for example, a nonresident alien individual who is a resident of Switzerland performs personal services within the United States during the taxable year, but has at no time during such year a permanent establishment within the United States, he is entitled to the reduced rate of tax with respect to dividends derived in that year from United States sources, as provided in Article VI of the convention, even though under the provisions of section 871 (c) of the Internal Revenue Code of 1954 he has engaged in trade or business within the United States during such year by reason of his having performed personal services therein.

(b) *Dividends paid by related corporation.* The rate of United States tax imposed by the Internal Revenue Code of 1954 upon dividends derived from sources within the United States by a Swiss corporation shall not exceed 5 percent under the provisions of Article VI (2) of the convention if:

(1) The Swiss corporation is a shareholder which controls, directly or indirectly, at the time the dividend is paid 95 percent or more of the entire voting power in the corporation paying the dividend;

(2) Not more than 25 percent of the gross income of the paying corporation for the three-year period immediately preceding the taxable year in which the dividend is paid consists of dividends and interest (other than dividends and interest received by such paying corporation from its own subsidiary corporations, if any);

(3) The relationship between the paying corporation and the Swiss corporation has not been arranged or maintained primarily with the intention of securing the reduced rate of 5 percent; and

(4) The Swiss corporation at no time during the taxable year in which such dividends are derived has a permanent establishment in the United States.

§ 509.109 *Interest.* The rate of United States tax imposed by the Internal Revenue Code of 1954 upon interest on bonds, securities, notes, debentures, or on any other form of indebtedness, including interest on obligations of the United States, obligations of instrumentalities of the United States, and mortgages and bonds secured by real property, which is derived from sources within the United States by a nonresident alien individual who is a resident of Switzerland, or by a Swiss corporation or other entity, shall not exceed 5 percent under the provisions of Article VII

of the convention, if such alien, corporation, or other entity at no time during the taxable year in which such interest is derived has a permanent establishment in the United States.

§ 509.110 *Patent and copyright royalties and film rentals.* Royalties and other amounts representing consideration for the right to use copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trademarks, and other like property and rights, including rentals and like payments in respect to motion picture films or for the use of industrial, commercial, or scientific equipment, which are derived from sources within the United States by a nonresident alien individual who is a resident of Switzerland, or by a Swiss corporation or other entity, are exempt from United States tax under the provisions of Article VIII of the convention if such alien, corporation, or other entity at no time during the taxable year in which such items of income are derived has a permanent establishment in the United States.

§ 509.111 *Real property income and natural resource royalties—(a) General.*

Income of whatever nature derived by a nonresident alien who is a resident of Switzerland, or by a Swiss corporation or other entity, from real property situated in the United States, including gains derived from the sale or exchange of such property, rentals from such property, and royalties in respect of the operation of mines, quarries, or other natural resources situated in the United States, is not exempt from United States tax by the convention. Such items of income are subject to taxation under the provisions of the Internal Revenue Code of 1954 generally applicable to the taxation of nonresident alien individuals and foreign corporations. See Article IX of the convention. Interest derived from mortgages and bonds secured by real property does not constitute income from real property for purposes of this section but is subject to the provisions applicable to interest generally. See § 509.109.

(b) *Net basis—(1) General.* Notwithstanding the provisions of paragraph (a) of this section, a nonresident alien who is a resident of Switzerland, or a Swiss corporation or other entity, who during the taxable year derives from sources within the United States any income from real property as described in such paragraph may elect for such taxable year to be subject to United States tax on a net basis as though such alien, corporation, or other entity were engaged in trade or business in the United States during such year through a permanent establishment situated therein.

(2) *Manner of electing.* Such nonresident alien (including an individual, fiduciary, and member of a partnership) shall signify his election to be subject to tax on such a basis by filing Form 1040B clearly marked at the top of the first page thereof as follows: "Return of Resident of Switzerland Electing to File on a Net Basis Pursuant to Article IX of Swiss Income Tax Convention". Such corporation shall signify its election to be subject to tax on such a basis by filing Form

1120 clearly marked at the top of the first page there of as follows: "Return of Swiss Corporation Electing to File on a Net Basis Pursuant to Article IX of Swiss Income Tax Convention". The election so signified shall be irrevocable for the taxable year for which such election is made. All income from sources within the United States, including gains from the sale or exchange of capital assets or of other property, shall be disclosed on the return so filed. See sections 871 and 882 of the Internal Revenue Code of 1954 and the regulations thereunder.

§ 509.112 Compensation for labor or personal services—(a) Exemption from tax. Under Article X of the convention compensation received by a nonresident alien individual who is a resident of Switzerland for labor or personal services, including the practice of the liberal professions and the rendition of services as a director, performed in the United States shall not be included in gross income and shall be exempt from United States tax in either of the following situations:

(1) *Swiss employer.* Where such individual is temporarily present in the United States for a period or periods not exceeding in the aggregate a total of 183 days during a taxable year beginning on or after January 1, 1951, any compensation received by him (irrespective of when received, if received in taxable years beginning on or after January 1, 1951) for such labor or personal services performed in the United States during such year as an employee of, or under contract with, a nonresident alien (including a nonresident alien individual and fiduciary) who is a resident of Switzerland, or a Swiss corporation or other entity, whether or not such alien, corporation, or other entity is engaged in trade or business within the United States, shall not be included in gross income and shall be exempt from United States tax.

(2) *Other employers.* Where such individual is temporarily present in the United States for a period or periods not exceeding in the aggregate a total of 183 days during a taxable year beginning on or after January 1, 1951, any compensation received by him (irrespective of when received, if received in taxable years beginning on or after January 1, 1951) for such labor or personal services performed in the United States during such year shall not be included in gross income and shall be exempt from United States tax if such compensation does not exceed \$10,000 in the aggregate. Thus, if a nonresident alien individual who is a resident of Switzerland performs personal services in the United States during the taxable year as an employee of a domestic corporation for which he receives compensation of \$15,000 in the aggregate, none of such compensation shall be exempt from United States tax even though such individual is present in the United States during such year for a period or periods not exceeding a total of 183 days, since the aggregate compensation received is in excess of \$10,000.

(b) *Definitions.* For purposes of this section, the term "compensation for la-

bor or personal services" shall include, but shall not be limited to, the compensation, profits, emoluments, or other remuneration of public entertainers, such as, stage, motion picture, television, or radio artists, musicians, and athletes. For the allocation or segregation as between sources within, and sources without, the United States in the case of compensation for labor or personal services, see sections 861 through 864, Internal Revenue Code of 1954, and the regulations thereunder.

(c) *Exception.* The provisions of this section have no application to the income to which Article XI (1) of the convention relates.

§ 509.113 Government wages, salaries, and pensions—(a) General. Under Article XI of the convention any wage, salary, or similar compensation, or any pension, paid by Switzerland or any agency or instrumentality thereof, or by any political subdivisions or other public authorities of Switzerland, to any alien individual (whether or not a resident of the United States) or to any individual who occupies the dual status of a citizen of the United States and a citizen of Switzerland shall not be included in gross income and shall be exempt from United States tax, even though at some time during the taxable year such individual has engaged in trade or business in the United States through a permanent establishment situated therein.

(b) *Definition.* As used in this section, the term "pensions" means periodic payments made in consideration for services rendered or by way of compensation for injuries received. Under Article XV (2) of the convention the exclusion from gross income, and exemption from United States tax, provided by this section shall not be denied despite the provisions of Article XV. See § 509.118.

(c) *Cross reference.* For the taxation generally of compensation of alien employees of foreign governments and the consequences of executing and filing the waiver provided for in section 247 (b) of the Immigration and Nationality Act, see section 893 of the Internal Revenue Code of 1954 and the regulations thereunder.

§ 509.114 Private pensions and life annuities—(a) General. Private pensions and life annuities derived from sources within the United States and paid to a nonresident alien individual who is a resident of Switzerland shall not be included in gross income and shall be exempt from United States tax, in accordance with Article XI of the convention, even though at some time during the taxable year such individual has engaged in trade or business in the United States through a permanent establishment situated therein.

(b) *Definitions.* As used in this section, the term "pensions" means periodic payments made in consideration for services rendered or by way of compensation for injuries received; and the term "life annuities" means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

§ 509.115 Visiting professors or teachers—(a) General. Pursuant to Article XII of the convention, a professor or teacher, a nonresident alien who is a resident of Switzerland, who temporarily visits the United States for the purpose of teaching for a period not exceeding two years at any university, college, school, or other educational institution situated within the United States shall, for a period not exceeding two years from the date of his initial arrival in the United States, be exempt from United States tax with respect to his remuneration earned in taxable years beginning on or after January 1, 1951, for such teaching during such period not in excess of two years.

(b) *More than two years.* The exemption granted by Article XII is applicable to remuneration earned during such part of the individual's visit as does not exceed two years from the date of arrival even though the total period of his presence in the United States may extend beyond two years, provided that during such entire period he may be considered to be temporarily visiting the United States.

(c) *Residence.* Such exemption shall not apply to the remuneration of an alien who is a resident of the United States or who is not a resident of Switzerland.

(d) *Nonresidence presumed.* An individual who otherwise qualifies for the exemption from United States tax granted by Article XII shall, for a period of not more than two years immediately succeeding the date of his arrival within the United States for the purpose of such teaching, be deemed to have the tax status of a nonresident alien in the absence of proof of his intention to remain indefinitely in the United States. See section 871 of the Internal Revenue Code of 1954 and the regulations thereunder.

§ 509.116 Students or apprentices—(a) General. Under Article XIII of the convention, a student or apprentice, a nonresident alien who is a resident of Switzerland, who temporarily visits the United States exclusively for the purposes of study or for acquiring business or technical experience shall not include in gross income, and shall be exempt from United States tax with respect to, amounts derived by him in taxable years beginning on or after January 1, 1951, and received during such years from without the United States as remittances for the purposes of his maintenance or studies.

(b) *Residence.* The exemption shall not apply to remittances received by an alien who is a resident of the United States or who is not a resident of Switzerland.

§ 509.117 Dividends and interest paid by a foreign corporation—(a) General—(1) Dividends. A dividend paid by a foreign corporation constitutes, in whole or in part, income from sources within the United States and is subject to tax by the United States when received by a nonresident alien individual or other foreign corporation, if 50 percent or more of the gross income of the paying corporation for the statutory period was

derived from sources within the United States. See section 861 (a) (2) (B), section 872 (a), and section 882 (b), Internal Revenue Code of 1954; and the regulations thereunder.

(2) *Interest.* Interest on bonds, notes, and other interest-bearing obligations of resident foreign corporations constitutes, in its entirety, income from sources within the United States and is subject to tax by the United States when received by a nonresident alien individual or other foreign corporation, if 20 percent or more of the gross income of the paying corporation for the statutory period was derived from sources within the United States. See section 861 (a) (1) (B), section 872 (a), and section 882 (b), Internal Revenue Code of 1954; and the regulations thereunder.

(b) *Exemption from United States tax.* Notwithstanding the provisions of paragraph (a) of this section, Article XIV (1) of the convention provides that dividends and interest paid by any foreign corporation and derived by a nonresident alien who is a resident of Switzerland, or by a Swiss corporation, shall not be included in gross income and shall be exempt from United States tax if such alien or corporation at no time during the taxable year in which such items of income are derived has a permanent establishment in the United States. The exemption so provided shall apply even though the corporation paying the dividends or interest is a resident foreign corporation at the time of payment and without regard to the percentage of its gross income from sources within the United States.

§ 509.118 Credit against United States tax for Swiss tax—(a) General—

(1) *Taxable as though no convention.* Notwithstanding any other provision of the convention the United States, in determining the United States tax of a citizen or resident of the United States, or of a domestic corporation, may, under Article XV (1) (a) of the convention, include in the basis upon which such tax is imposed all items of income taxable under the revenue laws of the United States, as though the convention had not come into effect. For example, despite the exemption from United States tax granted by Article VIII of the convention with respect to a copyright royalty derived from sources within the United States by a resident of Switzerland, such royalty shall be included in gross income and is subject to United States tax when so derived by a resident of Switzerland who is a citizen of the United States, even though such resident has no permanent establishment in the United States.

(2) *Exception.* Notwithstanding the provisions of subparagraph (1) of this paragraph, the exclusion from gross income, and exemption from United States tax, granted by Article XI (1) of the convention with respect to wages, salaries, and similar compensation, and pensions, paid by Switzerland or any agency or instrumentality thereof, or by any political subdivisions or other public authorities of Switzerland, shall not be denied. See Article XV (2) of the convention.

(b) *Application of credit—(1) General.* For the purpose of mitigating double taxation, Article XV (1) (a) of the convention provides that a citizen or resident of the United States, or a domestic corporation, deriving income from sources within Switzerland shall be allowed a credit against the United States tax for the amount of Swiss tax paid or accrued during the taxable year. This credit shall be made in accordance with the provisions of section 131 of the Internal Revenue Code of 1939 as in effect on September 27, 1951, but subject to the provisions of Article XVIII (2) of the convention.

(2) *Similar credit requirement.* (1) Article XV (1) (a) further provides that, by virtue of the provisions of Article XV (1) (b) of the convention, relating to the exclusion from basis for computing the Swiss tax, Switzerland satisfies the similar credit requirement set forth in section 901 (b) (3), Internal Revenue Code of 1954, relating to alien residents of the United States, etc.

(ii) This provision of Article XV (1) (a) shall be taken to mean that, solely by reason of the exclusion granted by it under Article XV (1) (b) and without reference to concessions otherwise made by such country, Switzerland satisfies the similar credit requirement only with respect to taxes paid to Switzerland, and not with respect to taxes paid to another foreign country. Nothing in this subdivision shall be construed, however, to prevent Switzerland from otherwise satisfying the similar credit requirement, in accordance with section 901 of the Internal Revenue Code of 1954 and the regulations thereunder, with respect to taxes paid to another foreign country. Thus, if pursuant to a convention between Switzerland and another foreign country, Switzerland were to exempt from its income taxes the income received from sources within such other foreign country by a United States citizen residing in Switzerland, then Switzerland would, in accordance with such regulations under section 901, satisfy the similar credit requirement of section 901 (b) (3) with respect to income taxes paid to such other country by a Swiss citizen residing in the United States.

§ 509.119 Exchange of information—

(a) *General.* (1) By Article XVI of the convention the United States and Switzerland adopt the principle of exchange of such information as is necessary for carrying out the provisions of the convention, preventing fraud, or detecting practices which are aimed at the reduction of the revenues of either country, but not including information which would be contrary to public policy or which would disclose any trade, business, industrial, or professional secret or any trade process.

(2) The information and correspondence relative to exchange of information may be transmitted directly by the Commissioner to the Director of the Federal Tax Administration.

(b) *Return of information by withholding agents.* (1) To facilitate compliance with Article XVI of the convention, every United States withholding agent shall make and file in duplicate

with the District Director of Internal Revenue, Baltimore 2, Maryland, an information return on Form 1042 Supplement, with respect to persons having addresses in Switzerland, which shall be filed for the calendar year 1955 and subsequent calendar years. This return shall be filed simultaneously with Form 1042.

(2) There shall be reported on such Form 1042 Supplement all items of fixed or determinable annual or periodical income (and amounts described in section 402 (a) (2), section 631 (b) and (c), and section 1235 of the Internal Revenue Code of 1954, which are considered to be gains from the sale or exchange of capital assets) derived from sources within the United States and paid to nonresident aliens (including nonresident alien individuals, fiduciaries, and partnerships) and to nonresident foreign corporations, whose addresses at the time of payment were in Switzerland, including such items of income upon which, in accordance with the withholding regulations under the convention, no withholding of United States tax is required; except that any of such items which constitute interest in respect of which Form 1001-S or substitute Form 1001-S has been filed in duplicate with the withholding agent is not required to be reported on such Form 1042 Supplement.

(c) *Information to be furnished in ordinary course.* In compliance with the provisions of Article XVI of the convention the Commissioner will transmit to the Director of the Federal Tax Administration, as soon as practicable after the close of the calendar year 1955 and of each subsequent calendar year during which the convention is in effect, the following information relating to such preceding calendar year:

(1) The duplicate copy of each available Form 1042 Supplement filed pursuant to paragraph (b) of this section; and

(2) The duplicate copy of each available ownership certificate, Form 1001-S, and substitute Form 1001-S, filed pursuant to the withholding regulations under the convention, in connection with coupon bond interest.

(d) *Information in specific cases.* Under the provisions and limitations of Article XVI of the convention and upon request of the Director of the Federal Tax Administration, the Commissioner shall furnish to the Director information available to, or obtainable by, the Commissioner relative to the tax liability of any person under the revenue laws of Switzerland in any case in which such information is necessary for carrying out the provisions of the convention or for the prevention of fraud or the like in relation to the taxes which are the subject of the convention.

§ 509.120 Double taxation claims—

(a) *General.* Under Article XVII of the convention, where the taxpayer shows proof that the action of the tax authorities of the United States or Switzerland has resulted, or will result, in double taxation contrary to the provisions of the convention, he is entitled to present the facts to the country of which he is a citizen; or, if he is not a citizen of either

country, to the country of which he is a resident; or, if the taxpayer is a corporation or other entity, to the country in which it is created or organized. The article provides that, should the taxpayer's claim be deemed worthy of consideration, the competent authority of the country to which the facts are presented shall undertake to come to an agreement with the competent authority of the other country with a view to equitable avoidance of the double taxation in question.

(b) *Manner of filing claim.* Such a claim on behalf of a United States citizen, corporation, or other entity, or on behalf of a resident of the United States who is not a Swiss citizen, shall be filed with the Commissioner. The claim shall be set up in the form of a letter addressed to "The Commissioner of Internal Revenue, Washington 25, D. C." and shall show fully all facts and law on the basis of which the claimant alleges that such double taxation has resulted or will result. If the Commissioner determines that there is an appropriate basis for the claim under the convention, he shall take up the matter with the Director of the Federal Tax Administration with a view to arranging an agreement of the character contemplated by Article XVII.

§ 509.121 *Beneficiaries of an estate or trust—(a) Qualified beneficiary.* If he otherwise satisfies the requirements of the respective articles concerned, a non-resident alien who is a resident of Switzerland and who is a beneficiary of an estate or trust shall be entitled to the exemption from, or reduction in the rate of, United States tax granted by Articles VI, VII, VIII, and XIV of the convention with respect to dividends, interest, and royalties and other like amounts, to the extent that (1) any amount paid, credited, or required to be distributed by such estate or trust to such beneficiary is deemed to consist of such items and (2) such items would, without regard to the convention, be includible in his gross income.

(b) *Amounts otherwise includible in gross income of beneficiary.* For the determination of amounts which, without regard to the convention, are includible in the gross income of the beneficiary, see subchapter J of chapter 1 of the Internal Revenue Code of 1954, and the regulations thereunder.

§ 509.122 *Swiss partnerships—(a) General.* Whether an individual, corporation, or other entity, a member of a partnership created or organized under Swiss laws, is subject to United States tax upon such person's distributive share of the income of such partnership depends upon both the status of the partnership and the status of such member.

(b) *Citizen partner.* A citizen or resident of the United States, or a domestic corporation, is subject to United States tax upon such person's distributive share of the income of such partnership as though the convention had not come into effect, but subject to the provisions of § 509.118; even though other members, by reason of benefits granted by the convention, are not subject to United States tax upon their distributive share of such income.

(c) *Noncitizen partner.* In any case in which income is derived from sources within the United States by a partnership created or organized under Swiss laws, any member of such partnership who has a permanent establishment in the United States or who is either a non-resident alien not a resident of Switzerland or is a foreign corporation which is not Swiss is not entitled, with respect to such member's distributive share of such income, to any benefit granted by the convention solely to nonresident aliens residing in Switzerland, or to Swiss corporations or other entities, having no permanent establishment in the United States. Conversely, any member of such partnership who individually complies with the requirements for obtaining any such benefit will be entitled thereto with respect to such member's distributive share of such income. A member of a Swiss partnership which has a permanent establishment in the United States shall likewise be considered to have a permanent establishment in the United States.

[SEAL]

O. GORDON DELK,
Acting Commissioner
of Internal Revenue.

Approved: October 6, 1955.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 55-8231; Filed, Oct. 11, 1955;
8:48 a. m.]

[T. D. 6150]

PART 510—NORWAY

General regulations under the income tax convention between the United States and the Kingdom of Norway, proclaimed by the President of the United States on December 13, 1951, subject to the protocol of exchange signed on December 11, 1951.

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510.120	Norwegian partnerships.

AUTHORITY: §§ 510.101 to 510.120 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

On June 16, 1955, notice of proposed rule making regarding the general regu-

lations under the income tax convention between the United States and the Kingdom of Norway, proclaimed by the President of the United States on December 13, 1951, was published in the FEDERAL REGISTER (20 F. R. 4219). No objections to the regulations proposed having been received during the 30-day period prescribed in the notice, the regulations set forth below are hereby adopted:

§ 510.101 *Introductory.* The income tax convention between the United States and the Kingdom of Norway, signed June 13, 1949, and proclaimed by the President of the United States on December 13, 1951, subject to the understanding expressed in the protocol of exchange, hereinafter referred to as the convention, provides as follows, effective for taxable years beginning on or after January 1, 1951:

ARTICLE I

(1) The taxes referred to in this Convention are:

(a) In the case of the United States of America: The Federal income tax, including surtaxes.

(b) In the case of Norway: The national and the communal income taxes, including the old age pension tax, the war pension tax, the tax on bank deposits and the seamen's tax.

(2) The present Convention shall also apply to any other income taxes of a substantially similar character imposed by either contracting State subsequently to the date of signature of the present Convention.

ARTICLE II

(1) As used in this Convention:

(a) The term "United States" means the United States of America, and when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) The term "Norway" means the Kingdom of Norway; the provisions of the Convention shall not, however, extend to Svalbard and Jan Mayen, nor do they apply to the Norwegian dependencies outside Europe.

(c) The term "permanent establishment" means a branch office, factory, workshop, warehouse or other fixed place of business, but does not include the casual and temporary use of merely storage facilities, nor does it include an agency unless the agent has and exercises a general authority to negotiate and conclude contracts on behalf of an enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a bona fide commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(d) The term "enterprise of one of the contracting States" means, as the case may be, "United States enterprise" or "Norwegian enterprise".

RULES AND REGULATIONS

(e) The term "enterprise" includes every form of undertaking whether carried on by an individual, partnership, corporation, or any other entity.

(f) The term "United States enterprise" means an enterprise carried on in the United States by a resident of the United States or by a United States corporation or other entity; the term "United States corporation or other entity" means a partnership, corporation or other entity created or organized in the United States or under the law of the United States or of any State or Territory of the United States.

(g) The term "Norwegian enterprise" means an enterprise carried on in Norway by a resident of Norway or by a Norwegian corporation or other entity; the term "Norwegian corporation or other entity" means a partnership, corporation or other entity created or organized in Norway or under Norwegian laws.

(h) The term "competent authorities" means, in the case of the United States, the Commissioner of Internal Revenue or his authorized representative; and in the case of Norway, the Ministry of Finance and Customs.

(2) In the application of the provisions of the present Convention by one of the contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under its own tax laws.

ARTICLE III

(1) An enterprise of one of the contracting States shall not be subject to taxation in the other contracting State in respect of its industrial and commercial profits unless it is engaged in trade or business in such other State through a permanent establishment situated therein. If it is so engaged such other State may impose its tax upon such profits of the enterprise from sources within such other State.

(2) In determining the industrial or commercial profits from sources within the territory of one of the contracting States of an enterprise of the other contracting State, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the territory of the former contracting State by such enterprise.

(3) Where an enterprise of one of the contracting States is engaged in trade or business in the territory of the other contracting State through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment and the profits so attributed shall, subject to the law of such other contracting State, be deemed to be income from sources within the territory of such other contracting State.

(4) The competent authorities of the two contracting States may lay down rules by agreement for the apportionment of industrial and commercial profits.

ARTICLE IV

Where an enterprise of one of the contracting States, by reason of its participation in the management or the financial structure of an enterprise of the other contracting State, makes with or imposes on the latter, in their commercial or financial relations, conditions different from those which would be made with an independent enterprise, any profits which would normally have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE V

(1) Income which an enterprise of one of the contracting States derives from the operation of ships or aircraft shall be exempt from taxation in the other contracting State.

(2) The provisions of this Article shall be deemed to suspend the arrangement between the United States and Norway providing for relief from double income taxation on shipping profits, effected by exchanges of notes dated November 26, 1924, January 23, 1925, and March 24, 1925.

ARTICLE VI

Interest on bonds, securities, notes, debentures, or on any other form of indebtedness derived from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from taxation in such former State.

ARTICLE VII

Royalties and other amounts derived, as consideration for the right to use copyrights, artistic and scientific works, patents, designs, secret processes and formulas, trade-marks and other like property (including rentals and like payments in respect of motion picture films), from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from taxation in such former State: *Provided*, That each of the contracting States reserves the right according to the principles of Article IV to deny a deduction to the payor thereof for such royalty or any portion thereof as is not considered by the revenue authorities of such State to be reasonable consideration for the right to use the property referred to in this Article.

ARTICLE VIII

(1) Income from real property (not including interest derived from mortgages and bonds secured by real property) and royalties in respect of the operation of mines, quarries, or other natural resources, shall be taxable only in the contracting State in which such property, mines, quarries, or other natural resources are situated.

(2) A resident or corporation of one of the contracting States deriving any such income from sources within the other contracting State may, for any taxable year, elect to be subject to the tax of such other contracting State, on a net basis, as if such resident or corporation were engaged in trade or business within such other contracting State through a permanent establishment therein during such taxable year.

ARTICLE IX

Gains derived from the sale or exchange of real property shall be taxable only in the contracting State in which such property is situated.

ARTICLE X

(1) A resident of Norway shall be exempt from United States tax upon compensation for labor or personal services (including the practice of the liberal and artistic professions) if he is temporarily present in the United States for a period or periods not exceeding a total of 183 days during the taxable year and either of the following conditions is met:

(a) His compensation is received for labor or personal services performed as an employee, or under contract with, a resident, or corporation or other entity of Norway, or

(b) His compensation received for labor or personal services does not exceed \$10,000.

(2) The provisions of paragraph (1) of this Article shall apply *mutatis mutandis*, to a resident of the United States with respect

to compensation for such labor or personal services performed in Norway.

(3) The provisions of paragraphs (1) and (2) of this Article shall have application to directors' fees representing reasonable compensation for services rendered whether or not the recipient of such fees has been present at any time during the taxable year in the contracting State from which payment of such fees has been made.

(4) The provisions of this Article shall have no application to the income to which Article XI (1) relates.

ARTICLE XI

(1) (a) Wages, salaries and similar compensation, and pensions paid by the United States or by the political subdivisions or territories thereof to an individual (other than a Norwegian citizen who is not also a citizen of the United States) shall be exempt from Norwegian tax.

(b) Wages, salaries and similar compensation, and pensions paid either directly by, or from funds or institutions created by, Norway or Norwegian communities or counties (fylker) to an individual (other than a United States citizen who is not also a citizen of Norway) shall be exempt from United States tax.

(2) Private pensions and life annuities derived from within one of the contracting States and paid to individuals residing in the other contracting State shall be exempt from taxation in the former State.

(3) The term "pensions", as used in this Article, means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(4) The term "life annuities" as used in this Article means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE XII

A professor or teacher, a resident of one of the contracting States, who temporarily visits the other contracting State for the purpose of teaching for a period not exceeding two years at a university, college, school or other educational institution in the other contracting State, shall be exempted in such other contracting State from tax on his remuneration for such teaching for such period.

ARTICLE XIII

A student or apprentice, a resident of one of the contracting States, who temporarily visits the other contracting State exclusively for the purposes of study or for acquiring business or technical experience shall not be taxable in the latter State in respect of remittances received by him from abroad for the purposes of his maintenance or studies.

ARTICLE XIV

(1) It is agreed that double taxation shall be avoided in the following manner:

(a) The United States in determining its taxes specified in Article I of this Convention in the case of its citizens, residents or corporations may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income taxable under the revenue laws of the United States as if this Convention had not come into effect. The United States shall, however, subject to the provisions of section 131, Internal Revenue Code, as in effect on the date of the entry into force of this Convention, deduct from its taxes the amount of Norwegian taxes specified in Article I of this Convention.

(b) Norway in determining its taxes specified in Article I of this Convention in the case of its residents or corporations may, regardless of any other provision of this Convention, include in the basis upon which

such taxes are imposed all items of income taxable under the revenue laws of Norway as if the Convention had not come into effect. Norway shall, however, deduct from the taxes so calculated that portion of such tax liability which the taxpayer's income from sources in the United States (not exempt from United States tax under this Convention) bears to his entire income. The competent authority of Norway may, however, decide that the deduction shall not exceed the United States tax on income taxable in the United States.

(2) The provisions of this Article shall not be construed to deny the exemptions from United States tax or Norwegian tax, as the case may be, granted by Article XI (1) of this Convention.

ARTICLE XV

With a view to the more effective imposition of the taxes to which the present Convention relates, each of the contracting States undertakes, subject to reciprocity, to furnish such information in the matter of taxation, which the authorities of the State concerned have at their disposal or are in a position to obtain under their own law, as may be of use to the authorities of the other State in the assessment of the taxes in question and to lend assistance in the service of documents in connection therewith. Any information so exchanged shall be treated as secret and shall only be disclosed to persons (including a court) concerned with the assessment, determination and collection of the taxes which are the subject of the present Convention, or the determination of appeals in relation thereto. No information shall be exchanged which would disclose a trade, business, industrial or professional secret. Information and correspondence relating to the subject matter of this Article shall be exchanged between the competent authorities of the contracting States in the ordinary course or on request.

ARTICLE XVI

In accordance with the preceding Article and insofar as may be found to be practicable, the competent authorities of each contracting State shall forward to the competent authorities of the other contracting State as soon as practicable after the close of each calendar year the following information relating to such calendar year:

The names and addresses of all addressees within such other State deriving from sources within the former State dividends, interest, royalties, pensions, annuities, wages, salaries, rents, or other fixed or determinable annual or periodical income, showing the amount of such income with respect to each addressee.

ARTICLE XVII

(1) The contracting States undertake to lend assistance and support to each other in the collection of the taxes which are the subject of the present Convention, together with interest, costs, and additions to the taxes.

(2) In the case of applications for enforcement of taxes, revenue claims of each of the contracting States which have been finally determined may be accepted for enforcement by the other contracting State and may be collected in that State in accordance with the laws applicable to the enforcement and collection of its own taxes.

(3) Any application shall include a certification that under the laws of the State making the application the taxes have been finally determined.

(4) The assistance provided for in this Article shall not be accorded with respect to the citizens, corporations, or other entities of the State to which application is made.

ARTICLE XVIII

The State to which application is made for information or assistance shall comply

as soon as possible with the request addressed to it except that such State may refuse to comply with the request for reasons of public policy or if compliance would involve violation of a trade, business, industrial or professional secret.

ARTICLE XIX

Where a taxpayer shows proof that the action of the revenue authorities of the contracting States has resulted, or will result, in double taxation contrary to the provisions of the present Convention, he shall be entitled to lodge a claim with the State of which he is a citizen or, if he is not a citizen of either of the contracting States, with the State of which he is a resident, or, if the taxpayer is a corporation or other entity, with the State in which it is created or organized. Should the claim be upheld, the competent authority of such State shall undertake to come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

ARTICLE XX

(1) The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers.

(2) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of one of the contracting States in the determination of the tax imposed by such State.

(3) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to Conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

ARTICLE XXI

(1) The competent authorities of the two contracting States may prescribe regulations necessary to carry into effect the present Convention within the respective States. With respect to the provisions of this Convention relating to exchange of information, service of documents, and mutual assistance in the collection of taxes, such authorities may, by common agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, costs of collection, minimum amounts subject to collection and related matters.

(2) The competent authorities of the two contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

ARTICLE XXII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible. It shall have effect for the taxable years beginning on or after the first day of January of the year in which such exchange takes place.

(2) The present Convention shall continue effective for a period of five years and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given and, in such event, the present Convention shall cease to be effective for the taxable years beginning on or after the first day of January next following the expiration of the six-month period.

Done at Washington, in duplicate, in the English and Norwegian languages, the two

texts having equal authenticity, this thirteenth day of June, 1949.

For the President of the United States of America:

[SEAL]

JAMES E. WEBB.

For his Majesty the King of Norway:

[SEAL]

WILHELM MUNTHE MORGENSTIERNE.

PROCLAMATION OF THE PRESIDENT OF THE UNITED STATES DATED DECEMBER 13, 1951

And whereas the Senate of the United States of America, by their resolution of September 17, 1951, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the aforesaid convention subject to an understanding as follows:

"It is understood that the application of Article XVII of the convention shall be confined and limited as granting authority to each Contracting State to collect only such taxes imposed by the other Contracting State as will insure that the exemption or reduced rate of tax granted under the present convention by such other State, shall not be enjoyed by persons not entitled to such benefits."

And whereas the text of the aforesaid understanding was communicated by the Government of the United States of America to the Government of the Kingdom of Norway and the aforesaid understanding was accepted by the Government of the Kingdom of Norway;

And whereas the aforesaid convention was duly ratified by the President of the United States of America on November 26, 1951, in pursuance of the aforesaid advice and consent of the Senate and subject to the aforesaid understanding, and the aforesaid convention was duly ratified on the part of the Kingdom of Norway;

And whereas the respective instruments of ratification of the aforesaid convention were duly exchanged at Washington on December 11, 1951, and a protocol of exchange was signed at that place and on that date by the respective Plenipotentiaries of the United States of America and the Kingdom of Norway, the said protocol containing a statement that it is understood by the two Governments that, upon entry into force of the aforesaid convention in accordance with its provisions, Article XVII thereof shall be applied in accordance with the aforesaid understanding;

And whereas it is provided in Article XXII of the aforesaid convention that the convention shall have effect for the taxable years beginning on or after the first day of January of the year in which the exchange of instruments of ratification takes place;

Now, therefore, be it known that I, Harry S. Truman, President of the United States of America, do hereby proclaim and make public the aforesaid convention to the end that the said convention and each and every article and clause thereof, subject to the aforesaid understanding, may be observed and fulfilled with good faith by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

§ 510.102 *Applicable provisions of law—(a) General.* The Internal Revenue Code of 1954 provides in part as follows:

SUBTITLE A—INCOME TAXES

SEC. 894. *Income exempt under treaty.* Income of any kind, to the extent required by any treaty obligation of the United States, shall not be included in gross income and shall be exempt from taxation under this subtitle.

SUBTITLE F—PROCEDURE AND ADMINISTRATION

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

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

(b) *Internal Revenue Code of 1939.* Any reference in §§ 510.101 to 510.120 to any provision of the Internal Revenue Code of 1954 shall, where applicable, be deemed also to refer to the corresponding provision of the Internal Revenue Code of 1939.

(c) *Effective date of regulations.* Pursuant to sections 894 and 7805 of the Internal Revenue Code of 1954, Article XXI of the convention, and other provisions of the internal revenue laws, §§ 510.101 to 510.120 are hereby prescribed effective for taxable years beginning on or after January 1, 1951. All regulations inconsistent herewith are modified accordingly.

§ 510.103 *Scope of the convention*—(a) *Purpose of convention.* The primary purposes of the convention, to be accomplished on a reciprocal basis, are to avoid double taxation upon certain items of income derived from sources within one country by residents or corporations or other entities of the other country and to provide for administrative cooperation between the competent tax authorities of the two countries looking to the avoidance of double taxation and the prevention of fiscal evasion.

(b) *Exemption from United States tax.* The following items of income from sources within the United States are exempt from United States tax for taxable years beginning on or after January 1, 1951, subject to the respective articles of the convention:

(1) Industrial and commercial profits of a Norwegian enterprise having no permanent establishment in the United States (Article III);

(2) Income derived by a Norwegian enterprise from the operation of ships or aircraft (Article V);

(3) Interest derived by a nonresident alien who is a resident of Norway, or by a Norwegian corporation or other entity, if such alien, corporation, or other entity has no permanent establishment in the United States (Article VI);

(4) Patent and copyright royalties, and other like amounts, including motion picture film rentals, derived by a nonresident alien who is a resident of Norway, or by a Norwegian corporation or other entity, if such alien, corporation, or other entity has no permanent establishment in the United States (Article VII);

(5) Compensation, subject to certain limitations, for personal services performed in the United States by a non-

resident alien individual who is a resident of Norway (Article X);

(6) Compensation and pensions paid by Norway to an alien individual, and to a citizen of Norway who is also a citizen of the United States, including such items as are from sources without the United States (Article XI);

(7) Private pensions and life annuities paid to a nonresident alien individual who is a resident of Norway (Article XI); and

(8) Remuneration derived from certain teaching in the United States by a professor or teacher who is a nonresident alien residing in Norway (Article XII).

(c) *Students or apprentices.* Remittances received from abroad for the purpose of maintenance or studies by a student or apprentice, a nonresident alien residing in Norway, who is temporarily present in the United States under specified circumstances are also exempt from United States tax (Article XIII).

(d) *Withholding regulations.* For regulations pertaining to the release or refund of excess tax withheld, and to exemption from withholding of United States tax at source, in the case of interest, patent and copyright royalties, film rentals, private pensions, and life annuities, received from sources within the United States by a nonresident alien who is a resident of Norway, or by a Norwegian corporation or other entity, see Treasury Decision 5956, approved December 9, 1952 (26 CFR (1939) 7.100 through 7.109).

(e) *United States citizens, residents, and corporations.* (1) Any citizen of Norway who is a resident of the United States is liable to United States tax as though the convention had not come into effect; however, such alien resident of the United States is entitled to the foreign tax credit in accordance with Article XIV of the convention and is also entitled to the benefits of Article XI (1) and Article XX.

(2) A citizen of the United States, even though resident in Norway, or a domestic corporation, even though engaged in trade or business in Norway through a permanent establishment situated therein, is also liable to United States tax as though the convention had not come into effect but is entitled to the foreign tax credit and, to the extent applicable, to the benefits of Article XI (1).

(f) *Other provisions applicable to Norwegian residents and corporations.* Except as otherwise expressly provided by the convention, the United States tax liability of a nonresident alien who is a resident of Norway, or of a Norwegian corporation or other entity, is determined in accordance with the provisions of the Internal Revenue Code of 1954 relating to nonresident alien individuals and foreign corporations.

§ 510.104 *Definitions*—(a) *General.* Any term defined in the convention or §§ 510.101 to 510.120 shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws of the United States.

(b) *Specific terms.* As used in §§ 510.101 to 510.120—

(1) *United States tax.* The term "United States tax" means the Federal income tax, including surtaxes, of the United States and any other income tax of a substantially similar character imposed by the United States after June 13, 1949.

(2) *Norwegian tax.* The term "Norwegian tax" means the national and the communal income taxes of Norway, including the old age pension tax, the war pension tax, the tax on bank deposits and the seamen's tax, and any other income tax of a substantially similar character imposed by Norway after June 13, 1949.

(3) *United States.* The term "United States" means the United States of America; and, when used in a geographical sense, includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(4) *Norway.* The term "Norway" means the Kingdom of Norway, but does not include Svalbard, Jan Mayen, or the Norwegian dependencies outside Europe.

(5) *Permanent establishment*—(i) *Fixed place of business.* The term "permanent establishment" means a branch office, factory, workshop, warehouse, or other fixed place of business, but does not include the casual and temporary use of merely storage facilities. It implies the active conduct of a business enterprise. The mere ownership, for example, of timberlands or a warehouse in the United States by a Norwegian enterprise does not mean that such enterprise, in the absence of any business activity therein, has a permanent establishment in the United States. The fact that a Norwegian enterprise maintains in the United States an office or other fixed place of business used exclusively for the purchase for such enterprise of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise.

(ii) *Subsidiary corporation.* The fact that a Norwegian corporation has a domestic subsidiary corporation, or a foreign subsidiary corporation which is engaged in trade or business in the United States through a permanent establishment situated therein, does not of itself constitute either subsidiary corporation the United States permanent establishment of the Norwegian parent corporation.

(iii) *Agency.* A Norwegian enterprise which has an agency in the United States does not thereby have a permanent establishment in the United States, unless the agent has and exercises a general authority to negotiate and conclude contracts on behalf of such enterprise or unless he has a stock of merchandise from which he regularly fills orders on its behalf. If the enterprise has an agent in the United States who has power to contract on its behalf, but only at fixed prices and under conditions determined by such principal, it does not thereby necessarily have a permanent establishment in the United States. The mere fact that an agent of a Norwegian enterprise—assuming he has no general authority to negotiate and conclude contracts on behalf of his principal—maintains samples, or occasionally fills orders from incidental stocks of goods maintained, in the United States does

not of itself mean that such enterprise has a permanent establishment in the United States. The mere fact that salesmen, employees of a Norwegian enterprise, promote the sale of their employer's products in the United States or that a Norwegian enterprise transacts business in the United States by means of mail order activities does not mean that such enterprise has a permanent establishment in the United States. A Norwegian enterprise shall not be deemed to have a permanent establishment in the United States merely because it carries on business dealings in the United States through a bona fide commission agent, broker, or custodian, acting in the ordinary course of his business as such.

(6) *Enterprise.* The term "enterprise" means any commercial or industrial undertaking carried on by any person, for example, by an individual, partnership, or corporation. It includes such activities as manufacturing, merchandising, mining, processing, banking, and insuring. It does not include the rendition of personal services. Hence, a nonresident alien individual who is a resident of Norway and who performs personal services is not, merely by reason of such services, engaged in a Norwegian enterprise within the meaning of the convention; consequently, his liability to United States tax is not determined under Article III of the convention, if he has not otherwise carried on a Norwegian enterprise.

(7) *Norwegian enterprise.* The term "Norwegian enterprise" means an enterprise carried on in Norway by a nonresident alien individual who is a resident of Norway, or by a Norwegian corporation or other entity. Thus, an enterprise carried on wholly outside Norway by a Norwegian corporation is not a Norwegian enterprise within the meaning of the convention.

(8) *Norwegian corporation or other entity.* The term "Norwegian corporation or other entity" means a partnership, corporation, or other entity created or organized in Norway or under Norwegian laws.

(9) *United States enterprise.* The term "United States enterprise" means an enterprise carried on in the United States by an individual who is a resident of the United States or by a United States corporation or other entity.

(10) *United States corporation or other entity.* The term "United States corporation or other entity" means a partnership, corporation, or other entity created or organized in the United States or under the law of the United States or of any State or Territory of the United States.

(11) *Industrial and commercial profits.* The term "industrial and commercial profits" means profits arising from industrial, commercial, mercantile, manufacturing, and like activities of an enterprise. It does not include dividends, interest, rents, royalties, or other mere investment income, or remuneration for personal services. In determining the industrial and commercial profits from sources within the United States of a Norwegian enterprise, no profits shall be deemed to arise from

the mere purchase of goods or merchandise within the United States by such enterprise.

(12) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue or his authorized representative.

(13) *Ministry of Finance and Customs.* The term "Ministry of Finance and Customs" means the Ministry of Finance and Customs (Finans- og Tolldepartementet) of Norway.

§ 510.105 *Industrial and commercial profits.*—(a) *General.* (1) Article III of the convention adopts the principle that an enterprise of one of the contracting States shall not be taxable by the other contracting State upon its industrial and commercial profits unless it is engaged in trade or business in the latter State through a permanent establishment situated therein. Accordingly, a Norwegian enterprise is subject to United States tax upon its industrial and commercial profits, to the extent of such profits from sources within the United States, only if it is engaged in trade or business in the United States at some time during the taxable year through a permanent establishment situated therein.

(2) From the standpoint of the United States tax the article has application only to a Norwegian enterprise and its industrial and commercial profits from sources within the United States. Thus, a nonresident alien individual who is a citizen of Norway, or a Norwegian corporation or other entity, carrying on an enterprise which is not Norwegian, is subject to tax on such income of such enterprise pursuant to section 871 (c) or section 882 (a), Internal Revenue Code of 1954, if such alien, corporation, or other entity has engaged in trade or business in the United States at any time during the taxable year, even though it has not had a permanent establishment therein at any time within such year.

(b) *No United States permanent establishment.* A Norwegian enterprise is not subject to United States tax upon its industrial and commercial profits from sources within the United States, nor shall such profits be included in gross income, if such enterprise at no time during the taxable year in which such profits are derived has engaged in trade or business in the United States through a permanent establishment situated therein. For example, if during the taxable year an enterprise carried on in Norway by a nonresident alien individual who is a resident of Norway, or by a Norwegian corporation, were to sell merchandise, such as textiles, furs, or canned fish products, in the United States through a bona fide commission agent or broker in the United States acting in the ordinary course of his business as such agent or broker, the profits arising from such sale would not be included in gross income and would be exempt from United States tax under Article III of the convention. Similarly, if during the taxable year such enterprise were to secure orders in the United States for such merchandise through its sales agents whose sole function in the United States

is sales promotion, the orders being transmitted to Norway for acceptance, then the profits arising from such sales would not be included in gross income and would be exempt from United States tax.

(c) *United States permanent establishment.*—(1) *General.* A Norwegian enterprise is subject to United States tax upon its industrial and commercial profits from sources within the United States to the same extent as are nonresident aliens or foreign corporations which are subject to tax pursuant to section 871 (c) or section 882 (a), Internal Revenue Code of 1954, if such enterprise at any time during the taxable year in which such profits are derived has engaged in trade or business in the United States through a permanent establishment situated therein. If it is so engaged, it is subject to United States tax upon its entire income from sources within the United States except to the extent otherwise exempt from United States tax.

(2) *Allocation of profits.* In the determination of the income taxable to such enterprise for purposes of the United States tax, all industrial and commercial profits from sources within the United States shall be deemed to be allocable to the permanent establishment in the United States. Hence, if a Norwegian enterprise which has a permanent establishment in the United States at some time during the taxable year were to sell in the United States, through a bona fide commission agent therein acting in the ordinary course of his business as such, merchandise which has been produced in Norway, the profits arising from such sale would be allocable to the permanent establishment to the extent they are derived from sources within the United States, even though the sale is made independently of the permanent establishment.

(d) *Independent basis.* The industrial and commercial profits of the permanent establishment in the United States shall be determined as if the establishment were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length, or on an independent basis, with the enterprise of which it is a permanent establishment. Any such profits so attributed to such permanent establishment shall, subject to the provisions of the Internal Revenue Code of 1954, be deemed to be income from sources within the United States.

§ 510.106 *Control of a United States enterprise by a Norwegian enterprise.* In effect, Article IV of the convention provides that, if a Norwegian enterprise by reason of its control of a United States enterprise imposes on the latter enterprise conditions different from those which would result from normal business relations between independent enterprises, the accounts between the enterprises shall be adjusted in order to ascertain the true taxable income of each enterprise. The purpose is to place the controlled United States enterprise on a tax parity with an uncontrolled United States enterprise by determining, according to the standard of an uncontrolled enterprise, the true taxable in-

come from the property and business of the controlled enterprise. The basic objective of the article is that, if the accounting records do not truly reflect the taxable income from the property and business of the United States enterprise, the Commissioner shall intervene and, by making such distributions, apportionments, or allocations as he may deem necessary of gross income, deductions, credits, or allowances, or of any item or element affecting taxable income, between the United States enterprise and the Norwegian enterprise by which it is controlled or directed, shall determine the true taxable income of the United States enterprise. The provisions of section 482 of the Internal Revenue Code of 1954, and the regulations thereunder, shall, insofar as applicable, be followed in the determination of the taxable income of the United States enterprise.

§ 510.107 Income from operation of ships or aircraft—(a) Exempt from tax. Under Article V of the convention so much of the income from sources within the United States of a Norwegian enterprise as consists of earnings derived from the operation of ships or aircraft, whether or not they are documented or registered in or under the laws of Norway, shall not be included in gross income and shall be exempt from United States tax, even though at some time during the taxable year such enterprise has engaged in trade or business in the United States through a permanent establishment situated therein.

(b) Prior arrangement suspended. The provisions of Article V shall be deemed to suspend the arrangement between the United States and Norway providing for relief from double income taxation on shipping profits, effected by exchanges of notes dated November 26, 1924, January 23, 1925, and March 24, 1925 (Executive Agreement Series, No. 15; 47 Stat. 2617). Accordingly, while the provisions of Article V are in effect, no exemption from United States tax shall be accorded pursuant to, or by reason of, any agreement effected by the exchange of such notes. This paragraph shall not be construed, however, to restrict any exemption which, without reference to an exchange of notes, is accorded by section 872 (b) and section 883 of the Internal Revenue Code of 1954. See Article XX (2) of the convention.

§ 510.108 Interest. (a) Interest on bonds, securities, notes, debentures, or on any other form of indebtedness, including interest on obligations of the United States, interest on obligations of instrumentalities of the United States, and interest on mortgages and bonds secured by real property, which is derived from sources within the United States by a nonresident alien individual who is a resident of Norway, or by a Norwegian corporation or other entity, shall not be included in gross income and shall be exempt from United States tax under the provisions of Article VI of the convention if such alien, corporation, or other entity at no time during the taxable year in which such interest is

derived has a permanent establishment in the United States.

(b) If, for example, a nonresident alien individual who is a resident of Norway performs personal services within the United States during the taxable year, but has at no time during such year a permanent establishment within the United States, he is entitled to the exemption from United States tax with respect to interest derived in that year from United States sources, as provided in Article VI of the convention, even though under the provisions of section 871 (c) of the Internal Revenue Code of 1954 he has engaged in trade or business within the United States during such year by reason of his having performed personal services therein.

§ 510.109 Patent and copyright royalties and film rentals—(a) General. Royalties, and other amounts, representing consideration for the right to use copyrights, artistic and scientific works, patents, designs, secret processes and formulas, trademarks, and other like property, including rentals and like payments in respect of motion picture films, which are derived from sources within the United States by a nonresident alien individual who is a resident of Norway, or by a Norwegian corporation or other entity, shall not be included in gross income and shall be exempt from United States tax under the provisions of Article VII of the convention if such alien, corporation, or other entity at no time during the taxable year in which such items of income are derived has a permanent establishment in the United States.

(b) Items not deductible. Under the provisions of Article VII the United States reserves the right, according to the principles of Article IV and § 510.106, to deny a deduction to the payer thereof for such royalties and other like amounts, or any portion thereof, as is considered by the Commissioner not to be reasonable consideration for the right to use the property involved.

§ 510.110 Real property income and natural resource royalties—(a) General. Income of whatever nature derived by a nonresident alien who is a resident of Norway, or by a Norwegian corporation or other entity, from real property situated in the United States, including gains derived from the sale or exchange of such property, rentals from such property, and royalties in respect of the operation of mines, quarries, timber, or other natural resources situated in the United States, is not exempt from United States tax by the convention. Such items of income are subject to taxation under the provisions of the Internal Revenue Code of 1954 generally applicable to the taxation of nonresident alien individuals and foreign corporations. See Articles VIII (1) and IX of the convention. Interest derived from mortgages and bonds secured by real property does not constitute income from real property for purposes of this section but is subject to the provisions applicable to interest generally. See § 510.108.

(b) Net basis—(1) General. Notwithstanding the provisions of paragraph

(a) of this section, a nonresident alien who is a resident of Norway, or a Norwegian corporation, who during the taxable year derives from sources within the United States any income from real property as described in such paragraph may elect for such taxable year to be subject to United States tax on a net basis as though such alien or corporation were engaged in trade or business in the United States during such year through a permanent establishment situated therein. See Article VIII (2) of the convention.

(2) Manner of electing. Such nonresident alien (including an individual, fiduciary, and member of a partnership) shall signify his election to be subject to the tax on such a basis by filing Form 1040B clearly marked at the top of the first page thereof as follows: "Return of Resident of Norway Electing to File on a Net Basis Pursuant to Article VIII of Norwegian Income Tax Convention." Such corporation shall signify its election to be subject to tax on such a basis by filing Form 1120 clearly marked at the top of the first page thereof as follows: "Return of Norwegian Corporation Electing to File on a Net Basis Pursuant to Article VIII of Norwegian Income Tax Convention". The election so signified shall be irrevocable for the taxable year for which such election is made. All income from sources within the United States, including gains from the sale or exchange of capital assets or of other property, shall be disclosed on the return so filed. See sections 871 and 882 of the Internal Revenue Code of 1954 and the regulations thereunder.

§ 510.111 Compensation for labor or personal services—(a) Exemption from tax. Under Article X of the convention compensation received by a nonresident alien individual who is a resident of Norway for labor or personal services, including the practice of the liberal and artistic professions, performed in the United States shall not be included in gross income and shall be exempt from United States tax in either of the following situations:

(1) Norwegian employer. Where such individual is temporarily present in the United States for a period or periods not exceeding in the aggregate a total of 183 days during a taxable year beginning on or after January 1, 1951, any compensation received by him (irrespective of when received, if received in taxable years beginning on or after January 1, 1951) for such labor or personal services performed in the United States during such year as an employee of, or under contract with, a nonresident alien (including a nonresident alien individual and fiduciary) who is a resident of Norway, or a Norwegian corporation or other entity, whether or not such alien, corporation, or other entity is engaged in trade or business within the United States, shall not be included in gross income and shall be exempt from United States tax.

(2) Other employers. Where such individual is temporarily present in the United States for a period or periods not exceeding in the aggregate a total of

183 days during a taxable year beginning on or after January 1, 1951, any compensation received by him (irrespective of when received, if received in taxable years beginning on or after January 1, 1951) for such labor or personal services performed in the United States during such year shall not be included in gross income and shall be exempt from United States tax if such compensation does not exceed \$10,000 in the aggregate. Thus, if a nonresident alien individual who is a resident of Norway performs personal services in the United States during the taxable year as an employee of a domestic corporation for which he receives compensation of \$15,000 in the aggregate, none of such compensation shall be exempt from United States tax even though such individual is present in the United States during such year for a period or periods not exceeding a total of 183 days, since the aggregate compensation received is in excess of \$10,000.

(b) *Definitions.* For purposes of this section, the term "compensation for labor or personal services" shall include, but shall not be limited to, the compensation, profits, emoluments, or other remuneration of public entertainers, such as, stage, motion picture, television, or radio artists, musicians, and athletes. It shall also include directors' fees representing reasonable compensation for services rendered, whether or not the recipient of such fees has been present at any time during the taxable year in the contracting State from which payment of such fees has been made. For the allocation or segregation as between sources within, and sources without, the United States in the case of compensation for labor or personal services, see sections 861 through 864, Internal Revenue Code of 1954, and the regulations thereunder.

(c) *Exception.* The provisions of this section have no application to the income to which Article XI (1) of the convention relates.

§ 510.112 *Government wages, salaries, and pensions*—(a) *General.* Under Article XI of the convention any wage, salary, or similar compensation, or any pension, paid directly by the Government of Norway or by Norwegian communities or counties (fylker), or paid from funds or institutions created by such Government, communities, or counties, to any alien individual (whether or not a resident of the United States) or to any individual who occupies the dual status of a citizen of the United States and a citizen of Norway shall not be included in gross income and shall be exempt from United States tax, even though at some time during the taxable year such individual has engaged in trade or business in the United States through a permanent establishment situated therein.

(b) *Definition.* As used in this section, the term "pensions" means periodic payments made in consideration for services rendered or by way of compensation for injuries received. Under Article XIV (2) of the convention the exclusion from gross income, and exemption from United States tax, provided by this section shall not be denied

despite the provisions of Article XIV. See § 510.116.

(c) *Cross reference.* For the taxation generally of compensation of alien employees of foreign governments and the consequences of executing and filing the waiver provided for in section 247 (b) of the Immigration and Nationality Act, see section 893 of the Internal Revenue Code of 1954 and the regulations thereunder.

§ 510.113 *Private pensions and life annuities*—(a) *General.* Private pensions and life annuities derived from sources within the United States and paid to a nonresident alien individual who is a resident of Norway shall not be included in gross income and shall be exempt from United States tax, in accordance with Article XI of the convention, even though at some time during the taxable year in which such items of income are derived such individual has engaged in trade or business in the United States through a permanent establishment situated therein.

(b) *Definitions.* As used in this section, the term "pensions" means periodic payments made in consideration for services rendered or by way of compensation for injuries received; and the term "life annuities" means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

§ 510.114 *Visiting professors or teachers*—(a) *General.* Pursuant to Article XII of the convention a professor or teacher, a nonresident alien who is a resident of Norway, who temporarily visits the United States for the purpose of teaching for a period not exceeding two years at any university, college, school, or other educational institution situated within the United States shall, for a period not exceeding two years from the date of his initial arrival in the United States, be exempt from United States tax with respect to his remuneration earned in taxable years beginning on or after January 1, 1951, for such teaching during such period not in excess of two years.

(b) *More than two years.* The exemption granted by Article XII is applicable to remuneration earned during such part of the individual's visit as does not exceed two years from the date of arrival even though the total period of his presence in the United States may extend beyond two years, provided that during such entire period he may be considered to be temporarily visiting the United States.

(c) *Residence.* Such exemption shall not apply to the remuneration of an alien who is a resident of the United States or who is not a resident of Norway.

(d) *Nonresidence presumed.* An individual who otherwise qualifies for the exemption from United States tax granted by Article XII shall, for a period of not more than two years immediately succeeding the date of his arrival within the United States for the purpose of such teaching, be deemed to have the tax

status of a nonresident alien in the absence of proof of his intention to remain indefinitely in the United States. See section 871 of the Internal Revenue Code of 1954 and the regulations thereunder.

§ 510.115 *Students or apprentices*—(a) *General.* Under Article XIII of the convention a student or apprentice, a nonresident alien who is a resident of Norway, who temporarily visits the United States exclusively for the purposes of study or for acquiring business or technical experience shall not include in gross income, and shall be exempt from United States tax with respect to, amounts derived by him in taxable years beginning on or after January 1, 1951, and received during such years from without the United States as remittances for the purposes of his maintenance or studies.

(b) *Residence.* The exemption shall not apply to remittances received by an alien who is a resident of the United States or who is not a resident of Norway.

§ 510.116 *Credit against United States tax for Norwegian tax*—(a) *General*—(1) *Taxable as though no convention.* Notwithstanding any other provision of the convention the United States, in determining the United States tax of a citizen or resident of the United States, or of a domestic corporation, may, under Article XIV (1) (a) of the convention, include in the basis upon which such tax is imposed all items of income taxable under the revenue laws of the United States, as though the convention had not come into effect. For example, despite the exemption from United States tax granted by Article VI of the convention with respect to interest derived from sources within the United States by a resident of Norway, such interest shall be included in gross income and is subject to United States tax when so derived by a resident of Norway who is a citizen of the United States, even though such resident has no permanent establishment in the United States.

(2) *Exception.* Notwithstanding the provisions of subparagraph (1) of this paragraph, the exclusion from gross income, and exemption from United States tax, granted by Article XI (1) of the convention with respect to wages, salaries, and similar compensation, and pensions, paid by Norway or Norwegian communities or counties shall not be denied. See Article XIV (2) of the convention.

(b) *Application of credit.* For the purpose of mitigating double taxation Article XIV (1) (a) of the convention provides that a citizen or resident of the United States, or a domestic corporation, deriving income from sources within Norway shall be allowed a credit against the United States tax for the amount of Norwegian tax paid or accrued during the taxable year. This credit shall be made in accordance with the provisions of section 131 of the Internal Revenue Code of 1939 as in effect on December 11, 1951, but subject to the provisions of Article XX (2) of the convention.

§ 510.117 *Exchange of information*—(a) *General.* (1) By Article XV of the

convention the United States and Norway adopt the principle of exchange of such information as may be of use for carrying out the provisions of the convention, preventing fraud, or detecting practices which are aimed at the reduction of the revenues of either country, but not including information which would be contrary to public policy or which would disclose any trade, business, industrial, or professional secret.

(2) The information and correspondence relative to exchange of information may be transmitted directly by the Commissioner to the Ministry of Finance and Customs.

(b) *Return of information by withholding agents.* (1) To facilitate compliance with Article XVI of the convention, every United States withholding agent shall make and file in duplicate with the District Director of Internal Revenue, Baltimore 2, Maryland, an information return on Form 1042 Supplement, with respect to Norwegian addressees, which shall be filed for the calendar year 1955 and subsequent calendar years. This return shall be filed simultaneously with Form 1042.

(2) There shall be reported on such Form 1042 Supplement all items of fixed or determinable annual or periodical income (and amounts described in section 402 (a) (2), section 631 (b) and (c), and section 1235 of the Internal Revenue Code of 1954, which are considered to be gains from the sale or exchange of capital assets) derived from sources within the United States and paid to nonresident aliens (including nonresident alien individuals, fiduciaries, and partnerships) and to nonresident foreign corporations, whose addresses at the time of payment were in Norway, including such items of income upon which, in accordance with the withholding regulations under the convention, no withholding of United States tax is required; except that any of such items which constitute interest in respect of which Form 1001-NO or substitute Form 1001-NO has been filed in duplicate with the withholding agent is not required to be reported on such Form 1042 Supplement.

(c) *Information to be furnished in ordinary course.* In compliance with the provisions of Article XVI of the convention the Commissioner will transmit to the Ministry of Finance and Customs, as soon as practicable after the close of the calendar year 1955 and of each subsequent calendar year during which the convention is in effect, the following information relating to such preceding calendar year:

(1) The duplicate copy of each available Form 1042 Supplement filed pursuant to paragraph (b) of this section; and

(2) The duplicate copy of each available ownership certificate, Form 1001-NO, and substitute Form 1001-NO, filed pursuant to the withholding regulations under the convention, in connection with coupon bond interest.

(d) *Information in specific cases.* Under the provisions and limitations of Articles XV and XVIII of the convention and upon request of the Ministry of Finance and Customs, the Commissioner

shall furnish to the Ministry information available to, or obtainable by, the Commissioner relative to the tax liability of any person under the revenue laws of Norway in any case in which such information is necessary to the administration of the provisions of the convention or of statutory provisions against tax avoidance, or in which such information is necessary for the prevention of fraud.

§ 510.118 *Double taxation claims—(a) General.* Under Article XIX of the convention, where the taxpayer shows proof that the action of the revenue authorities of the United States or Norway has resulted, or will result, in double taxation contrary to the provisions of the convention, he is entitled to lodge a claim with the country of which he is a citizen; or, if he is not a citizen of either country, with the country of which he is a resident; or, if the taxpayer is a corporation or other entity, with the country in which it is created or organized. The article provides that, should the claim be upheld, the competent authority of the country with which the claim is lodged shall undertake to come to an agreement with the competent authority of the other country with a view to equitable avoidance of the double taxation in question.

(b) *Manner of filing claim.* Such a claim on behalf of a United States citizen, corporation, or other entity, or on behalf of a resident of the United States who is not a Norwegian citizen, shall be filed with the Commissioner. The claim shall be set up in the form of a letter addressed to "The Commissioner of Internal Revenue, Washington 25, D. C." and shall show fully all facts and law on the basis of which the claimant alleges that such double taxation has resulted or will result. If the Commissioner determines that there is an appropriate basis for the claim under the convention, he shall take up the matter with the Ministry of Finance and Customs with a view to arranging an agreement of the character contemplated by Article XIX.

§ 510.119 *Beneficiaries of an estate or trust—(a) Qualified beneficiary.* If he otherwise satisfies the requirements of the respective articles concerned, a nonresident alien who is a resident of Norway and who is a beneficiary of an estate or trust shall be entitled to the exemption from United States tax granted by Articles VI and VII of the convention with respect to interest, and patent royalties and other like amounts, to the extent that (1) any amount paid, credited, or required to be distributed by such estate or trust to such beneficiary is deemed to consist of such items and (2) such items would, without regard to the convention, be includible in his gross income.

(b) *Amounts otherwise includible in gross income of beneficiary.* For the determination of amounts which, without regard to the convention, are includible in the gross income of the beneficiary, see subchapter J of chapter 1 of the Internal Revenue Code of 1954, and the regulations thereunder.

§ 510.120 *Norwegian partnerships—(a) General.* Whether an individual, corporation, or other entity, a member of

a partnership created or organized in Norway or under Norwegian laws, is subject to United States tax upon such person's distributive share of the income of such partnership depends upon both the status of the partnership and the status of such member.

(b) *Citizen partner.* A citizen or resident of the United States, or a domestic corporation, is subject to United States tax upon such person's distributive share of the income of such partnership as though the convention had not come into effect, but subject to the provisions of § 510.116; even though other members, by reason of benefits granted by the convention, are not subject to United States tax upon their distributive share of such income.

(c) *Noncitizen partner.* In any case in which income is derived from sources within the United States by a partnership created in Norway or under Norwegian laws, any member of such partnership who has a permanent establishment in the United States or who is either a nonresident alien not a resident of Norway or is a foreign corporation which is not Norwegian is not entitled, with respect to such member's distributive share of such income, to any benefit granted by the convention solely to nonresident aliens residing in Norway, or to Norwegian corporations or other entities, having no permanent establishment in the United States. Conversely, any member of such partnership who individually complies with the requirements for obtaining any such benefit will be entitled thereto with respect to such member's distributive share of such income. A member of a Norwegian partnership which has a permanent establishment in the United States shall likewise be considered to have a permanent establishment in the United States.

[SEAL]

O. GORDON DELK,
Acting Commissioner
of Internal Revenue.

Approved: October 6, 1955.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 55-8232; Filed, Oct. 11, 1955;
8:48 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 516—RECORDS TO BE KEPT BY EMPLOYERS

MISCELLANEOUS AMENDMENTS

On August 6, 1955, notice was published in the FEDERAL REGISTER (20 F. R. 5701), of a proposal to amend §§ 516.5 (a) (2) (iv) and 516.18 (a) (2) of Part 516, issued pursuant to section 11 (c) of the Fair Labor Standards Act. Interested persons were given 30 days in which to submit their views and comments relative to the proposed amendment. No objections have been received, but cognizance is hereinafter taken of suggestions for clarification.

Accordingly, pursuant to authority contained in section 11 (c) of the Fair Labor Standards Act of 1938, as

amended, (29 U. S. C. 201 et seq.) and General Order No. 45-A (15 F. R. 3290), I hereby amend §§ 516.5 (a) (2) (iv) and 516.18 (a) (2) of this part to read as follows:

Section 516.5 (a) (2) (iv) is amended to read:

(iv) Written agreements or memoranda summarizing the terms of oral agreements or understandings under section 7 (f) of the Act, and

Section 516.18 (a) (2) is amended to read:

(2) A copy of the written agreement or, if there is no such agreement, a memorandum summarizing the terms of the oral agreement or understanding to use this method of computation. If the employee is part of a group, all of whom have agreed to use this method of computation, a single memorandum will suffice.

These amendments shall become effective on the 14th day of November 1955. (Sec. 11, 52 Stat. 1066, as amended; 29 U. S. C. 211)

Signed at Washington, D. C., this 6th day of October 1955.

NEWELL BROWN,
Administrator, Wage and Hour
Division, United States De-
partment of Labor.

[F. R. Doc. 55-8265; Filed, Oct. 11, 1955;
8:55 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter B—Claims and Accounts

PART 536—CLAIMS AGAINST THE UNITED STATES

BURIAL EXPENSES

Sections 536.51 through 536.57 are revoked and the following substituted therefor:

§ 536.51 *Categories of eligibles.* (a) Members of the United States Army and the reserve components thereof who die while on extended active duty.

(b) Members of the Army Reserve, members of the federally recognized National Guard (in respect of duty for which they are entitled by law to receive pay from the Federal Government), and members of the National Guard of the United States, who die while:

(1) On active duty for training or while performing authorized travel to or from such service.

(2) On inactive duty training pursuant to proper authority.

(3) Hospitalized or undergoing treatment at Government expense, as authorized by law, for injuries, illness, or disease contracted or incurred while on active duty for training or performing authorized travel thereto or therefrom, or while on inactive duty training pursuant to proper authority.

(c) Members of the Reserve Officers' Training Corps of the Army, who die while:

(1) Attending training camps pursuant to proper authority, or while performing authorized travel to or from such camps.

(2) Hospitalized or undergoing treatment at Government expense, as authorized by law, for injury, illness, or disease contracted or incurred while attending such camps or while on such authorized travel.

(d) Accepted applicants for enlistment in the Army.

(e) Former enlisted members of the Army who will have been discharged in United States Government hospitals and who continue as patients in such hospitals to the date of their death.

(f) Retired members of the Army, and the reserve components thereof, hospitalized during periods of extended active duty, who continue as patients in United States Government hospitals to the date of their death.

(g) Military prisoners (defined as persons, other than prisoners of war or internees, in custody or in confinement within military jurisdiction) who die (or are executed) while in the custody of the Army.

(h) The following civilian employees paid from appropriate funds of the Army and/or the Department of the Army:

(1) *Citizen employees.* As used in this section "United States citizens" include citizens of the United States of America, its Territories and possessions.

(i) An employee who is a United States citizen who, while traveling on official business in the Territory or country of his domicile, dies away from his home and away from his official station.

(ii) An employee who is a United States citizen who dies while traveling on official business outside the country or Territory of his domicile.

(iii) An employee who is a United States citizen who dies while on assignment to a post outside the country or Territory of his domicile, or who dies while performing authorized travel to or from such assignment.

(iv) Foreign nationals: An employee who is a foreign national who dies while on assignment to a post outside the country of his domicile or while en route to or from such assignment, provided the employee would be entitled to travel to his home at Army expense upon termination of his employment.

(i) Enemy prisoners of war and interned enemy aliens who die while in the custody of the United States Army.

(j) Indigent patients who die in hospitals maintained and operated by the Army, and persons who die on Army reservations, provided proper disposition of such remains cannot otherwise be made.

(k) Dependents of members of the Army on active duty, when the dependent dies abroad while residing with the sponsoring member of the Army at a place of duty outside continental United States, or while on authorized travel to or from such place of duty abroad.

(l) Dependents of civilian employees enumerated in paragraph (h) (1) (iii) of this section, when the dependent dies abroad while residing with the sponsoring employee at his place of duty or while traveling to or from such place of duty.

§ 536.52 *Authorized expenses—(a) For personnel described in paragraphs*

(a) through (g) of § 536.51. (1) Recovery and identification of remains.

(2) Items of care and preparation.

(i) Notification to the next of kin or other appropriate person.

(ii) Embalming and other preservative measures.

(iii) Hearse for removing remains from the place of death to a funeral director's establishment and for delivery of remains to a local cemetery or to a railroad station.

(iv) Funeral director's services.

(v) Casket (or suitable receptacle for cremation purposes) and/or urn, with outside box when required.

(vi) Burial and shipping permits.

(3) Cremation upon request of the person recognized as the one to direct disposition of remains.

(4) Clothing. (i) The clothing of the deceased will be used to clothe the remains, if available and in a clean and serviceable condition.

(ii) Necessary clothing will be provided when decedent's own is not available or is not suitable for use.

(5) An interment flag to drape the casket and to be presented to the person recognized as the one to direct disposition of remains, except that a flag will not be authorized in the case of a prisoner whose sentence includes a discharge other than honorable or in case of nonmilitary persons.

(6) Transportation. (i) Necessary transportation is authorized to ship the remains (accompanied by an escort of one person) to any town or city, in either the United States or its possessions or in a foreign country, designated by the person directing disposition of remains, or to a national or post cemetery, either prior to or after temporary interment.

(ii) If the destination designated is a common carrier terminal, common carrier transportation will be used for the entire distance. If the destination designated is not a common carrier terminal, common carrier transportation will be used from the place of death to the common carrier terminal nearest the destination and hearse transportation may be used from the common carrier terminal nearest the destination to the destination.

(iii) For method of shipment and by whom determined, see § 633.6 of this chapter.

(7) Services incident to interment.

(i) When interment is made in a private cemetery—an allowance not to exceed \$125.

(ii) When interment is made in a national or post cemetery—an allowance not to exceed \$75.

(b) *For civilian employees described in § 536.51 (h) (1) (i).* (1) Preparation of remains, at a cost not to exceed \$150, including embalming, cremation if requested by the person recognized as the one to direct disposition of remains, clothing, and casket.

(2) Transportation.

(i) Hearse service, including removal of remains from place where death occurred to a funeral director's establishment, removal from funeral director's establishment to a common carrier, and one removal at the place of interment from the common carrier to a funeral

director's establishment or other place of immediate delivery.

(ii) Procurement of burial and shipping permits.

(iii) Furnishing of outside box for shipment (including, when necessary, the sealing of such shipping case). No allowance for outside case will be made if conveyance is by hearses.

(iv) Shipment of remains by common carrier to the home or official station of the decedent or to such other place as may be designated as the appropriate place of interment, provided that in no case will the cost incurred by the Army for transportation of the remains to the place designated exceed the cost which would have been incurred had the remains been transported to the home or the official station of the decedent, whichever is the greater distance. Transportation expenses of an escort for the remains will not be allowed; however, this will not be construed to prohibit the use by an escort of one of the two tickets required to ship the remains as baggage by railroad when that mode of transportation is utilized. Instead of conveyance by common carrier, removal of remains overland by hearses (including ferry charges, bridge tolls, and similar items) may be allowed provided the total charges for transportation do not exceed the total cost of transportation had conveyance been made by common carrier.

(c) *For civilian employees described in § 536.51 (h) (1) (ii) and (iii) and (2).*

(1) Preparation of remains, including all the ordinary costs of:

(i) Embalming.

(ii) Cremation, if requested by the person recognized as the one to direct disposition of remains.

(iii) Necessary clothing.

(iv) Casket or container suitable for shipment to the place of interment.

(v) Any expenses necessarily incurred in complying with local laws and laws at the port of entry relative to the preparation of remains for transportation and burial.

(2) Transportation. (i) Hearse service, including removal of remains from the place where death occurred to a funeral director's establishment, removal from the funeral director's establishment to a common carrier, and one removal at the place of interment from the common carrier.

(ii) Shipment of remains by common carrier to the home or official station of the decedent, or to such other place as may be designated as the appropriate place of interment, provided that in no case will the cost incurred by the Army for transportation of the remains to the place designated exceed the cost which would have been incurred had the remains been transported to the home or official station of the decedent, whichever is the greater distance. Transportation expenses of an escort for the remains will not be allowed; however, this will not be construed to prohibit the use by an escort of one of the two tickets required to ship the remains as baggage by railroad when that mode of transportation is utilized. The remains may be transported by means other than by common carrier, provided that when conveyance by common carrier is avail-

able there will be allowed toward the expense of such other transportation an amount not in excess of the sum allowable had the remains been transported by common carrier.

(d) *For enemy prisoners of war and interned enemy aliens.* (1) Notification to the next of kin or other appropriate person.

(2) Preparation of the remains for burial, including cremation.

(3) Casket and/or urn, with outside box when required.

(4) Necessary articles of clothing.

(5) Transportation of remains by the most economical means to the town, city, or cemetery designated by The Quartermaster General.

(6) Interment of the remains at a cost not to exceed \$125.

(e) *For indigent patients and other persons described in § 536.51 (j).*

(1) Notification to next of kin or other appropriate person.

(2) Preparation of remains for burial, including cremation.

(3) Casket and/or urn, with outside box when required.

(4) Necessary articles of clothing.

(5) Transportation of remains, by the most economical means, to a cemetery designated by The Quartermaster General.

(6) Interment of the remains at a cost not to exceed \$125.

(f) *For dependents of members of the Army and civilian employees of the Army.* Transportation from the place of death to the home (or to such other place as may be designated as the appropriate place of interment) in accordance with the procedures and limitations set forth in pertinent Army regulations.

§ 536.53 *Disposition of remains.* (a)

The general policy is that disposition of remains will be effected immediately in accordance with the wishes of the person recognized as having the right to direct disposition of the remains.

(b) If temporary disposition is required because of local health laws or inability to contact the person recognized as having the right to direct disposition of the remains, disposition of remains of Army personnel will be made in accordance with instructions in pertinent Army regulations. When final disposition may be effected, such disposition will be in accordance with the wishes of the person recognized as having the right to direct disposition of the remains.

(c) If disposition of remains is made at Government expense in accordance with the expressed wishes of the person having the right to direct disposition, subsequent disinterment or shipment of the remains will not be made at Government expense.

(d) If the person recognized to direct disposition insists that the Army dispose of the remains, the only disposition which will be effected is burial in a national cemetery.

§ 536.54 *Reimbursement of expenses borne by individuals.* (a) When expenses for personnel enumerated in § 536.51 (a) through (h) are borne by individuals, reimbursement may be made to such individuals in an amount not in

excess of the cost normally incurred in furnishing such supplies and services as are authorized.

(b) In the case of civilian employees enumerated in § 536.51 (h) (1) (i), applicable limitation is contained in § 536.52 (b). For all other personnel enumerated in § 536.51 (a) through (h), if at the time and place of death a Contract for Care of Remains was in force, the amount to be allowed for items normally obtained under such contract will be limited to the sum that such contract would have allowed for a similar case. However, if no such contract was in effect at the time and place of death, determination of the amount to be allowed will be made by The Quartermaster General. It is not compulsory for relatives to utilize the services of the contract funeral director where a contract is in effect, but the Department of the Army may allow for reimbursement on the items covered by the contract only the amount the Department would have paid thereunder for such items.

§ 536.55 *Cremation*—(a) *When remains may be cremated.* Remains may be cremated only upon written request of the person recognized as the one to direct the disposition of remains.

(1) Remains will not be cremated when there is any doubt whatever as to what person may have the ultimate legal right to direct disposition.

(2) Even when the cause of death or the condition of remains precludes shipment of the body in accordance with the wishes of the person recognized as having the right to direct disposition of remains, cremation will be effected only with the consent of such person.

(3) Under no circumstances will cremation be suggested by Army authorities as an expedient in effecting disposition of remains, and every effort will be made to discourage such suggestion by a funeral director.

(4) Because of custom or religious tenets, cremation is to certain peoples the accepted mode of disposal of remains; therefore, there is no objection to informing relatives of decedents of oriental ancestry that cremation may be effected upon written request of the person recognized as the one to direct disposition of the remains.

(b) *Where remains may be cremated.* When cremation is requested, Army authorities will arrange for cremation prior to delivery to ultimate destination provided facilities are available at or in the immediate vicinity of the place of death or at a port of entry or an armed forces command through which remains normally will be shipped. If facilities for cremation are not available at the place of death (or at an installation or command through which remains will normally be shipped), the person directing disposition of remains will be so informed and advised of costs which may be allowed if relatives arrange for cremation at destination.

(c) *Costs.* (1) The cost of cremation, including the cost of a suitable urn if no casket was furnished for shipment of remains to final destination, and any costs necessary to transport the remains to a local crematory are expenses allow-

able in addition to the costs of normal preparation, shipment, and allowance toward interment. If cremation is arranged for by military authorities, cost of cremating will not exceed the prevailing rate in the locality in which cremation is effected, and the cost of a suitable urn normally should not exceed \$100.

(2) If cremation is arranged for by relatives, reimbursement of allowable costs incurred may be obtained; however, claim must be accompanied by authorization for cremation signed by the person recognized as the one to direct disposition of remains. The amount allowed for cremation will be in accordance with the prevailing charge in the locality in which remains were cremated. Allowance for a suitable urn normally will not exceed \$100; however, no allowance will be made for an urn when the casket in which remains were shipped to final destination has been provided at Army expense. When relatives have purchased both a casket and an urn, allowance may be made for either the casket or the urn but not for both.

[AR 638-40 and AR 638-45, 17 August 1955] (R. S. 161; 5 U. S. C. 22. Interpret or apply sec. 1, 54 Stat. 743, 68 Stat. 478, 5 U. S. C. 103a, 5 U. S. C. Sup. 2151-2163. E. O. 8557, 5 F. R. 3888; 3 CFR 1940 Supp., as amended by E. O. 10209, 16 F. R. 1001; 3 CFR, 1951 Supp.)

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 55-8248; Filed, Oct. 11, 1955; 8:51 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS CHUCKATUCK CREEK, VA.

Pursuant to the provisions of section 4 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), § 203.245 governing the operation of drawbridges where constant attendance of draw tenders is not required over navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets, is hereby amended prescribing subparagraph (f) (13-a), to govern the operation of the Virginia Department of Highways bridge across Chuckatuck Creek, Virginia, as follows:

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

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

(13-a) Chuckatuck Creek, Va.; Virginia Department of Highways bridge at Crittenden. Between 9:00 p. m. and 5:00 a. m., at least 30 minutes' advance notice required to be given to the person in charge of the Nansemond River Bridge Toll Plaza. Between 5:00 a. m. and 9:00

p. m., the regulations contained in § 203.240 shall govern the operation of this bridge.

[Regs., 22 Sep. 1955, 823.01 (Chuckatuck Creek, Va.)—ENGWO] (Sec. 4, 28 Stat. 362; 33 U. S. C. 499)

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 55-8247; Filed, Oct. 11, 1955; 8:51 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix C—Public Land Orders [Public Land Order 1235]

[Misc. 62646]

FLORIDA

RESERVING CERTAIN PUBLIC LANDS AS ADDITION TO NATIONAL KEY DEER REFUGE

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

Subject to valid existing rights, the following-described public lands in Monroe County, Florida, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining but not the mineral-leasing laws, and reserved under jurisdiction of the Department of the Interior as an addition to the National Key Deer Refuge:

TALLAHASSEE MERIDIAN

T. 66 S., R. 28 E.,
Sec. 23, lots 4 and 10.
T. 66 S., R. 28 E.,
Sec. 8, lot 2;
Sec. 18, lot 4;
Sec. 20, lot 8.

The areas described aggregate 70.97 acres.

FRED G. AANDAHL,
Assistant Secretary of the Interior.

OCTOBER 6, 1955.

[F. R. Doc. 55-8250; Filed, Oct. 11, 1955; 8:52 a. m.]

TITLE 45—PUBLIC WELFARE

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

PART 109—FEDERAL ASSISTANCE UNDER TITLE IV, SINCE JULY 1, 1955, IN THE CONSTRUCTION OF MINIMUM SCHOOL FACILITIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

Part 109 is added to 45 CFR, Subtitle B, Chapter I, and, among other things, establishes regulations for the filing and processing of applications for Federal grants for school construction under Title IV of Public Law 815, 81st Congress (64 Stat. 967), as added by Public Law 246, 83d Congress (67 Stat. 522), and as extended and amended by Public Law 382, 84th Congress (69 Stat. 713); estab-

lishes a cutoff date for filing such applications; and provides for priority indices to establish the order of approval of such applications and of making payments from funds available on the cutoff date.

Part 109 reads as follows:

Subpart A—Filing and Processing of Complete Applications

- Sec. 109.1 Definitions.
109.2 Procedure if funds are inadequate to make all payments.
109.3 Determination of priority indices for applications under Section 401.
109.4 Determination of available and usable school facilities.
109.5 Certification of payments.
109.6 Priority and approval of applications; conditioned upon readiness to proceed with construction.
109.10 Preceding provisions not exhaustive of jurisdiction of the Commissioner.

Subpart B—Establishment of Deadline for Filing Applications

- Sec. 109.20 Deadline for applications during fiscal year 1956.

AUTHORITY: §§ 109.1 to 109.20 issued under sec. 208, 64 Stat. 975; 20 U. S. C. 278. Interpret or apply sec. 210, 64 Stat. 976; secs. 1, 2, 67 Stat. 522, sec. 6, 69 Stat. 713; 20 U. S. C. 280, 311.

SUBPART A—FILING AND PROCESSING OF COMPLETE APPLICATIONS

§ 109.1 *Definitions.* All terms used in this part which are defined in Public Law 815, 81st Congress (64 Stat. 967), as added by Public Law 246, 83d Congress (67 Stat. 522), and as amended by Public Law 731, 83d Congress (68 Stat. 1005), and Public Law 382 (69 Stat. 713), and not defined in this section shall have the meaning given to them in Public Law 815 as amended. As used in this part, for purposes of this part and determinations under the Act as hereinafter defined, the following terms shall have the meaning indicated in paragraphs (a) to (q) of this section:

(a) *Act.* "The Act" means title IV of Public Law 815, 81st Congress (64 Stat. 967), as added by Public Law 246, 83d Congress (67 Stat. 522), and as extended and amended by Public Law 382 (69 Stat. 713), and such provisions of titles I and II of Public Law 815 as are made applicable to title IV by Public Law 246.

(b) *Title IV.* "Title IV" means title IV of Public Law 815, 81st Congress, as added by Public Law 246, 83d Congress, extended and amended by Public Law 382, 84th Congress, and such provisions of titles I and II of Public Law 815 as are made applicable to it by Public Law 246.

(c) *Commissioner.* "Commissioner" means the Commissioner of Education, Department of Health, Education, and Welfare or his delegatee.

(d) *Local educational agency.* "Local educational agency" means a board of education or other legally constituted local school authority (including, where applicable, a State agency which directly operates and maintains facilities for providing free public education) having exclusive administrative control and direction of free public education, or some phase thereof, in a county, township, independent, or other school district located within a State. If the local

educational agency so defined does not have responsibility for providing school facilities and such responsibility is vested in a State agency, the term shall include such State agency together with the agency having exclusive administrative control and direction of other phases of free public education.

(e) *Free public education.* "Free public education" means education which is provided at public expense, under public supervision and direction, and which is provided as elementary or secondary school education in the applicable State. * Elementary education may include kindergarten education meeting the above criteria for the first year prior to the first elementary grade.

(f) *Applicant.* An "Applicant" is a local educational agency which has filed a complete application for assistance in school construction under the act and this part.

(g) *Complete application.* Where an applicant submits only one project by a filing date, the "complete application" at that time consists of both Part I (Maximum Grant) and Part II (Project) of the application Form RSF-2 prescribed by the Commissioner for use under this act, properly completed and executed, together with all documents, amendments, and communications in support thereof. Where applicant submits more than one project by a filing date, the Part I form and all Part II forms, properly executed and completed, together with all documents, amendments, and communications in support thereof on file at that time, shall be considered as the "complete application." Where more than one Part II application is submitted by an applicant, the applicant shall indicate the order in which its project applications are to be considered by the Commissioner. Only applications meeting the conditions for approval under title IV and this part shall be considered complete applications under title IV.

(h) *Project application.* "Project application" means Form RSF-2, Part II, properly completed and executed, making application for Federal assistance for providing school facilities under title IV.

(i) *Filing of applications.* An application will not be deemed to be "filed" unless all necessary parts of the complete application, bearing the required certifications and verifications by the State educational agency, are received by the Commissioner, or enclosed in a cover addressed to the Commissioner and postmarked, on or before the applicable filing date as established by Subpart B of this part.

(j) *Minimum school facilities.* "Minimum school facilities" means those instructional and auxiliary rooms (and initial equipment), exclusive of single purpose auditoriums, single purpose gymnasiums and any built-in spectator space, necessary to operate a program of free public education for the school members of the applicant at normal capacity in accordance with the laws and customs of the State.

(k) *Available and usable school facilities.* "Available and usable school fa-

cilities" means those facilities containing pupil stations counted in ascertaining children who are "unhoused" or "without minimum school facilities."

(l) *Normal capacity.* The "normal capacity" of a school room is the number of pupil stations which the room accommodates under ordinary conditions in accordance with the laws and customs of the State governing free public education, provided that where kindergartens may be conducted on a two-session-per-day basis the number of pupil stations of the rooms used for that purpose shall be doubled in determining kindergarten needs.

(m) *Children who are unhoused or without minimum school facilities.* Children who are "unhoused" or "without minimum school facilities" are those children in excess of the normal capacity of available and usable minimum school facilities.

(n) *Membership.* Unless governed by State law or State regulation, a pupil is a "member" of a class or school from the date he presents himself at school and is placed on the current roll until he permanently leaves the class or school for one of the causes recognized as sufficient by the State. The date of permanent withdrawal should be the date on which it is officially known that the pupil has left school, and not necessarily the first day after the date of last attendance.

(o) *Average daily membership.* In a given school year, the "average daily membership" for a given school is the aggregate days of membership of individual children in the school divided by the number of days school was actually in session. Only days on which pupils were under the guidance and direction of teachers in the teaching process may be considered as days in session. The average daily membership for groups of schools having varying lengths of terms is the sum of the average daily memberships obtained for the individual schools.

(p) *Priority indices.* The "priority indices" are the indices established pursuant to this part based on relative urgency of need for the purpose of determining, under title IV, the order of approval of applications and the order of payments.

(q) *Substantial percentage.* An application will not be considered to meet the "substantial percentage" requirement under section 401 (a) (1) of title IV which does not show that the total number of children who reside on Federal property (for whom the applicant is providing or, upon completion of the school facilities for which provision is made in section 401 (a), will provide free public education, and whose membership in the schools of such applicant has not formed and will not form the basis for payments under title II or title III of Public Law 815, as amended) is in excess of 15 and represents at least 10 percent of the total number of children for whom the applicant is providing free public education.

§ 109.2 *Procedure if funds are inadequate to make all payments.* Section 401 (c), title IV, reads in part as follows:

In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications and the nature and extent of the Federal responsibility.

§ 109.3 *Determination of priority indices for applications under section 401.* When the Commissioner has set a date by which complete applications must be filed, the priority indices for approval of such applications shall be determined as follows:

(a) A priority index will be determined for the first construction project for each applicant under section 401 by adding (1) the percentage that the estimated membership of the eligible federally connected children of the school district is of the total estimated membership of all children of such school district at the close of the regular school year 1955-56 to (2) the percentage of the estimated school membership within the school district which at the same time is without minimum school facilities: *Provided*, That in no case shall the total of the two percentages used in determining the priority index exceed twice the percentage in subparagraph (1) of this paragraph.

(b) In those cases where an applicant has filed more than one project application, the priority index for the second project will be determined by: (1) Dividing the normal capacity of the first project by the total estimated membership at the close of the regular school year 1955-56; and (2) reducing the applicant's priority index by twice the percentage so obtained. Where more than two project applications have been filed, the applicant's priority index for each succeeding project shall be reduced by the cumulative total capacity, as provided in the first sentence of this paragraph, of all the approved projects of the applicant.

§ 109.4 *Determination of available and usable school facilities.* The following school facilities shall be counted as usable and available in determining "unhoused children" or "children without school facilities":

(a) All school facilities which were constructed for school use and which have been used continuously for classroom purposes shall be considered as available and usable unless such facilities have become unsafe or otherwise unusable to the extent that use of such facilities or partial use of such facilities has been abandoned or must be abandoned during the fiscal year in which the application is approved. Basement rooms, hallways, or other space the use of which for classroom purposes, in view of their character, inaccessibility, or other equally cogent reason, seriously prejudices educational objectives or has impaired or will impair the health or safety of the school children, will not be considered to be available and usable. These criteria shall apply to all facilities owned by other Federal agencies which are available or which may be made available for the education of children counted by applicants.

(b) All school facilities for the construction of which contracts have been let on or before any final date for filing applications shall be considered to be available and usable for the purpose of the applications filed on such date; and all school facilities which have been approved under title II, title III, or title IV of Public Law 815 shall be considered as available and usable as of the date of approval.

(c) All minimum school facilities which with full utilization of practically available financial resources could be provided from local, State, or other Federal sources shall be considered as available and usable in making determinations under title IV. The capacity of school facilities which could be so provided shall be determined by dividing the sum of such resources by the cost per pupil of providing minimum school facilities in the applicant's school district.

§ 109.5 Certification of payments. Payments to an applicant will be made only on the basis of a complete application satisfying conditions for payment under the act and this part, and will be restricted in amount to the cost of providing minimum school facilities for un-housed children; however: Payments under title IV shall not exceed the portion of the cost of minimum school facilities which the Commissioner estimates is attributable to children who reside on Federal property, and which has not been, and is not to be, recovered by the applicant from other sources, including payments by the United States under any other provisions of Public Law 815, 81st Congress, as amended, or any other law; and such payments may be upon such terms and in such amounts, subject to the provisions of title IV, as the Commissioner may consider to be in the public interest.

§ 109.6 Priority and approval of applications; conditioned upon readiness to proceed with construction. Initial approval of a project application meeting the conditions for approval under the act and under this part will be subject to cancellation in the event the applicant is not ready to proceed with construction within 90 days after the date of initial approval, unless such period is extended by the Commissioner for good cause shown; and the applicant's rights to approval and payment may be subordinated by reason thereof to other project applications of lower rank or the applicant may forfeit its priority in the discretion of the Commissioner.

§ 109.7 Preceding provisions not exhaustive of jurisdiction of the Commissioner. No provision of this part now or hereafter promulgated shall be deemed exhaustive of the jurisdiction of the Commissioner under the act. The provisions of this part may be modified or further regulations may be issued hereafter as circumstances may warrant.

SUBPART B—ESTABLISHMENT OF DEADLINE FOR FILING APPLICATIONS

§ 109.20 Deadline for applications during fiscal year 1956. Pursuant to section 401 (c) of title IV, February 15,

1956, is fixed as the date on or before which all complete applications for payments to which applicants may be entitled under title IV from funds then available shall be filed.

Dated: October 2, 1955.

[SEAL] S. M. BROWNELL,
United States Commissioner
of Education.

Approved: October 6, 1955.

M. B. FOLSOM,
Secretary of Health, Education,
and Welfare.

[F. R. Doc. 55-8267; Filed, Oct. 11, 1955;
8:55 a. m.]

PART 110—FEDERAL ASSISTANCE IN THE CONSTRUCTION OF MINIMUM SCHOOL FACILITIES UNDER TITLE III IN AREAS AFFECTED BY FEDERAL ACTIVITIES WITH RESPECT TO APPLICATIONS FILED AFTER JULY 15, 1955

Part 110 is added to 45 CFR, Subtitle B, Chapter I, and, among other things, establishes regulations for the filing and processing of applications for Federal Grants for school construction under title III of Public Law 815, 81st Congress (64 Stat. 967), as added by Public Law 246, 83d Congress (67 Stat. 522), and as amended by Public Law 731, 83d Congress (68 Stat. 1005), and by Public Law 382, 84th Congress (69 Stat. 713); establishes regulations for a new method of determining available facilities; establishes a second cutoff date for filing applications with respect to funds available during fiscal year 1956; and provides for priority indices to establish the order of approval of applications and of making payments from funds available on a cutoff date.

Part 110 reads as follows:

Subpart A—Filing and Processing of Complete Applications

- Sec.
- 110.1 Definitions.
- 110.2 Procedure if funds are inadequate to make all payments.
- 110.3 Determination of priority indices for applications under section 305.
- 110.4 Determination of available and usable school facilities.
- 110.5 Criteria for waiver under section 305 (e), title III of the act.
- 110.6 School facilities for children whose membership is of temporary duration only.
- 110.7 Certification of payments.
- 110.8 Additional payments under section 308 of the act.
- 110.9 Priority and approval of applications; conditioned upon readiness to proceed with construction.
- 110.10 Preceding provisions not exhaustive of jurisdiction of the Commissioner.

Subpart B—Establishment of Deadlines for Filing Applications

- 110.20 Second deadline for applications with respect to funds available during fiscal year 1956.

AUTHORITY: §§ 110.1 to 110.20 issued under sec. 208, 64 Stat. 975; 20 U. S. C. 278. Interpret or apply secs. 210, 301-311, 64 Stat. 975, secs. 1, 2, 67 Stat. 522, secs. 1-8, 68 Stat. 1005, secs. 4, 5, 7, 69 Stat. 713; 20 U. S. C. 273, 280, 291-301.

SUBPART A—FILING AND PROCESSING OF COMPLETE APPLICATIONS

§ 110.1 Definitions. All terms used in this part which are defined in Public Law 815, 81st Congress (64 Stat. 967), as added by Public Law 246, 83d Congress (67 Stat. 522), and as amended by Public Law 731, 83d Congress (68 Stat. 1005), and Public Law 382, 84th Congress (69 Stat. 713), and not defined in this section shall have the meaning given to them in Public Law 815 as amended. As used in this part, for purposes of this part and determinations under the act as herein-after defined, the following terms shall have the meaning indicated in paragraphs (a) to (q) of this section:

(a) *Act.* "The act" means title III of Public Law 815, 81st Congress (64 Stat. 967), as added by Public Law 246, 83d Congress (67 Stat. 522), and as amended by Public Law 731, 83d Congress (68 Stat. 1005) and Public Law 382, 84th Congress (69 Stat. 713), and such provisions, of titles I and II of Public Law 815, as amended, as are made applicable to title III by Public Law 246, as amended.

(b) *Title III.* "Title III" means title III of Public Law 815, 81st Congress, as added by Public Law 246, 83d Congress, and as amended by Public Law 731, 83d Congress, and Public Law 382, 84th Congress, and such provisions of titles I and II of Public Law 815, as amended, as are made applicable to it by Public Law 246, as amended.

(c) *Commissioner.* "Commissioner" means the Commissioner of Education, Department of Health, Education, and Welfare or his delegatee.

(d) *Local educational agency.* "Local educational agency" means a board of education or other legally constituted local school authority (including, where applicable, a State agency which directly operates and maintains facilities for providing free public education) having exclusive administrative control and direction of free public education, or some phase thereof, in a county, township, independent, or other school district located within a State. If the local educational agency so defined does not have responsibility for providing school facilities and such responsibility is vested in a State agency, the term shall include such State agency together with the agency having exclusive administrative control and direction of other phases of free public education.

(e) *Free public education.* "Free public education" means education which is provided at public expense, under public supervision and direction, and which is provided as elementary or secondary school education in the applicable State. Elementary education may include kindergarten education meeting the above criteria.

(f) *Applicant.* An "applicant" is a local educational agency which has filed a complete application for assistance in school construction under the act and this part.

(g) *Complete application.* Where an applicant submits only one project by a filing date, the "complete application" at that time consists of both Part I (Maximum Grant) and Part II (Project) of the application Form RSP-2 prescribed by the Commissioner for use un-

der this act, properly completed and executed, together with all documents, amendments, and communications in support thereof. Where applicant submits more than one project by a filing date, the Part I form and all Part II forms, properly executed and completed, together with all documents, amendments, and communications in support thereof on file at that time, shall be considered as the "complete application." Where more than one Part II application is submitted by an applicant, the applicant shall indicate the order in which its project applications are to be considered by the Commissioner. Only applications meeting the conditions for approval under title III (other than section 306 (b) (3)) and this part shall be considered complete applications under title III.

(h) *Project application.* "Project application" means Form RSF-2, Part II, properly completed and executed, making application for Federal assistance for constructing school facilities under title III.

(i) *Filing of applications.* An application will not be deemed to be "filed" unless all necessary parts of the complete application, bearing the required certifications and verifications by the State educational agency, are received by the Commissioner, or enclosed in a cover addressed to the Commissioner and postmarked, on or before the applicable filing date as may be established by Subpart B of this part.

(j) *Minimum school facilities.* "Minimum school facilities" means those instructional and auxiliary rooms (and initial equipment), exclusive of single purpose auditoriums, single purpose gymnasiums and any built-in spectator space, necessary to operate a program of free public education for the school members of the applicant at normal capacity in accordance with the laws and customs of the State.

(k) *Available and usable school facilities.* "Available and usable school facilities" means those facilities containing pupil stations counted in ascertaining children who are "unhoused" or "without minimum school facilities."

(l) *Normal capacity.* The "normal capacity" of a school room is the number of pupil stations which the room accommodates under ordinary conditions in accordance with the laws and customs of the State governing free public education, provided that where kindergartens may be conducted on a two-session-per-day basis the number of pupil stations of the rooms used for that purpose shall be doubled in determining kindergarten needs.

(m) *Children who are unhoused or without minimum school facilities.* Children who are "unhoused" or "without minimum school facilities" are those children in excess of the normal capacity of available and usable minimum school facilities.

(n) *Membership.* Unless governed by State law or State regulation, a pupil is a "member" of a class or school from the date he presents himself at school and is placed on the current roll until he permanently leaves the class or school

for one of the causes recognized as sufficient by the State. The date of permanent withdrawal should be the date on which it is officially known that the pupil has left school, and not necessarily the first day after the date of last attendance.

(o) *Average daily membership.* In a given school year, the "average daily membership" for a given school is the aggregate days of membership of individual children in the school divided by the number of days school was actually in session. Only days on which pupils were under the guidance and direction of teachers in the teaching process may be considered as days in session. The average daily membership for groups of schools having varying lengths of terms is the sum of the average daily memberships obtained for the individual schools.

(p) *Membership of children of temporary duration only.* "Membership of children of temporary duration only" means the school membership of children whose residence in the school area the Commissioner determines probably will be for less than six years beyond the date of the approval of the complete applications and whose number is required to be excluded from computation of maximum payments under section 305.

(q) *Priority indices.* The "priority indices" are the indices established pursuant to this part based on relative urgency of need for the purpose of determining, under title III, the order of approval of applications, and the order of payments.

§ 110.2 *Procedure if funds are inadequate to make all payments.* Section 303, title III, reads in part as follows:

The Commissioner shall from time to time set dates, the last of which shall not be later than June 30, 1956, by which applications for payments under this title with respect to construction projects must be filed. If the funds appropriated under this title and remaining available on any such date for payments to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this title have not already been obligated), the Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, for approval of such applications.

§ 110.3 *Determination of priority indices for applications under section 305.* When the Commissioner has set a date by which complete applications must be filed, the priority indices for approval of such applications shall be determined as follows:

(a) A priority index will be determined for the first construction project for each applicant under section 306 by adding (1) the percentage that the estimated membership of the eligible Federally-connected children in the school district (or in the approved attendance area) is of the total estimated membership of all children in such area at the close of the regular school year 1955-56 to (2) the percentage of the estimated school membership within the school district (or in the approved attendance area) which at the same time is without minimum school facilities: *Provided*, That in no case shall the total of the two

percentages used in determining the priority index exceed twice the percentage in subparagraph (1) of this paragraph. No priority shall be established for any applicant having less than 20 unhoused children in the school district (or in the approved attendance area).

(b) In those cases where an applicant has filed more than one project application, the priority index for the second project will be determined by: (1) Dividing the normal capacity of the first project by the total estimated membership at the close of the regular school year 1955-56; and (2) reducing the applicant's priority index by twice the percentage so obtained. Where more than two project applications have been filed, the applicant's priority index for each succeeding project shall be reduced by the cumulative total capacity, as provided in the first sentence of this paragraph, of all the approved projects of the applicant.

(c) In those cases where the jurisdictional area of the applicant with respect to which the application is made comprises an extensive territory and the Federal activity is localized within the area served by one or more attendance centers, and the other attendance centers within the district are practically unavailable to meet the needs of the attendance areas affected by Federal activities, then, in such case, the percentages described in subparagraphs (1) and (2) of paragraph (a) of this section will be determined with respect to the "Federally affected attendance areas," and not with respect to the entire school district. (The conditions of this paragraph may be met only in large county unit school systems and, possibly, in other extensive districts having large housing projects constructed for defense workers or military personnel which have overburdened one or more attendance centers to such an extent that additional school facilities are required to house the children.)

§ 110.4 *Determination of available and usable school facilities.* The following school facilities shall be counted as usable and available in determining "unhoused children" or "children without school facilities":

(a) All school facilities which were constructed for school use and which have been used continuously for classroom purposes shall be considered as available and usable unless such facilities have become unsafe or otherwise unusable to the extent that use of such facilities or partial use of such facilities has been abandoned or must be abandoned during the fiscal year in which the application is approved. Basement rooms, hallways, or other space the use of which for classroom purposes, in view of their character, inaccessibility or other equally cogent reason, seriously prejudices educational objectives or has impaired or will impair the health or safety of the school children will not be considered to be available and usable. These criteria shall apply to all facilities owned by other Federal agencies which are available or which may be made available for the education of children counted by applicants.

(b) Effective December 1, 1954, section 5 (a) of P. L. 382, 84th Congress, amends section 304 (a) of title III of P. L. 815, as amended, to provide that the estimated number of children who will be in membership of the schools of a local educational agency at the close of the regular school year 1955-56, and who will otherwise be without minimum school facilities at such time "shall be determined by reference to those facilities which (1) are built or under contract as of the earliest date set by the Commissioner under section 303, on or before which the application for such project is filed, or (2) as of the date the application for such project is approved, are included in a project for which funds have been set aside under title II, or in a project the application for which has been approved under this title." Thus contracts for the construction of school facilities after any cut-off date on or before which the applicant filed an application shall not be counted as capacity available, with respect to such application regardless of the appropriation under which the applicant receives its approval and payment for such application. This change in subsection 304 (a) will apply to those applications with respect to which December 1, 1954, was the cut-off date, as well as to subsequent applications with respect to which later cut-off dates are established by the Commissioner under title III of P. L. 815, as amended.

§ 110.5 *Criteria for waiver under section 305 (e) of the act.* (a) The Commissioner's authority in section 305 (e) of the act to waive or reduce the percentage requirement or requirements in section 305 (c), to waive the requirement contained in the first sentence of subsection 305 (d) thereof, or to reduce the percentage specified in clause (2) of such sentence will not be exercised unless:

(1) The applicant meets all conditions of eligibility under title III or, on the basis of the authorized waiver or reduction of one or more of the requirements, would meet such conditions;

(2) The applicant specifically states the extent to which it desires the Commissioner to exercise his authority to waive or reduce one or more of such requirements and makes appropriate requests therefor, agreeing that, if such a request is granted in whole or in part, in computing maximum payment under title III only membership of children within the federally impacted attendance area shall be considered;

(3) The applicant has two or more attendance centers, and its jurisdictional area is county-wide or is sufficiently extensive as to be reasonably analogous to a county-wide school system;

(4) There has been an unusually large Federal impact from the close of the regular school year 1953-54 to the close of the regular school year 1955-56 in an attendance area affecting one or more attendance centers;

(5) It would not be practicable to transport students in the federally impacted attendance area to other available school facilities of the applicant because of distance, topography or other equally cogent reasons; and

(6) The Commissioner of Education determines that other exceptional circumstances exist which in his judgment require such waiver or reduction to avoid inequity and to avoid defeating the purposes of title III.

(b) If the Commissioner, on the basis of the minimum criteria above set forth, determines, under subsection 305 (e), to exercise his authority to waive or reduce one or more of the specified requirements:

(1) He shall determine which requirement or requirements he will waive, or reduce, and if the latter, the extent of such reduction;

(2) He shall determine the geographical area of the applicant which shall be considered as constituting the "federally impacted attendance area"; and

(3) The application otherwise will be processed under title III and this part, taking into consideration only the established "federally impacted attendance area" but in no case shall payments hereunder exceed the amounts computable on the basis of the district as a whole taking into consideration the waivers or reductions approved by the Commissioner.

§ 110.6 *School facilities for children whose membership is of temporary duration only.* (a) If the Commissioner determines that the membership of some of the children of the applicant, representing otherwise countable Federal increases under section 305 of the act, will be of temporary duration only, as defined in § 110.1 (p), the membership of such children will be excluded in computing maximum payments under section 305.

(b) The Commissioner, when proper request therefor is made in a Part I application, (1) may make available to such applicant such temporary school facilities as may be necessary to take care of the membership of such children as the Commissioner determines will be members of the applicant's school system for a sufficient period of time to justify the expense; or (2) he may, where the applicant gives assurance in a complete application that at least minimum school facilities will be provided for such children, pay (on such terms and conditions as he deems appropriate to carry out the purposes of title III) to such applicant for use in constructing school facilities an amount not greater than the amount which he estimates will be necessary to make available temporary facilities for such children, provided that the amount so paid shall not exceed the cost, in the school district of the applicant, of constructing minimum school facilities for such children. In no case will provision for such children be made unless they are deemed to be without minimum school facilities.

(c) Section 4 of P. L. 382 (amending sections 203 and 309 of P. L. 815) authorizes the transfer of temporary school facilities built and owned by the Federal Government pursuant to section 203 or 309 of P. L. 815 to the local educational agency concerned; and provides that "any such transfer shall be without charge, but may be made on such other terms and conditions, and at such time,

as the Commissioner deems appropriate to carry out the purposes of" titles II and III. It will be the policy of the Commissioner to transfer such facilities in those cases where there is need on a continuing basis for such facilities for school purposes, and where the use of such facilities is not inconsistent with overall State plans for providing school facilities. Applications for such transfers shall contain or be supported by the assurances required under section 205 (b) (1) (B), (C) and (F).

§ 110.7 *Certification of payments.* Payments to an applicant will be made only on the basis of a complete application satisfying conditions for payment under the act and this part, and will be restricted in amount to the cost of providing minimum school facilities for un-housed children; however:

(a) Within the maximum otherwise payable under title III (except as provided in § 110.8), the Federal share of the cost of a title III project which will be certified for payment shall be equal to the cost but shall in no case exceed the cost in the school district of the applicant of constructing minimum school facilities and shall in no case exceed the cost in such district of constructing minimum school facilities for the estimated number of children who will be in the membership of the school of such applicant at the close of the regular school year 1955-56 and who will otherwise be unhoused.

(b) Nothing contained in the regulations in this part shall be deemed to bar an applicant under title III, with the approval of the State educational agency, from using for an approved project, in addition to the Federal grant, monies otherwise obtained to provide a higher type or larger or better implemented school facility. The applicant will be required to show in such cases that the added cost is being thus independently met.

§ 110.8 *Additional payments under section 308 of the act.* Pursuant to the authority vested in the Commissioner by section 308 of the act:

(a) Not to exceed 10 per centum of any amount appropriated under title III (exclusive of any sums appropriated for administration) is reserved and may be used by the Commissioner to make grants to applicants under title III when (1) the application would be approved under the title but for the applicant's inability, unless aided by such grant, to finance the non-Federal share of the cost of a project; or (2) after the approval of the application the project cannot, without such grant, be completed because of flood, fire or similar emergency affecting either the work on the project or the applicant's ability to finance the non-Federal share of the cost of the project.

(b) Under the authority of paragraph (a) (1) of this section, a complete application under title III (except an application with respect to which the Commissioner has waived or reduced eligibility requirements under section 305 (e) of the act and § 110.5) may be considered for payment of part or all of the non-Federal share of the cost of any project

which does not include more than minimum facilities for unhouse children, provided; (1) That the application contains a request for payment hereunder; (2) that the estimated number of children countable for payment under title III for the school year 1955-56 equals or exceeds the number obtained by taking 10 percent of the average daily membership of the applicant district for the school year 1953-54; (3) that the applicant has exhausted all fiscal resources, including State aid, bonding authority and Federal aid, which are practicably available to it and is unable to pay the non-Federal share of the cost of the project; (4) that it has been reached on the priority indices established by this part; and (5) that Federal monies reserved under paragraph (a) of this section are available. The additional payment to the applicant under this provision shall not exceed the non-Federal share of the cost of the project less all financial resources practicably available to the applicant; nor shall it exceed the difference between the average cost in the State of providing minimum school facilities for the federally connected pupils eligible for payment under the act, and the Federal funds made available to the school district under section 305 of the act.

(c) Under the authority of paragraph (a) (2) of this section, a request by the applicant may be considered for the additional payment of part or all of the funds required to complete a project (to the extent that the completed project

will not provide more than minimum school facilities for unhouse children) for which a project application under title III has been approved, provided: (1) Federal monies reserved under paragraph (a) of this section are available; (2) the applicant cannot complete the project because of flood, fire or similar emergency affecting either the work on the project or the applicant's ability to finance the non-Federal share of the cost of the project; and (3) that the applicant has exhausted all financial resources practicably available to it, including State aid, bonding authority and Federal aid. The payment to be made under this paragraph shall not exceed the amount required to pay the additional cost caused by the emergency less any financial resources of the applicant practicably available for such purpose, including the proceeds of any insurance.

§ 110.9 *Priority and approval of applications; conditioned upon readiness to proceed with construction.* Initial approval of a project application meeting the conditions for approval under the act and under this part will be subject to cancellation in the event the applicant is not ready to proceed with construction within 90 days after the date of initial approval, unless such period is extended by the Commissioner for good cause shown; and the applicant's rights to approval and payment may be subordinated by reason thereof to other project applications of lower rank or the applicant may forfeit its priority in the discretion of the Commissioner.

§ 110.10 *Preceding provisions not exhaustive of jurisdiction of the Commissioner.* No provisions of this part now or hereafter promulgated shall be deemed exhaustive of the jurisdiction of the Commissioner under the act. The provisions of this part may be modified or further regulations may be issued hereafter as circumstances may warrant.

SUBPART B—ESTABLISHMENT OF DEADLINES FOR FILING APPLICATIONS

§ 110.20 *Second deadline for applications with respect to funds available during fiscal year 1956.*¹ Pursuant to section 303 of title III, December 1, 1955, is fixed as the date on or before which all complete applications for payments to which applicants may be entitled under title III from funds then available shall be filed. Complete applications heretofore filed in compliance with the act since June 30, 1954, and for which funds have not been reserved shall be considered as filed for the purposes of this section subject to the right of the applicant to modify or amend the same on or before December 1, 1955.

Dated: October 2, 1955.

[SEAL] S. M. BROWNELL,
United States Commissioner
of Education.

Approved: October 6, 1955.

M. B. FOLSOM,
Secretary of Health, Education,
and Welfare.

[F. R. Doc. 55-8268; Filed, Oct. 11, 1955;
8:55 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 31]

EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

NOTICE OF PROPOSED RULE MAKING

Pursuant to the Administrative Procedure Act, approved June 11, 1946, proposed regulations under sections 3401 (a), 6001, and 6051 of the Internal Revenue Code of 1954 were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER for March 30, 1955 (20 F. R. 1973). After consideration of all relevant matter presented by interested persons regarding the rules proposed, notice is hereby given that such proposed regulations are hereby withdrawn.

Further, notice is hereby given, pursuant to the Administrative Procedure Act, that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, in substitution for the proposed regulations hereinbefore withdrawn. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments

pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 6051 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 747, 917; 26 U. S. C. 6051, 7805).

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

The following regulations are hereby prescribed under sections 3401 (a), 6001, and 6051 of the Internal Revenue Code of 1954:

§ 31.3401 (a) *Statutory provisions; definitions; wages.*

SEC. 3401. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include remuneration paid—

§ 31.3401 (a)-1 *Wages.* * * *

(b) *Certain specific items.* * * *

(8) *Amounts paid under wage continuation plans*—* * *

(ii) *Amounts paid after December 31, 1955*—(a) *In general.* The term "wage continuation payment", as used in this subdivision, means any payment to an employee which is made after December 31, 1955, under a wage continuation plan (as defined in § 1.105-4 (a) of this chapter) for a period of absence from work on account of personal injuries or sickness, to the extent such payment is attributable to contributions made by the employer which were not includible in the employee's gross income or is paid by the employer. Any such payment, whether or not excluded from gross income under section 105 (d), constitutes "wages" (unless specifically excepted under any of the numbered paragraphs of section 3401 (a) or under section 3402 (e)) and withholding thereon is required except as provided in (b) and (c) of this subdivision.

(b) *Amounts paid by employer for whom services are performed.* Withholding is not required with respect to any or all employees upon the amount of any wage continuation payment made to an employee directly by the employer for whom he performs services to the extent that such payment is excludable from the gross income of the employee

¹ See § 108.21 of this chapter for first deadline date.

under section 105 (d), provided the records maintained by the employer—

(1) Separately show the amount of each such payment and the excludable portion thereof, and

(2) Establish the facts necessary to show that the employee is entitled, with respect to such amount, to the exclusion provided by section 105 (d), either by means of a written statement from the employee as to the injury, illness, or hospitalization, or by any other information which the employer reasonably believes to be accurate and which he is willing to accept for purposes of payments under the wage continuation plan.

For purposes of this section, computation of the amount excludable from the gross income of the employee under section 105 (d) shall be made on the basis of the wage continuation payments which are made directly by the employer for whom the employee performs services, without regard to any such payments made on behalf of the employer by a person who is regarded as an employer under section 3401 (d) (1) or made by any other employer.

(c) *Amounts paid by person other than the employer for whom services are performed.* No tax shall be withheld upon any wage continuation payment, whether or not such payment is excluded from gross income under section 105 (d), made to an employee by a person who is not the employer for whom the employee performs services but who is regarded as an employer under section 3401 (d) (1). For example, no tax shall be withheld with respect to accident or health benefits paid by an insurance company under an accident or health policy, by a separate trust under an accident or health plan, or by a State agency from a sickness and disability fund maintained under State law.

(d) *Cross references.* See sections 6001 and 6051 and the provisions thereunder in subpart G of the regulations in this part for rules with respect to the records which must be maintained in connection with wage continuation payments and for rules with respect to the statements which must be furnished an employee in connection with wage continuation payments, respectively. See also section 105 and the provisions thereunder in Part 1 of this chapter.

§ 31.6001 Statutory provisions; notice or regulations requiring records, statements, and special returns.

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

§ 31.6001-5 Additional records in connection with collection of income tax at source on wages. (a) Every employer

required under section 3402 to deduct and withhold income tax upon the wages of employees shall keep records of all remuneration paid to such employees. Such records shall show with respect to each employee—

(12) In the case of the employer for whom services are performed, with respect to payments made after December 31, 1955, under a wage continuation plan as defined in § 1.105-4 (a) of this chapter—

(i) The amount and date of each such payment to the extent that it was attributable to contributions made by the employer which were not includible in the employee's gross income or was paid directly by the employer (for rules relating to determination of amount attributable to employer contributions, see the provisions relating to section 105 (a) as set forth in Part 1 of this chapter);

(ii) The weekly rate of each such payment (for rules relating to determination of the weekly rate of payment, see the provisions relating to section 105 (d) as set forth in Part 1 of this chapter); and

(iii) The beginning and ending dates of each period of absence from work on account of which such payment was made.

Such records shall be maintained whether or not such payment is excludable from gross income under section 105 (d), and whether such payment is made directly by the employer or on his behalf by a person who is regarded as an employer under section 3401 (d) (1), but the employer is not required to maintain any records with respect to payments made on his behalf by a governmental agency from a sickness and disability fund maintained under the law of a State, Territory, or the District of Columbia.

§ 31.6051 Statutory provisions; receipts for employees.

Sec. 6051. *Receipts for employees—(a) Requirement.* Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

- (1) The name of such person,
- (2) The name of the employee (and his social security account number if wages as defined in section 3121 (a) have been paid),
- (3) The total amount of wages as defined in section 3401 (a),
- (4) The total amount deducted and withheld as tax under section 3402,
- (5) The total amount of wages as defined in section 3121 (a), and
- (6) The total amount deducted and withheld as tax under section 3101.

(b) *Special rule as to compensation of members of Armed Forces.* In the case of compensation paid for service as a member of the Armed Forces, the statement shall show, as wages paid during the calendar year, the amount of such compensation paid

during the calendar year which is not excluded from gross income under chapter 1 (whether or not such compensation constituted wages as defined in section 3401 (a)); such statement to be furnished if any tax was withheld during the calendar year or if any of the compensation paid is includible under chapter 1 in gross income.

(c) *Additional requirements.* The statements required to be furnished pursuant to this section in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the Secretary or his delegate may by regulations prescribe.

(d) *Statements to constitute information returns.* A duplicate of any statement made pursuant to this section and in accordance with regulations prescribed by the Secretary or his delegate shall, when required by such regulations, be filed with the Secretary or his delegate.

§ 31.6051-1 Statements for employees—(a) Requirement if wages are subject to withholding of income tax—(1) General rule. * * *

(iii) (a) In the case of statements furnished by the employer for whom services are performed, with respect to wages paid after December 31, 1955, "the total amount of wages as defined in section 3401 (a)", as used in section 6051 (a) (3), shall include all payments made by and on behalf of such employer under a wage continuation plan which constitute wages in accordance with § 31.3401 (a)-1 (b) (8) (ii) (a). Such payments are included in wages even though they are not subject to withholding in accordance with § 31.3401 (a)-1 (b) (8) (ii) (b) or (c). However, any payments made on behalf of the employer by a governmental agency from a sickness and disability fund maintained under the law of a State, Territory, or the District of Columbia shall not be included.

(b) In the case of any such statement, the amount of any wages on which tax was not withheld in accordance with § 31.3401 (a)-1 (b) (8) (ii) (b) shall be shown separately on Form W-2, with proper identification and in such manner that it may be read on each copy of the form.

[F. R. Doc. 55-8271; Filed, Oct. 11, 1955; 8:56 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 11514; FCC 55-992]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS

In the matter of amendment of § 3.606 *Table of assignments*, rules governing television broadcast stations; Docket No. 11514; FCC 55-992.

1. Notice is hereby given that the Commission has received a proposal for rule making in the above-entitled matter.

2. On April 6, 1955, WJPB-TV, Inc., permittee of television station WJPB-TV, Fairmont, West Virginia, filed a petition requesting rule making to amend the television Table of Assignments, contained in § 3.606 of the Commission's rules and regulations, so as to make Channel 5, presently assigned to Weston,

West Virginia, and reserved for non-commercial educational use, available for commercial applicants. A letter supplementing this petition was filed on May 27, 1955, by WJPB-TV, Inc. A letter in support of petitioner's proposal was filed by Fairmont State College on June 24, 1955. An Opposition to the instant petition was filed on May 25, 1955, by Salem College, Salem, West Virginia; and letters in opposition to the petition were filed by Congressman Cleveland M. Bailey, Third District, West Virginia; West Virginia's Research Center, Inc.; and West Virginia University, Morgantown, West Virginia.

3. In support of the requested amendment, petitioner submits that since Station WJPB-TV ceased operation on Channel 35 at Fairmont, a large number of persons in north central West Virginia are without adequate or even any television service; that Channel 12 at Clarksburg, West Virginia, is the only VHF assignment in the area; and that no application has been filed for Channel 5, reserved for non-commercial educational use at Weston, for a period of one year. Petitioner urges that a station on Channel 5 at Weston would serve a large area and population; that if the proposed amendment is adopted, WJPB-TV, Inc. will file an application for a station at Weston with auxiliary studios at Fairmont; and that in the event an application for the new station is granted to petitioner, a minimum of 25 percent of the total air time of the station will be offered, without charge, to West Virginia's Research Center, Inc., and all other educational groups in the area. In support of petitioner's proposal, Fairmont State College states that, while it agrees with the other educational institutions in the area that an educational station would be a fine thing, it lacks the funds for entering into such a venture, as well as the staff and means for carrying on extensive television programming. The College believes that in the event petitioner is permitted to construct a commercial station on Channel 5, Fairmont State College will be offered all the time it is presently equipped to use profitably.

4. The parties opposing the instant proposal urge that the request for rule making to delete the educational reservation at Weston is untimely and basically unfair to the educational interests in the central West Virginia area. They point out that the educational reservation at Weston has been available for application for only a year and that it has not been reserved long enough to justify its deletion. They assert that, as educational developments go, one year is an extremely short period and that considerably more time is needed to permit the educational institutions in this area to develop their educational television plans to the point where an application can be filed. They state that a continuing effort is being made to promote an educational station at Weston and that there is a growing interest for the establishment of such a station; but that because of the drastic economic conditions in West Virginia during the past year, it has not, as yet, been possible to

secure the funds necessary to construct a station. It is urged that this condition is only temporary and that as economic conditions in the state improve, funds will become available for the establishment of an educational station. It is further urged that a reasonable chance should be given educational interests to establish a station on Channel 5 since there is a great need for educational television in the central West Virginia area, and Weston, which is located in the center of an area surrounded by seven educational institutions, is ideally suited for an educational station.

5. The Commission is of the view that rule-making proceedings should be instituted in this matter in order that all interested parties may submit their views and the Commission may have the benefit of such views prior to taking final action.

6. Authority for the adoption of the proposed amendment is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r), and 307 (b) of the Communications Act of 1934, as amended.

7. Any interested party who is of the opinion that the amendment proposed by petitioner should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before November 7, 1955, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments or briefs. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

8. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: October 5, 1955.

Released: October 6, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-8221; Filed, Oct. 11, 1955;
8:45 a. m.]

[47 CFR Part 3]

[Docket No. 11515; FCC 55-993]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS

In the matter of amendment of § 3.606 *Table of assignments*, rules governing television broadcast stations; Docket No. 11515; FCC 55-993.

1. Notice is hereby given that the Commission has received a proposal for rule making in the above-entitled matter.

2. The Commission has before it for consideration a petition filed on July 5, 1955, by John M. Lawrence III, individ-

ually and as trustee for W. C. Mitchell, Frank Seale, G. S. Parker, Brazos A. Varisco, and John M. Lawrence, all of Brazos County, Texas, requesting it to amend the Table of Assignments in § 3.606 of its rules and regulations, by removing the reservation for non-commercial educational use from Channel 3, presently assigned to College Station, Texas, and making it available for commercial use. Petitioner proposes that since Bryan and College Station are one unit for commercial purposes, Channel 3 be assigned jointly to both cities for commercial use, and that either Channel 48, assigned to College Station, or Channel 54, assigned to Bryan, be reserved for non-commercial educational use in place of Channel 3.

3. In support of the proposed amendment petitioner urges that there has been no application for Channel 3 in College Station and that there appears to be no prospect of an application for educational use within the foreseeable future. Petitioner notes that no local action was taken, or interest indicated, to have Channel 3 designated for non-commercial educational use at College Station when it was originally assigned. Petitioner submits that Bryan and College Station are rapidly developing cities in need of local television service; that the Bryan-College Station area receives outside VHF signals and is consequently equipped with VHF receivers; and that a commercial station located at Bryan-College Station should therefore be VHF. Petitioner represents that if Channel 3 is made available for commercial use, he will apply for a station.

4. The Commission is of the view that rule-making proceedings should be instituted in this matter in order that interested parties may submit their views, and that the Commission may be apprised of such views prior to taking further action.

5. Authority for the issuance of the instant Notice is contained in sections 4 (i), 301, 303 (c) (d), (f), and (r), and 307 (b) of the Communications Act of 1934, as amended.

6. Any interested person who is of the view that the proposal herein should not be adopted may file with the Commission on or before November 7, 1955, written data, views, or arguments setting forth his comments. Comments in support of the proposal may also be filed on or before the same date. Comments or briefs in reply to such original comments as may be submitted should be filed within 10 days from the last day for filing said original comments or briefs. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for filing such additional comments is established. The Commission will consider all such additional comments submitted before taking further action in this matter, and if any comments appear to warrant the holding of a hearing, oral argument, or demonstration, notice of the time and place of such hearing, oral argument or demonstration will be given.

7. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of

all statements, briefs or comments shall be furnished the Commission.

Adopted: October 5, 1955.

Released: October 6, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-8222; Filed, Oct. 11, 1955;
8:45 a. m.]

[47 CFR Parts 6, 9]

[Docket No. 11513; FCC 55-987]

PUBLIC RADIOCOMMUNICATIONS SERVICES; AVIATION SERVICES

USE OF SINGLE SIDEBAND TRANSMISSION IN CERTAIN FIXED RADIOTELEPHONE SERVICE

In the matter of amendment of Parts 6 and 9 of the Commission's rules and regulations to require the use of single sideband transmission in fixed radiotelephone service below 25,000 kc, except Alaskan and maritime fixed; Docket No. 11513; FCC 55-987.

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. The purpose of this proceeding is to carry out the Commission's obligation to provide for the growing public need for radio communication facilities by making available for additional use radio frequency space now occupied by emissions not actually necessary for satisfactory communications in the fixed service using radiotelephony in the frequency spectrum below 25,000 kc.

3. Existing Commission rules for the use of amplitude modulation (AM) radiotelephone communication are patterned after the type of radio equipment developed soon after World War I. Conventional AM systems transmit two sidebands, one above the carrier frequency and the other below with the same intelligence being transmitted in each sideband. One sideband is, however, sufficient for satisfactory communication. An objective of the instant proposal is to provide for the emission of one sideband only for each radiotelephone communication, thus freeing the spectrum space now occupied by the other superfluous sideband for new or additional communication facilities.

4. The Commission believes that the benefits in terms of spectrum savings which would be achieved by the universal employment of single sideband telephony

in all cases where double sideband now is employed will not be fully obtainable unless all users in the fixed and mobile services take parallel action. However, there is at present no international agreement to this effect and there would have to be, in any event, a decision on the part of the Commission to require single sideband in lieu of double sideband before the United States could propose or become a party to such an international agreement. As a forerunner to more universal use of single sideband techniques, it is proposed herein to amend the Commission's Rules so as to require such techniques in the fixed service using telephony. Many stations already are voluntarily using this transmission method in the foreign and overseas radiotelephone service. At present most of the stations in this service use single sideband techniques for their transmissions in both directions. On the other hand, for those stations in the fixed service not now employing such techniques, the Commission is quite aware of the obsolescence problem which will be created in converting from double sideband to single sideband operation and believes, therefore, that this factor should be taken into account in establishing schedules for change-over to single sideband operation.

5. Accordingly, the Commission proposes to amend its rules to require single sideband type of transmission by all radio stations in the fixed service, except Alaskan and maritime fixed, now employing amplitude modulation for telephony in the frequency bands below 25,000 kc. It is further proposed that any such amendments provide adequate periods of time, e. g. five to ten years, for continued use of existing apparatus so that minimum inconvenience would result, consistent with the need for improved spectrum utilization. Moreover, it may be that in certain branches of the fixed service, the problem will be more complex than in others and different time schedules may be appropriate for these different branches. Further notice of proposed rule making in this matter may be issued with respect to certain types of stations in the fixed service should the comments appear to so warrant.

6. The Commission desires comments with respect to the foregoing proposal and, in particular, with respect to the following matters.

(a) Rules, standards, and technical specifications covering single sideband AM telephone communication systems,

including but not limited to the following items:

(1) Earliest date, within a period of approximately two to five years, by which new AM telephone transmitters authorized at a station in the fixed service should be capable of single sideband operation.

(2) Earliest date by which all AM telephone transmissions, except for tests, at fixed stations should be by means of single sideband techniques.

(3) The degree of carrier reduction.

(4) Whether receiver response characteristics should be specified in the Commission's rules.

(5) Bandwidth requirements for single and multichannel operation.

(b) Economic effect of and the manner of achieving an orderly transition to the single sideband system.

(c) Any other matters considered pertinent.

7. Any interested person who is of the opinion that the proposed amendments should not be adopted, or should not be adopted as proposed herein, may file with the Commission on or before December 30, 1955, written data, views or briefs setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments in reply to original comments may be filed within 10 days from the last day for filing said original comments. No additional comments may be filed unless: (1) Specifically requested by the Commission, or (2) good cause for the filing of additional comments is established. The Commission will consider all such comments prior to taking final action in this matter; and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

8. This proposal is issued under the authority contained in section 4 (i) and 303 of the Communications Act of 1934, as amended.

9. Pursuant to the provisions of § 1.764 of the Commission's rules, an original and 14 copies of all statements, briefs or comments should be furnished the Commission.

Adopted: October 5, 1955.

Released: October 5, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-8223; Filed, Oct. 11, 1955;
8:45 a. m.]

NOTICES

DEPARTMENT OF LABOR

Office of the Secretary

MINNESOTA

CERTIFICATION OF COMMISSIONER OF DEPARTMENT OF EMPLOYMENT SECURITY

The Department of Employment Security of the State of Minnesota having duly submitted to the Secretary of Labor,

pursuant to the provisions of section 3303 (b) (3) of the Internal Revenue Code of 1954, as amended, the Minnesota Employment Security Law; and

The Secretary of Labor having considered the provisions of said law to determine whether or not reduced rates of contributions are allowable thereunder under conditions fulfilling the requirements of section 3303 of the Internal Revenue Code of 1954;

The Secretary of Labor hereby finds that:

(1) Said law provides for a pooled fund as defined in section 3303 (c) (2) of the Internal Revenue Code of 1954; and

(2) Reduced rates of contributions under said law to such pooled fund are allowable only in accordance with the provisions of section 3303 (a) (1) of the Internal Revenue Code of 1954.

Pursuant to the provisions of section 3303 (b) (3) of the Internal Revenue Code of 1954, the Secretary of Labor hereby directs that the foregoing findings be certified to the Commissioner of the Department of Employment Security of the State of Minnesota.

Dated: October 5, 1955.

JAMES P. MITCHELL,
Secretary of Labor.

[F. R. Doc. 55-8264; Filed, Oct. 11, 1955;
8:54 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Misc. 67318]

NEBRASKA AND WYOMING

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS RESTORED FROM NORTH PLATTE IRRIGATION DISTRICT

OCTOBER 6, 1955.

An order of the Bureau of Reclamation of June 21, 1954, concurred in by the Acting Director, Bureau of Land Management, July 23, 1954, as amended by an order of March 16, 1955, concurred in by the Associate Director, Bureau of Land Management, April 25, 1955, revoked the Departmental orders of February 11 1903, May 3, 1904, November 21, 1904, December 5, 1904, September 21, 1906, October 23, 1907, April 23, 1908, August 10, 1908, September 1, 1908, January 20, 1909, May 5, 1909, October 6, 1909, July 8, 1916, February 28, 1931, and October 13, 1933, so far as they withdrew under the provisions of the Reclamation Act of June 17, 1902 (32 Stat. 388), the following-described lands in connection with the North Platte Project, Nebraska and Wyoming, and provided that such revocation should not affect the withdrawal of any other lands by said orders or affect any other orders withdrawing or reserving the lands described:

NEBRASKA

SIXTH PRINCIPAL MERIDIAN

- T. 21 N., R. 51 W.,
Sec. 11, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 14, S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 15, NE $\frac{1}{4}$;
Sec. 22, E $\frac{1}{2}$ SE $\frac{1}{4}$ W $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 27, SE $\frac{1}{4}$;
T. 22 N., R. 52 W.,
Sec. 35, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 22 N., R. 53 W.,
Sec. 1, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 13, S $\frac{1}{2}$ NE $\frac{1}{4}$.
T. 23 N., R. 54 W.,
Sec. 13, NW $\frac{1}{4}$;
Sec. 14, N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 22 N., R. 57 W.,
Sec. 16, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 25 N., R. 57 W.,
Sec. 32, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 24 N., R. 58 W.,
Sec. 10, E $\frac{1}{2}$ W $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 26, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 25 N., R. 58 W.,
Sec. 26, lots 2 and 4.

WYOMING

SIXTH PRINCIPAL MERIDIAN

- T. 21 N., R. 60 W.,
Sec. 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$.

- T. 22 N., R. 60 W.,
Sec. 10, lots 1 and 5, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 24 N., R. 60 W.,
Sec. 8, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 9, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 23 N., R. 61 W.,
Sec. 20, S $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 30, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 25 N., R. 61 W.,
Sec. 28, N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 23 N., R. 62 W.,
Sec. 4, lot 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 25 N., R. 62 W.,
Sec. 27, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 34, NE $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 26 N., R. 62 W.,
Sec. 25, NW $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 26 N., R. 63 W.,
Sec. 30, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 23 N., R. 64 W.,
Sec. 1, lots 1 and 2.
T. 26 N., R. 64 W.,
Sec. 20, SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 24, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 35, lots 5 and 6.
T. 26 N., R. 65 W.,
Sec. 12, N $\frac{1}{2}$ NE $\frac{1}{4}$.
T. 27 N., R. 67 W.,
Sec. 3, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 10, NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 26 N., R. 84 W.,
Sec. 30, SE $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described aggregate 3,480.24 acres.

1. The following-described lands are included in allowed homestead entries and are, therefore, not subject to the provisions of the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284) as amended, granting preference rights to veterans of World War II, the Korean Conflict, and others:

NEBRASKA

SIXTH PRINCIPAL MERIDIAN

- T. 21 N., R. 51 W.,
Sec. 11, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 14, S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 15, NE $\frac{1}{4}$;
Sec. 22, W $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 27, SE $\frac{1}{4}$.
T. 22 N., R. 52 W.,
Sec. 35, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 22 N., R. 53 W.,
Sec. 1, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 13, S $\frac{1}{2}$ NE $\frac{1}{4}$.
T. 23 N., R. 54 W.,
Sec. 13, NW $\frac{1}{4}$.

WYOMING

SIXTH PRINCIPAL MERIDIAN

- T. 24 N., R. 60 W.,
Sec. 8, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 9, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 23 N., R. 61 W.,
Sec. 20, S $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 30, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 25 N., R. 62 W.,
Sec. 27, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 34, NE $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described aggregate 1,939.95 acres.

2. The E $\frac{1}{2}$ W $\frac{1}{2}$, sec. 10, and N $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, sec. 26, T. 24 N., R. 58 W., 6th P. M., Nebraska, are patented lands. The remaining lands, aggregating approximately 1,440.39 acres, vary from choppy sand hills with deep sandy soils to nearly level lands with very heavy clay soils. Due to the topography and soils, none of the lands

are suitable for the growing of domestic agricultural crops. No water rights are attached to any of these lands. The sandy soils support a stand of native grasses and sage brush, while the heavy clay soils support a stand of short and mid grasses.

3. No application for the lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified. The Desert Land Laws do not apply to lands in Nebraska.

4. Subject to any existing valid rights and the requirements of applicable law, the lands described are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public-land laws and applications and offers under the mineral-leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective date shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on November 11, 1955, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on February 10, 1956, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, and applications and offers under the mineral-leasing laws, presented prior to 10:00 a. m. on February 10, 1956, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws, beginning 10:00 a. m., on February 10, 1956.

5. Persons claiming veteran's preference rights under Paragraph (2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photo-

static copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries regarding the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Cheyenne, Wyoming.

EDWARD WOOLEY,
Director.

[F. R. Doc. 55-8249; Filed, Oct. 11, 1955;
8:51 a. m.]

Bureau of Reclamation

MOUNTAIN HOME DIVISION, SNAKE RIVER
PROJECT, IDAHO

ORDER OF REVOCATION

NOVEMBER 25, 1952.

Pursuant to the authority delegated by Department Order No. 2515 of April 7, 1949 (14 F. R. 1937), I hereby revoke Departmental Order of April 30, 1951, insofar as said order affects the following described land: *Provided, however*, That such revocation shall not affect the withdrawal of any other lands by said order or affect any other orders withdrawing or reserving the land herein after described:

BOISE MERIDIAN, IDAHO

T. 4 S., R. 2 E.,
Sec. 5, Lot 4.

The above area aggregates 36.32 acres.

ALFRED R. GOLZE,
Acting Assistant Commissioner.
[Misc. 61715]

OCTOBER 6, 1955.

I concur. The records of the Bureau of Land Management will be noted accordingly.

The lands were classified as power sites (Power Site Classification No. 435) by order of the Acting Director, Geological Survey of August 16, 1955 (20 F. R. 6105).

EDWARD WOOLEY,
Director,
Bureau of Land Management.

[F. R. Doc. 55-8251; Filed, Oct. 11, 1955;
8:52 a. m.]

Southwestern Power Administration

ADVERTISING

DELEGATION OF AUTHORITY

Pursuant to Departmental Order 2735, amendment No. 1, January 1, 1954, the Chief, Division of Administrative Services, the Chief, Branch of Office Services, and the Purchasing Agent may author-

ize the publication of advertisements, notices or proposals.

DOUGLAS G. WRIGHT,
Administrator.

[F. R. Doc. 55-8252; Filed, Oct. 11, 1955;
8:52 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 55-995]

[Amtd. 0-13]

STATEMENT OF ORGANIZATION, DELEGATIONS OF AUTHORITY AND OTHER INFORMATION

MISCELLANEOUS AMENDMENTS

In the matter of amendment to Part 0 of the Commission's rules to abolish the Office of the Chief Accountant and transfer its component divisions to the Common Carrier and Broadcast Bureaus.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 5th day of October 1955.

The Commission having under consideration the abolition of the Office of the Chief Accountant; and

It appearing that the amendments herein ordered would promote greater efficiency in Commission operations; and

It further appearing that the amendments herein ordered are procedural in nature, and, therefore, compliance with public notice and rule-making procedure required by sections 4 (a) and (b) of the Administrative Procedure Act is not required;

It is ordered, That pursuant to sections 4 (f) and 5 (g) of the Communications Act of 1934, as amended, the Office of the Chief Accountant is abolished and Part 0 of the Commission's Rules is hereby amended, effective October 31, 1955, as set forth below.

Released: October 6, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

Section 0.5 is amended to read as follows:

SEC. 0.5 *General description of Commission organization.* The Commission's staff is divided into the following principal units:

- (a) Broadcast Bureau.
- (b) Common Carrier Bureau.
- (c) Field Engineering and Monitoring Bureau.
- (d) Safety and Special Radio Services Bureau.
- (e) Office of Hearing Examiners.
- (f) Office of Administration.
- (g) Office of General Counsel.
- (h) Office of Chief Engineer.
- (i) Office of the Secretary.
- (j) Office of Opinions and Review.
- (k) Office of Reports and Information.
- (l) Office of Defense Coordination.

Section 0.13 is amended to read as follows:

SEC. 0.13 *Units in the Bureau.* The Broadcast Bureau is divided into the following units:

- (a) The Office of the Chief of Bureau.
- (b) Broadcast Facilities Division.
- (c) Renewal and Transfer Division.
- (d) Hearing Division.
- (e) Rules and Standards Division.
- (f) Economics Division.
- (g) License Division.

Add new section 0.19 as follows:

SEC. 0.19 *Economics Division.* The Economics Division prepares and compiles economic data and compiles economic reports to the Commission on the condition and status of the broadcast industry; studies the social and economic factors affecting communications; provides technical advice and assistance to the bureau and the Commission on statistical aspects of questionnaires, sampling, industry economic trends and statistical methods, and acts as a clearing house on sources for obtaining pertinent economic data from within the Commission and from government and private organizations.

Section 0.24 is amended to read as follows:

SEC. 0.24 *The Office of the Bureau Chief.* The immediate Office of the Chief of the Bureau includes:

(a) Office of the Field Coordinator which supervises and coordinates the work of the field offices;

(b) Office of Administrative Assistant which performs the administrative function of the Bureau; and

(c) Office of Accounting Systems which formulates uniform systems of accounts, annual report forms and related rules and regulations, and cooperates with the NARUC committees dealing with these matters.

Section 0.26 is amended by deleting the expression "Office of Chief Accountant" and substituting therefore "Office of Accounting Systems".

Section 0.28 is amended to read as follows:

SEC. 0.28 *Telephone Division.* The Telephone Division is responsible for the Bureau's functions pertaining to domestic telephone matters and telegraph operations of carriers engaged principally in non-record communication; for rules and applications relating to authorizations for domestic common carrier radio services, including domestic telegraph radio services; and, in addition, for international telephone rate matters. The Telephone Division includes a Services and Facilities Branch, an Accounting Compliance Branch, a Rates and Revenue Requirements Branch, and a Depreciation Rates Branch.

Delete the heading following section 0.92 which reads "Office of Chief Accountant".

Delete the following sections:

- Section 0.101.
- Section 0.102.
- Section 0.103.
- Section 0.104.

Section 0.111 (g) is amended by deleting the expression "and the Chief Accountant".

Section 0.121 (d) is amended by deleting the expression "and the Chief Accountant".

Section 0.241 is amended by adding a new paragraph as follows:

(q) To administer, interpret, and apply orders or rules of practice and procedure promulgated by the Commission relating to financial and statistical data of stations in the broadcast service and broadcast networks and chains, including applications for extension of time in which to file financial and statistical statements and reports.

Section 0.254 is amended to read as follows:

SEC. 0.254 *Authority concerning section 220 of the Act.* The Chief of the Common Carrier Bureau or, in his absence, the Acting Chief of the Common Carrier Bureau, is delegated authority to interpret the regulations and to act upon the administration of such regulations promulgated by the Commission pursuant to section 220 of the Communications Act, relating to accounts, records, and memoranda to be kept by carrier subject to the jurisdiction of the Commission.

Delete the heading following section 0.301 which reads: "Chief Accountant".
Delete the following sections:

Section 0.311.
Section 0.312.

[F. R. Doc. 55-8224; Filed, Oct. 11, 1955;
8:46 a. m.]

[Docket Nos. 6584, 6585; FCC 55M-851]

ALBUQUERQUE BROADCASTING CO. (KOB)

ORDER CONTINUING HEARING

In re applications of Albuquerque Broadcasting Company (KOB), Albuquerque, New Mexico, Docket No. 6584, File No. BMP-1738; for modification of construction permit. Albuquerque Broadcasting Company (KOB), Albuquerque, New Mexico, Docket No. 6585, File No. BL-1799, BZ-1583; for license to cover construction permit as modified and authority to determine operating power by direct measurement of antenna power.

The Hearing Examiner having under consideration the record of a formal pre-hearing conference in the above-entitled proceeding which, pursuant to appropriate notice, was held on September 23, 1955, in the offices of this Commission, Washington, D. C., and attended by counsel for all of the parties thereto, as well as the Baptist General Convention of Texas (KWBU), a proposed intervenor therein; and

It appearing that the unanimous opinion was expressed therein by the attending parties that a postponement of the hearing beyond the date now scheduled, namely, October 17, 1955, is necessary in order to provide such parties additional time within which to effectuate

stipulations of the evidence to be adduced under the issues presently specified therein and to afford the Commission an opportunity to rule on the numerous petitions now pending before it affecting the status of parties and the addition, deletion or modification of issues to be resolved therein; and

It further appearing that all of the parties to the proceeding have been making diligent efforts to arrive at stipulations on the evidence to be presented and that substantial results can reasonably be expected therefrom but that additional time is needed for this purpose, in view of the number, complexity and uncertain status of the issues to be resolved therein; and

It further appearing that it is impossible to proceed with the hearing until after such time as the Commission has ruled on the above pleadings, involving a determination of the rights of parties to participate in the proceeding, the number and character of the issues to be resolved therein and other questions vitally affecting the scope and course of such hearing; and

It further appearing that all of the parties in attendance have agreed that another pre-hearing conference should be held on December 1, 1955, for the purpose of submitting to the Hearing Examiner on that date all stipulations which can be effectuated between them of evidence relating to the issues presently specified in the proceeding; and

It further appearing that if such proposed stipulations are effectuated the result would be to shorten and simplify the hearing and thus facilitate a review of the record by the Hearing Examiner and the Commission; and

It further appearing that under the above circumstances a continuance of the hearing in the above-entitled proceeding is necessary and would be conducive to its expedition, in conformance with the Commission's directive, as set forth in its Memorandum Opinion and Order, adopted on May 26, 1955; and

It further appearing from the foregoing that a compelling showing has been made that such continuance would serve the public interest, convenience and necessity;

It is ordered, This 4th day of October 1955, that the hearing in the above-entitled proceeding is hereby continued without date; that a pre-hearing conference will be called by the Hearing Examiner immediately subsequent to the Commission's actions on the various petitions now pending therein, at which a definite date will be set for the commencement of the hearing; and that another pre-hearing conference will be held at 10:00 o'clock a. m., on Friday, December 1, 1955, in the offices of this Commission, Washington, D. C., for the purpose of receiving stipulations on the evidence to be presented under all of the issues presently specified in the proceeding.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-8225; Filed, Oct. 11, 1955;
8:46 a. m.]

[Docket No. 11202, etc.; FCC 55-1001]

MINERS BROADCASTING SERVICE, INC., ET AL.

ORDER AMENDING ISSUES

In re applications of Miners Broadcasting Service, Inc., Ambridge, Pennsylvania, Docket No. 11202, File No. BP-9102; Louis Rosenberg, Tarentum, Pennsylvania, Docket No. 11203, File No. BP-9192; Theodore H. Oppegard and Carl R. Lee, d/b as Somerset Broadcasting Company, Painesville, Ohio, Docket No. 11204, File No. BP-9358; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 5th day of October 1955;

The Commission having under consideration (1) petition for reconsideration filed August 4, 1955, by Theodore H. Oppegard and Carl R. Lee, d/b as Somerset Broadcasting Company, Painesville, Ohio; (2) opposition to said petition filed August 15, 1955, by Louis Rosenberg; and (3) reply to said petition filed August 15, 1955, by Chief, Broadcast Bureau;

It appearing that, by order dated June 29, 1955, the Commission denied the petition of Theodore H. Oppegard and Carl R. Lee, d/b as Somerset Broadcasting Company, filed May 6, 1955, requesting the severance of the proceeding on its application from the consolidated proceedings involving the applications of Miners Broadcasting Service, Inc., Ambridge, Pennsylvania, and Louis Rosenberg, Tarentum, Pennsylvania; and that by the subject petition Somerset is now requesting that the Commission reconsider this denial;

It further appearing that Somerset Broadcasting Company contends that evidence now of record establishes that its proposal complies with section 3.28 (c) of the Commission's Rules ("10% Rule"); that operation of its proposed station will not cause sufficient interference to either of the other two proposals so as to cause either to be in violation of section 3.28 (c), and hence its application is not mutually exclusive with either; and that Miners and Rosenberg on the one hand have agreed with Somerset to accept whatever interference may result to either from the operation of the Somerset proposal while Somerset has agreed to accept whatever interference may result to the Somerset operation from the operation of either of the other proposals;

It further appearing that, because of the foregoing, Somerset contends that the proceeding on its application may be severed from the proceeding on the other two applications without having an impact upon that proceeding; and that by such severance, a grant of its application may be made sooner than if retained in the consolidated proceeding;

It further appearing that Louis Rosenberg opposes the petition on the ground that a grant thereof would deny substantive rights of the other applicants;

It further appearing that the evidence of record indicates that the mutual interference which would result between the Somerset proposal and either one of the other two proposals, together with any interference which would result

from existing stations, would not cause the Somerset proposal or either one of the other two proposals to violate section 3.28 (c) of the Commission's Rules;

It further appearing that, in view of the limited extent of the mutual interference and in view of the above-described agreement among the parties, mutual interference and any questions presented by such interference are not substantive factors requiring resolution in a consolidated proceeding; and that the rights of the other parties would not be prejudiced by a severance of the application of Somerset Broadcasting Company;

It further appearing that a severance of the Somerset application would result in an earlier consideration of its application and under the circumstances here, would be conducive to the proper dispatch of the Commission's business;

It is ordered, That the application of Theodore H. Oppegard and Carl R. Lee d/b as Somerset Broadcasting Company is retained in hearing docket (Docket No. 11204); and that the proceeding on the Somerset application is severed from the proceeding on the applications of Miners Broadcasting Service, Inc. and Louis Rosenberg;

It is further ordered, That the issues on which the Somerset application was designated for hearing are deleted; and that the following issues are substituted therefor:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station, and the availability of other primary service to such areas and populations.

2. To determine whether the operations proposed by the Somerset Broadcasting Company and the Miners Broadcasting Service, Inc. would involve objectionable interference with each other, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether the operations proposed by Louis Rosenberg and the Somerset Broadcasting Company would involve objectionable interference with each other, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

4. To determine whether the installation and operation of the station proposed by Somerset Broadcasting Co. would be in compliance with the Commission's Rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations, with particular reference to providing the required minimum of interference-free service within its normally protected daytime contour (0.5 mv/m) because of interference from Station WBNS, Columbus, Ohio, and either the proposal of Miners Broadcasting Service, Inc., or the proposal of Louis Rosenberg.

It is further ordered, That Issue No. 3 (a) as now promulgated in the above-entitled consolidated proceeding is deleted; and that the remaining issues thereof are retained as the issues in the

consolidated proceeding on the applications of Miners Broadcasting Service, Inc. (Docket No. 11202), and Louis Rosenberg (Docket No. 11203).

Released: October 6, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-8226; Filed, Oct. 11, 1955;
8:46 a. m.]

[Docket No. 11446 etc.; FCC 55M-852]

CERRITOS BROADCASTING CO. ET AL.

ORDER SCHEDULING HEARING

In re applications of Raymond B. Torian, John W. Doran, Foster Earl Rutledge and Harold B. Shideler, a partnership d/b as The Cerritos Broadcasting Co., Signal Hill, California, Docket No. 11446; File No. BP-8734; Melvin F. Berstler and Roy R. Cone, a partnership d/b as Oceanside-Carlsbad Broadcasting Co., Oceanside, California, Docket No. 11447, File No. BP-9207; Albert John Williams, Inglewood, California, Docket No. 11448, File No. BP-9509; Neil W. Owen and Julia C. Owen, a partnership d/b as Palomar Broadcasting Co., Escondido, California, Docket No. 11449, File No. BP-9676; for construction permits.

The Hearing Examiner having under consideration: (1) A Petition and Supplemental Petition for Leave to Amend Application with the associated amendment filed by the applicant Williams on August 4 and September 6, 1955; (2) a joint Petition for Reconsideration of an order of continuance filed September 27, 1955 by the three applicants Cerritos, Oceanside-Carlsbad and Williams; (3) a Petition for Leave to Amend and accompanying amendment filed September 26, 1955 by Oceanside Carlsbad, and an Opposition thereto filed October 3, 1955 by Palomar; (4) the procedural facts shown by the docket files in this proceeding; and (5) the statements made by counsel for Broadcast Bureau and for each applicant except Palomar who attended at an informal oral argument this day conducted upon Items 1 through 3 above; and

It appearing that the Williams Petition to Amend as supplemented shows good cause for allowing the amendment which increases the proposed power from 500 watts to 1000 watts, changes the antenna site and other engineering and construction cost information as specified in the amendment, and that no objection to the amendment has been interposed by any party, and accordingly that said petition should be granted; and

It further appearing that the Oceanside-Carlsbad petition and amendment and the Palomar opposition present controversial questions upon which the Hearing Examiner desires to be advised further by briefs of the adversary parties which were requested at the oral argument, and accordingly action on this matter should be postponed; and

It further appearing that the joint Petition for Reconsideration requests

that a date certain, not later than November 21, 1955, be fixed for the commencement of the hearing in this proceeding in lieu of the indefinitely continued date which was ordered by the Hearing Examiner's order dated September 27, 1955, and that counsel for the applicants represented at the oral argument¹ and counsel for the Broadcast Bureau have agreed to the fixing of the hearing date as hereinafter ordered; and

It further appearing that counsel for each represented applicant stated that the applicants will be ready to proceed with the hearing on Thursday, December 1, 1955, and that the applicants and their engineers and attorneys will confer among themselves and with Bureau officials sufficiently in advance of the scheduled prehearing conference date of November 15, 1955, so as to be prepared at that prehearing conference to submit and exchange all written direct affirmative case exhibits to be offered in evidence pursuant to the issues as they are now constituted in this proceeding (which issues pertain only to engineering questions of interference and matters pertinent to the Section 307 (b) inquiry specified in Issue No. 5 of the hearing order dated July 6, 1955), and accordingly that good cause exists for fixing the dates for exchange of exhibits and for commencement of the hearing as above indicated and as hereinafter ordered; and

It further appearing that the parties, their locations and their representatives are so numerous and diversified² as to render impractical, inconvenient, expensive, and dilatory the holding of prehearing conferences in the manner and sequence contemplated by sections 1.813 and 1.841 of the Commission's Rules, and that the purposes of the usual first prehearing conference will be served by the informal conferences referred to above, and accordingly that it will conduce to the orderly dispatch of the Commission's business and to the ends of justice to omit a formal prehearing conference prior to the exchange of the written direct affirmative case exhibits at the time and place above indicated and hereinafter ordered; now therefore

It is ordered, This 4th day of October 1955, that the Petition and Supplemental Petition to Amend filed by the applicant Williams, Item 1 above, be and it is hereby granted, and the amendment therewith tendered is accepted; and

¹ The applicant Palomar was not represented by counsel at the oral argument, but its Petition for Continuance which prompted the September 27 order, herein reconsidered and modified, requested a hearing date not earlier than November 7, 1955; consequently, it is expected that Palomar will be ready to proceed to prehearing and hearing on the specified dates which comport with the relief first requested.

² There are nine parties (individuals, partnerships, corporations, a trustee and the Bureau Chief) in this proceeding: four applicants, four respondents, and the Chief of the Broadcast Bureau. Three applicants and three respondents and Bureau are represented by attorneys in Washington, D. C., one applicant is represented by an attorney in California, and one respondent does not appear to be represented by any attorney. The business residences of the eight private parties are in eight cities in California.

It is further ordered, That the Ocean-side-Carlsbad Petition to Amend, Item 3 above, be and the same is hereby taken under advisement; and

It is further ordered, That the joint Petition for Reconsideration, Item 2 above, as modified by counsels' statements, be and it is hereby granted, and so much of the order of September 27, 1955 as continued the hearing to an indefinite date is hereby set aside; and

It is further ordered and directed, Pursuant to sections 1.813 and 1.841 of the Commission's Rules, that the applicants herein shall hold informal conferences, of which informal and reasonable notice and opportunity for participation shall be extended to all other parties herein, so as to enable the applicants to exchange at the prehearing conference on November 15, 1955, their written direct affirmative case exhibits upon the matters now at issue; and

It is further ordered, That the hearing of evidence in this proceeding shall be commenced at 10:00 a. m. on Thursday, December 1, 1955, at the offices of the Commission in Washington, D. C.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-8227; Filed, Oct. 11, 1955;
8:47 a. m.]

[FCC 55-988]

MOBILE RADIO TELEPHONE SERVICE
FUTURE SINGLE SIDEBAND OPERATION

OCTOBER 6, 1955.

The Commission plans future consideration of single sideband operation in all of the mobile service and Alaskan and maritime fixed service now using radiotelephone on frequencies below 25,000 kilocycles. Among the radio stations that would be affected are those in the Public Safety, Maritime Mobile, Aeronautical Mobile, Industrial, and Remote Pickup Broadcast services. At present, stations in these services use conventional double sideband operation, which requires a radio frequency channel more than twice as wide as the band of frequencies actually needed for communication. Since only one sideband is necessary for communications, the elimination of the extra sideband offers a possible means for reducing the radio frequency bandwidth occupied by each station. Additional channels might, thereby, be made available for new stations or to relieve congestion on existing channels.

Single sideband has been used for many years in the international radiotelephone service. Looking toward further use of this transmission method, the Commission today adopted a Notice of Proposed Rule Making proposing the use of single sideband transmission by all radiotelephone stations in the fixed service except Alaskan and maritime fixed, below 25,000 kc. In the mobile service, and Alaskan and maritime fixed service, however, there are special problems involving equipment and operation. Consequently, the Commission is not

proposing to require single sideband operation in these services at this time. At a future date, however (in about one year), the Commission plans to give further consideration to requiring single sideband operation in the mobile service and the Alaskan and maritime fixed services. In the meantime, it is expected that users, manufacturers and professional groups with expert knowledge in this field of radio communication will conduct tests, studies and analyses to provide a sound technical background for the future consideration of this matter. This announcement is being made at this time to enable all interested parties to prepare to offer constructive comments to help in enlarging the use of this improved transmission method.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-8228; Filed, Oct. 11, 1955;
8:47 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-8420]

BILLY BRIDEWELL AND R. H. HEDGE

NOTICE OF APPLICATION AND DATE OF
HEARING

OCTOBER 5, 1955.

Take notice that Billy Bridewell and R. H. Hedge (Applicant), independent producers of natural gas, with a principal office in Tyler, Texas, filed on January 31, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to produce natural gas from the Pulshear Field, Fort Bend County, Texas, which will be sold in interstate commerce to Texas Illinois Natural Gas Pipe Line Company for resale.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on November 15, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of Section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.*

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance

with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before November 3, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8233; Filed, Oct. 11, 1955;
8:49 a. m.]

[Docket No. G-8871]

COLORADO INTERSTATE GAS CO.

NOTICE OF APPLICATION AND DATE OF
HEARING

OCTOBER 5, 1955.

Take notice that Colorado Interstate Gas Company (Applicant), a Delaware corporation having its principal place of business in Colorado Springs, Colorado, filed, on May 9, 1955, as supplemented July 13, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, authorizing the construction and operation of certain natural gas facilities and the sale of natural gas for resale as hereinafter described.

Applicant proposes to construct and operate the following facilities and to make the following sales: (A), a meter and regulator station and 5.5 miles of 2-inch pipeline from its 20-inch Lakin-Denver line to the town of Kit Carson, Cheyenne County, Colorado, and to sell natural gas to Eastern Colorado Utility Company for resale in said town. Estimated cost of facilities is \$20,832 and estimated firm peak day requirements in the third year of operation in the town of Kit Carson are 405 Mcf. (B), a meter and regulator station on its Lakin-Denver line, and to sell natural gas to Eastern Colorado Utility Company for resale in the town of Sheridan Lake, Kiowa County, Colorado. Estimated cost of facilities is \$2,751 and estimated firm peak day requirements in the third year of operation are 128 Mcf. (C), a meter and regulator station on its 22-inch, Bivins-Denver pipeline, and to sell natural gas to Pueblo Gas and Fuel Company for resale in the town of Vineland, Colorado. Estimated cost of facilities is \$2,179 and estimated firm peak day requirements in the third year of operation are 111 Mcf.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on October 28, 1955, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however, That the Commission may, after a non-contested hearing, dispose of the proceedings pur-*

suant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before October 26, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8234; Filed, Oct. 11, 1955;
8:49 a. m.]

[Docket No. G-9142]

MANUFACTURERS LIGHT AND HEAT CO.

NOTICE OF APPLICATION AND DATE OF HEARING

OCTOBER 5, 1955.

Take notice that The Manufacturers Light and Heat Company (Applicant), a Pennsylvania Corporation with its principal place of business in Pittsburgh, Pennsylvania, filed an Application on July 18, 1955, as supplemented on August 29, 1955, for a disclaimer of jurisdiction or, in the alternative for a certificate of public convenience and necessity; pursuant to section 7 of the Natural Gas Act, for authorization to construct and operate certain facilities necessary for the sale and delivery of natural gas from existing transmission lines for industrial interruptible service to McLain Firebrick Division of H. K. Porter Company, Inc. (McLain), National Galvanizing Company (National), Layton Brick Company (Layton) and Aircraft-Marine Products, Inc. (Aircraft-Marine), as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application, which is on file with the Commission and open to public inspection.

The facilities necessary to initiate service to McLain consist of approximately 676 feet of 6-inch line to be connected to Applicant's existing 8-inch transmission line No. 5 in Columbiana County, Ohio, two meters, a regulator and miscellaneous equipment.

The facilities proposed by Applicant to initiate service to National consist of 15 feet of 4-inch line to be connected to its existing 8-inch transmission line 1011 in Allegheny County, Pennsylvania, two meters, a regulator and miscellaneous valves and fittings.

The facilities necessary to serve Layton consist of approximately 10 feet of 4-inch line to be connected to applicant's existing 6-inch transmission line 7191 in Fayette County, Pennsylvania, two meters, a regulator and miscellaneous equipment.

Aircraft-Marine will be served from Applicant's existing 6-inch line No. 136

at a point in Codorus Township, York County, Pennsylvania. The facilities necessary to serve this new customer consist of approximately 40 feet of 4-inch line, a meter, two regulators and miscellaneous equipment.

The annual and peak day requirements of the respective customers for 1955-56 are as follows:

Customer	Annual	Peak day
McLain.....	Mcf 230,000	Mcf 710
National.....	20,000	80
Layton.....	96,000	285
Aircraft-Marine.....	9,000	50

The total estimated cost of the proposed facilities is \$23,967 and will be financed by applicant out of funds on hand.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on November 8, 1955, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before October 20, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8235; Filed, Oct. 11, 1955;
8:49 a. m.]

[Docket No. G-9228]

SIGNAL OIL AND GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

OCTOBER 5, 1955.

Take notice that Signal Oil and Gas Company (Signal), a Delaware corporation having its principal place of business in Los Angeles, California, filed an application on August 15, 1955, and a supplement thereto on August 28, 1955, pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Signal to sell

natural gas to Montana-Dakota Utilities Co., and render the service hereinafter described subject to the jurisdiction of the Commission, all as more fully represented in the application and supplement on file with the Commission and open for public inspection.

The application of Signal recites that it proposes to sell the residue gas resulting from the processing of casinghead gas at its Tloga Plant in Williams County, North Dakota, which will comprise 12.5 percent of the quantity of gas which Montana-Dakota may dispose of in Williston, North Dakota, and in Fairview, Sidney, Savage and Glendive, Montana, plus 12.5 percent of the quantity of gas which can be transported through Montana-Dakota's present facilities from Williston, North Dakota to its Baker, Montana storage reservoir in excess of the quantity disposed of in the above-mentioned towns, provided such total quantity shall not be less than 1935 Mcf daily.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on November 14, 1955, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR, 1.8 or 1.10) on or before November 1, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Signal to appear or be represented at the hearing.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8236; Filed, Oct. 11, 1955;
8:49 a. m.]

[Docket No. G-9253]

MONTANA-DAKOTA UTILITIES CO.

NOTICE OF APPLICATION

OCTOBER 5, 1955.

Take notice that Montana-Dakota Utilities Co. (Montana-Dakota), a Delaware corporation with its principal place of business at Minneapolis, Minnesota, filed an application on August 23, 1955, and a supplement thereto on September 22, 1955, pursuant to section 7 of the

Natural Gas Act for a certificate of public convenience and necessity, authorizing the construction and operation of (1) approximately 41.8 miles of 12 $\frac{3}{4}$ inch O. D. natural gas transmission pipeline extending from Tioga to Williston, North Dakota, (2) for lateral pipelines extending from (a) to Ray (8,000 feet of 3-inch), to Wheelock (2,100 feet of 2-inch), to Epping (1,000 feet of 2-inch), and to Springbrook (380 feet of 2-inch), all in North Dakota, and in which Montana-Dakota proposes to operate local distribution systems, and (3) authority to establish an emergency connection between the proposed Tioga-Williston interstate line, all as more fully described in the application and supplement on file with the Commission and open for public inspection.

The application of Signal Oil and Gas Company in Docket No. G-9228 recites that it proposes to sell the residue gas resulting from the processing of casing-head gas at its Tioga Plant in Williams County, North Dakota, which will comprise 12.5 percent of the quantity of gas which Montana-Dakota may dispose of in Williston, North Dakota, and in Fairview, Sidney, Savage and Glendive, Montana, plus 12.5 of the quantity of gas which can be transported through Montana-Dakota's present facilities from Williston, North Dakota to its Baker, Montana, storage reservoir in excess of the quantity disposed of in the above-mentioned towns, provided such total quantity shall not be less than 1935 Mcf daily.

The application of Montana-Dakota recites that the proposed Tioga-Williston line will transport gas west from Signal's plant at Tioga, North Dakota, to Montana-Dakota's interstate system in Montana and South Dakota, and will provide a new source of gas supply (peak-day flow westward from Tioga of 19,910 Mcf and a flow of 9,290 per day eastward from Tioga to Minot during the 1958-59 heating season is indicated) for Montana-Dakota's system.

The application of Montana-Dakota further recites that the total estimated construction cost of the transmission mains involved is \$1,257,020, and will in part be defrayed from funds to be made available from bank loans approximately \$6,500,000 which will be funded during the year 1956.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before October 24, 1955.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8237; Filed, Oct. 11, 1955;
8:49 a. m.]

[Docket Nos. G-4454 and G-9250]

HOPE NATURAL GAS CO.

NOTICE OF APPLICATIONS AND DATE OF
HEARING

OCTOBER 6, 1955.

Take notice that Hope Natural Gas Company, a West Virginia Corporation

(Applicant), with a principal office in Clarksburg, West Virginia, filed on October 19, 1954, an application for a certificate of public convenience and necessity, and on August 22, 1955, an application for permission to abandon service, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render and terminate service as described in the respective applications, subject to the jurisdiction of the Commission, all as more fully represented in the applications which are on file with the Commission and open for public inspection.

The application in Docket No. G-4454 recites Applicant produces natural gas in the named counties and sells in interstate commerce to the named buyers: Logan County to South Penn Natural Gas Company; Roane County to United Fuel Gas Company; Barbour County to Cumberland and Allegheny Company; Raleigh County to Amere as Utilities; Monongalia County to Carnegie Natural Gas Company; Boone County to Pond Fork Oil and Gas Company; all in West Virginia.

The application in Docket No. G-9250 recites that declining production from Applicant's wells Nos. 9544, 9545 and 9559 in Monongalia County, West Virginia, has caused a loss, and that continued operation of the designated wells has made operation economically unprofitable; and that Applicant and Carnegie Natural Gas Company have mutually agreed to terminate their contracts, and the wells will be sold to the landowners for domestic consumption purposes.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on November 16, 1955 at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before November 4, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it

will be unnecessary for Applicant to appear or be represented at the hearing.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8238; Filed, Oct. 11, 1955;
8:50 a. m.]

[Docket No. G-6939]

CASE POMEROY OIL CORP.

NOTICE OF APPLICATION AND DATE OF
HEARING

OCTOBER 6, 1955.

Take notice that Case Pomeroy Oil Corporation (Applicant), independent producer of natural gas, with a principal office in New York, New York, filed on November 30, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant produces natural gas from the Benazette Field, Elk County, Pennsylvania, which is sold in interstate commerce to (1) The Sylvania Corporation, (2) The Manufacturers Light & Heat Company, and (3) New York State Natural Gas Corporation for resale.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on November 18, 1955, at 9:50 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before November 4, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8239; Filed, Oct. 11, 1955;
8:50 a. m.]

[Docket Nos. G-8762 and G-9238]

D. L. JOHNSON ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

OCTOBER 6, 1955.

In the matters of D. L. Johnson, et al., Docket No. G-8762; Cities Service Gas Company, Docket No. G-9238.

Take notice that D. L. Johnson, Ira L. McCollister, George Rahal and Leonard C. Blood, independent producers of natural gas with a principal office in Dallas, Texas, filed an application in Docket No. G-8762 on April 13, 1955, and Cities Service Gas Company, a Delaware corporation with a principal office in Oklahoma City, Oklahoma, filed an application in Docket No. G-9238 for certificates of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing each Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the applications which are on file with the Commission and open for public inspection.

Applicants at Docket No. G-8762 propose to produce natural gas from the North Schlegel Field, Payne County, Oklahoma, which will be sold in interstate commerce to Cities Service Gas Company for resale. Cities Service Gas Company in Docket No. G-9238 proposes to construct and operate a meter setting and appurtenances in Payne County, Oklahoma, to take gas from D. L. Johnson, et al., named in Docket No. G-8762.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 17, 1955, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceeding pursuant to the provisions of Section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 4, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it will be un-

necessary for Applicant to appear or be represented at the hearing.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8240; Filed, Oct. 11, 1955; 8:50 a. m.]

[Docket No. G-9135]

SOURBOURNE OIL AND GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

OCTOBER 6, 1955.

Take notice that Sourbourne Oil and Gas Company (Applicant), an independent producer of natural gas, with a principal office in Grantsville, West Virginia, filed on July 13, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to produce natural gas from the Lee District, Calhoun County, West Virginia, which will be sold in interstate commerce to Hope Natural Gas Company for resale.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on November 18, 1955, at 9:40 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before November 4, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8241; Filed, Oct. 11, 1955; 8:50 a. m.]

[Docket No. G-9139]

SUMMERS OIL AND GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

OCTOBER 6, 1955.

Take notice that Summers Oil and Gas Company (Applicant), an independent producer of natural gas, with a principal office in Grantsville, West Virginia, filed on July 15, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to produce natural gas from the Lee District, Calhoun County, West Virginia, which will be sold in interstate commerce to Hope Natural Gas Company for resale.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on November 18, 1955, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before November 4, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8242; Filed, Oct. 11, 1955; 8:50 a. m.]

[Docket No. G-9195]

F. E. KEITH GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

OCTOBER 6, 1955.

Take notice that F. E. Keith Gas Company (Applicant), independent producer

of natural gas, with a principal office in Millstone, West Virginia, filed on August 4, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to produce natural gas from the Washington District, Calhoun County, West Virginia, which will be sold in interstate commerce to Hope Natural Gas Company for resale.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission's Rules of Practice and Procedure, a hearing will be held on November 17, 1955, at 9:40 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before November 4, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8243; Filed, Oct. 11, 1955;
8:50 a. m.]

[Docket No. G-9245]

PRICE GAS CO.

NOTICE OF APPLICATION AND DATE OF
HEARING

OCTOBER 6, 1955.

Take notice that Price Gas Company, independent producer of natural gas (Applicant), by C. W. Beecher, as agent, with a principal office in Big Bend, West Virginia, filed on August 19, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to produce natural gas from the Millstone Field, Calhoun County, West Virginia, which will be sold in interstate commerce to Hope Natural Gas Company for resale.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on November 16, at 9:40 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before November 4, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8244; Filed, Oct. 11, 1955;
8:50 a. m.]

[Project No. 2135]

MONTANA POWER CO. AND BUFFALO
HYDROELECTRIC DEVELOPMENT

NOTICE OF LAND WITHDRAWAL; MONTANA
OCTOBER 6, 1955.

Conformable to the provision of Section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in power project No. 2135 for which completed amendatory application for preliminary permit was filed July 23, 1953 by the Montana Power Company of Butte, Montana for the Buffalo Hydroelectric Development. Under said section 24 all lands of the United States lying within the boundaries of the project, as delimited upon the map (Amended Exhibit H) filed in support thereof, are from said date of filing, reserved from all forms of disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

MONTANA PRINCIPAL MERIDIAN

T. 22 N., R. 21 W.,
Sec. 10, Lots 1, 2 and 3;
Sec. 11, Lots 1, 2, 3, 4, 5 and 9;

Sec. 14, NWNW;
Sec. 15, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11;
Sec. 21, Lots 1, 2, 7 and 8;
Sec. 22, Lots 1, 2, 3, 4, 5, 6 and NWNE.

The area reserved pursuant to the filing of this application is approximately 952.70 acres, wholly within the Flathead Indian Reservation, all of which have previously been reserved in connection with application for earlier project No. 5. Of this area 912.70 acres were reserved by the Secretary of the Interior, June 29, 1908, for water power purposes under Acts of April 23, 1904 (33 Stat., 302) and June 21, 1906 (34 Stat. 325-355) and 40.00 acres were withdrawn by the Secretary of the Interior, February 23, 1910 for power sites or reservoirs under Act of March 3, 1909 (35 Stat. 796), in the interest of the Flathead Indians. Copies of the amended project map (FPC 2135-1) have been transmitted to the Bureau of Land Management, Geological Survey and the Bureau of Indian Affairs.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8245; Filed, Oct. 11, 1955;
8:51 a. m.]

[Docket No. G-6358]

AMERE GAS UTILITIES CO. ET AL.

ORDER FIXING DATE OF HEARING

In the matters of Amere Gas Utilities Company, Atlantic Seaboard Corporation, Central Kentucky Natural Gas Company, United Fuel Gas Company, The Ohio Fuel Gas Company, Cumberland and Allegheny Gas Company, Home Gas Company, The Manufacturers Light and Heat Company, and Natural Gas Company of West Virginia.

On November 30, 1954, Amere Gas Utilities Company, et al., subsidiaries of The Columbia Gas System, Inc., hereinafter referred to as Columbia Companies, filed a petition for the issuance of a declaratory order, relating to the methods of depreciation permitted by section 167 of the Internal Revenue Code of 1954. Columbia Companies state that the Uniform System of Accounts Prescribed for Natural Gas Companies makes no provisions for the accounting treatment of the depreciation methods permitted by said section 167 of the Internal Revenue Code and that an uncertainty has arisen as to the proper treatment of such permitted depreciation for both accounting and rate purposes. Columbia Companies request a declaratory order to permit them to book normal depreciation and to set up in a reserve the difference in taxes resulting from the use of the new depreciation methods; and to allow both normal depreciation and normal taxes for rate making purposes.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction of the Federal Power Commission, particularly sections 8, 9, 10, 15 and 16 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on November 7, 1955, at 10:00 a. m., e. s. t., in a Hearing

Room of the Federal Power Commission, 441 G Street NW., Washington, D. C. concerning the matters involved in and the issues presented by such petition of the Columbia Companies, filed on November 30, 1954.

(B) Interested State Commissions may participate as permitted by section 9 of the Natural Gas Act and in the manner provided by sections 1.8 and 1.37 (f) of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.37 (f).)

Adopted: October 5, 1955.

Issued: October 6, 1955.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8246; Filed, Oct. 11, 1955;
8:51 a. m.]

[Docket No. G-7240]

PLAINS EXPLORATION CO.

NOTICE OF APPLICATION AND DATE OF
HEARING

OCTOBER 6, 1955.

Take notice that Plains Exploration Company for itself as Operator, and on behalf of Creek-More Drilling Company and William E. Porter (Applicant), independent producer of natural gas, with a principal office in Denver, Colorado, filed on December 1, 1954, an application for a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant produces natural gas from the Johnson Hill, East Field, Logan County, Colorado, which is sold in interstate commerce to Kansas-Nebraska Natural Gas Company, Inc., for resale.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on November 22, 1955, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules and Practice and Procedure (18 CFR 1.8 or 1.10) on or before

November 8, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8274; Filed, Oct. 11, 1955;
8:57 a. m.]

[Docket No. G-5259]

TENNESSEE GAS TRANSMISSION CO.

ORDER SEPARATING ZONING ISSUE FOR SEPARATE HEARING AND FIXING NEW DATE FOR RECONVENING OF HEARING

The Presiding Examiner has certified to the Commission an appeal by Tennessee Gas Transmission Company from his ruling at the hearing on September 7 and 8, 1955, in the above case, where the Examiner received in evidence a zoning proposal by certain New England interveners under which the current Tennessee method of allocating cost-of-service between its existing zones would be changed, to the advantage of the New England zone. The Examiner also certified an appeal by interveners in other zones, who would suffer a disadvantage if the New England proposal were adopted, from a ruling requiring that their alternative zoning proposals, if any, must be presented at a session scheduled for October 17, 1955. The non-New England interveners contend that they would need from four to six months to prepare their zoning presentation, and the Staff alleges that it would need at least four months to make the necessary study of the Tennessee system in connection with the zoning question which has now been injected into the instant rate case.

This proceeding involves an application under section 4 (e) of the Natural Gas Act for a rate increase. The proposals by the New England interveners raise a question as to whether under section 4 (e) the Commission has authority to make an apportionment of the total cost of service between customers or between zones. Section 4 (e) provides that when a company files for a change in rates, the Commission, after a hearing, "may make such orders with reference thereto as would be proper in a proceeding initiated after it had become effective." A "proceeding initiated after it [a rate] had become effective" can only be one under section 5 (a) of the Act (Hope Natural Gas Company v. Federal Power Commission, 196 F. 2d 803, 805). Under Section 5 (a) the Commission's authority extends, inter alia, to the question as to whether rates are "unduly discriminatory or preferential." The scope of the authority under section 4 (e) in this respect therefore is as broad as that under section 5 (a) and embraces all issues relating to the determination and apportionment of costs between interstate wholesale customers whether or not the customers be assigned to one zone or

to different zones. Accordingly, the Examiner correctly ruled that the question of possible unlawful rates between zones is a relevant issue in a rate proceeding, as we have held in Opinion No. 281, In the Matter of Northern Natural Gas Company and in other cases.

The zone boundaries and rate differentials between the zones served by Tennessee have not been prescribed by a Commission order but have been carried only in the rate schedules filed by Tennessee. In a system as complex as that operated by Tennessee the charges of unjustness in the rates as between zones require a thorough and exhaustive study to determine proper zone boundaries and what method of allocating costs between zones would be fair and equitable to all concerned, in order that just and reasonable rates may be prescribed for each zone.

By reason of the peculiar circumstances in the present case, the question of zone rates may reasonably be separated for hearing purposes from the question of the cost of service involved in the balance of this rate proceeding. It seems appropriate, therefore, to separate the zoning issue from the pending rate proceeding, allowing the interested parties sufficient time to prepare the evidence in the zoning case.

The Commission orders: The hearing previously scheduled by the Presiding Examiner in the instant rate case for October 17, 1955, is hereby postponed to November 21, 1955, to resume at 10:00 o'clock a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., at which time the testimony and evidence shall be confined to the question of cost of service to the Tennessee Gas Transmission Company as a whole and the rate level. Upon the conclusion of the testimony with respect to the cost of service and the rate level, the Examiner should allow such period as may be necessary for the preparation of evidence respecting the reasonableness of the suspended rates which are involved in this proceeding.

Adopted: October 5, 1955.

Issued: October 6, 1955.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8275; Filed, Oct. 11, 1955;
8:57 a. m.]

[Docket No. G-6504]

DELHI-TAYLOR OIL CORP. AND MAYFAIR
MINERALS, INC.

ORDER REVERSING RULING OF PRESIDING EXAMINER AND GRANTING CONTINUANCE OF THE PROCEEDINGS

On September 21, 1955, Delhi-Taylor Oil Corporation (Delhi) and Mayfair Minerals, Inc. (Mayfair), filed with the Commission an appeal from the Ruling of the Presiding Examiner made in the foregoing designated proceedings, denying the request of Delhi and Mayfair for a continuance of these proceedings in

order to present the balance of its evidence in support of its proposed increase in rates.

Pursuant to order of the Commission, hearings in the foregoing designated proceedings were held on September 12, 13, and 14, 1955. On September 14, 1955, at the conclusion of the presentation of the available direct evidence, Delhi and Mayfair made a motion for a continuance of the proceedings until October 24, 1955, at which time Delhi and Mayfair expected that further evidence will be available for presentation. The Presiding Examiner denied the motion for a continuance and granted a recess in the proceedings until October 10, 1955, for the preparation of cross-examination. In the appeal, Delhi and Mayfair state that the serious illness of an important witness, the unavailability of another vital witness, and the impossibility of preparing complete statistical evidence have all combined to prevent the presentation of their complete direct evidence at the hearings already held in these proceedings, and it is now expected that their further evidence will not be available until approximately November 7, 1955.

The Commission finds adequate grounds have been shown to justify a continuance of these proceedings in order to permit Delhi and Mayfair to complete the presentation of all of its evidence, and, in view of Staff commitments, the first available date for further resumption of hearings is November 21, 1955.

The Commission orders:

(A) The ruling of the Presiding Examiner denying Delhi and Mayfair a continuance of the proceedings in order to present further evidence be and the same is hereby reversed.

(B) These proceedings be and the same are hereby continued to reconvene on November 21, 1955, at the same time and place specified by the Presiding Examiner.

Adopted: October 5, 1955.

Issued: October 6, 1955.

By the Commission.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8276; Filed, Oct. 11, 1955;
8:57 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 7, 1955.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 31168: *Petroleum carbon coke and briquettes—Missouri points to Western Trunk-line points.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on petroleum carbon (pe-

troleum coke), and petroleum coke briquettes, carloads, from Kansas City, Mo.-Kans., and Sugar Creek, Mo., to specified points in Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin.

Grounds for relief: Modified short-line distance formula and circuitry.

Tariff: Supplement 20 to Agent W. J. Prueter's I. C. C. A-3863.

FSA No. 31169: *Latex—Naugatuck, Conn., to Alabama and Louisiana.* Filed jointly by C. W. Boin and O. E. Swenson, Agents, for interested rail carriers. Rates on latex (liquid crude rubber), natural or synthetic, carloads, from Naugatuck, Conn., to Birmingham, Ala., Baton Rouge and New Orleans, La.

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

Tariff: Supplement 58 to Agent O. E. Swenson's I. C. C. 610.

FSA No. 31170: *Grain and products—Nebraska to Colorado, Kansas and Missouri.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on grain, grain products, and related articles, carloads, from specified points in Nebraska to specified points in Colorado, Kansas, and Missouri.

Grounds for relief: Carrier competition and circuitry.

Tariff: Supplement 19 to Agent W. J. Prueter's I. C. C. A-3992.

FSA No. 31171: *Crude sulphur—Charleston, S. C., to Spartanburg, S. C.* Filed by R. E. Boyle, Jr., Agent, for the Piedmont and Northern Railway Company and the Seaboard Air Line Railroad Company. Rates on crude sulphur (brimstone), carloads, from Charleston, S. C., to Spartanburg, S. C.

Grounds for relief: Circuitous routes through North Carolina.

Tariff: Supplement 108 to Agent C. A. Spaninger's I. C. C. 1221.

FSA No. 31172: *Iron and steel articles—Cincinnati, Ohio, to North Atlantic ports.* Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on iron and steel bars, ingots, and slabs, carloads, from Cincinnati, Ohio, to specified Hampton Roads and North Atlantic ports.

Grounds for relief: Competition with Gulf ports and circuitry.

Tariff: Supplement 73 to Agent H. R. Hinsch's I. C. C. 4350.

FSA No. 31173: *Logs—Virginia Points to Points in North Carolina.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on logs, native and Canadian wood, or Mexican pine, carloads, from specified points in western Virginia to Cleveland, Lenoir, and Statesville, N. C.

Grounds for relief: Short-line distance scale and circuitry.

Tariff: Supplement 89 to Agent C. A. Spaninger's I. C. C. 1297.

FSA No. 31174: *Methanol—Sterlington, La., to Chicago, Ill.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on methanol (methyl alcohol), tank-car loads, from Sterlington, La., to Chicago, Ill., and specified points in the inner zone of the Chicago switching district.

Grounds for relief: Barge competition and circuitry.

Tariff: Supplement 82 to Agent F. C. Kratzmeir's I. C. C. 4064.

AGGREGATE OF INTERMEDIATES

FSA No. 31175: *Methanol—Sterlington, La., to Chicago, Ill.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on methanol (methyl alcohol), tank-car loads, from Sterlington, La., to Chicago, Ill., and specified points in the inner zone of the Chicago switching district.

Grounds for relief: Maintenance of proposed rates without requiring their use as factors in constructing combination rates lower than present through one-factor rates from or to points beyond the considered points.

Tariff: Supplement 82 to Agent F. C. Kratzmeir's I. C. C. 4064.

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 55-8229; Filed, Oct. 11, 1955;
8:47 a. m.]

[Notice 81]

MOTOR CARRIER APPLICATIONS

OCTOBER 7, 1955.

Protests, consisting of an original and two copies to the granting of an application must be filed with the Commission within 30 days from the date of publication of this notice in the FEDERAL REGISTER and a copy of such protest served on the applicant. Each protest must clearly state the name and street number, city and state address of each protestant on behalf of whom the protest is filed (49 CFR 1.240 and 1.241). Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding unless an oral hearing is held. In addition to other requirements of Rule 40 of the General Rules of Practice of the Commission (39 CFR 1.40), protests shall include a request for a public hearing, if one is desired, and shall specify with particularity the facts, matters, and things, relied upon, but shall not include issues or allegations phrased generally. Protests containing general allegations may be rejected. Requests for an oral hearing must be supported by an explanation as to why the evidence cannot be submitted in forms of affidavits. Any interested person, not a protestant, desiring to receive notice of the time and place of any hearing, pre-hearing conference, taking of depositions, or other proceedings shall notify the Commission by letter or telegram within 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Except when the circumstances require immediate action, an application for approval, under Section 210a (b) of the Act, of the temporary operations of motor carrier properties sought to be acquired in an application under Section 5 (2) will not be disposed of sooner than 10 days from the date of publication of this notice in the FEDERAL REGISTER. If a protest is received prior to action being taken, it will be considered.

APPLICATIONS OF MOTOR CARRIERS OF PROPERTY

No. MC 339 Sub 4, filed September 8, 1955, LINCOLN MOVING & STORAGE COMPANY, INC., 1217 East Pike Street, Seattle 22, Wash. Applicant's attorney: John M. Hickson, Yeon Building, Portland 4, Ore. For authority to operate as a common carrier, over irregular routes, transporting: *Household goods*, as defined by the Commission, and *emigrant moveables*, between points in Grant County, Wash. Applicant is authorized to conduct operations in California, Oregon and Washington.

No. MC 8948 Sub 31, filed July 29, 1955, WESTERN TRUCK LINES, LTD., 2835 Santa Fe Avenue, Los Angeles 58, Calif. For authority to operate as a common carrier, over regular routes, transporting: *Class A, B and C explosives*, as defined by the Commission, *ammunition*, not included in Class A, B and C explosives, and *component parts* thereof, between all points presently authorized to be served in the performance of regular, alternate, and irregular route operations in and through Arizona, California, and Texas, and the site of the Hughes Aircraft Co. Plant, located approximately 5½ miles south of Tucson, Ariz.

NOTE: Applicant states that the authority sought herein will also be used in interchanging traffic with other authorized carriers.

No. MC 11185 Sub 92, filed September 21, 1955, J-T TRANSPORT COMPANY, INC., 6504 East 37th Street, Kansas City, Mo. Applicant's attorney: James W. Wrape, Sterick Building, Memphis, Tenn. For authority to operate as a contract carrier, over irregular routes, transporting: *Uncrated aircraft assemblies*, in special equipment, from Hawthorne and El Segundo, Calif., to points in St. Louis County, Mo. Applicant is authorized to conduct operations throughout the United States and the District of Columbia.

No. MC 11207 Sub 189, filed September 26, 1955, DEATON TRUCK LINE, INC., 3409 10th Avenue North, P. O. Box 1271, Birmingham, Ala. Applicant's attorney: John W. Cooper, 818-821 Massey Building, Birmingham 3, Ala. For authority to operate as a common carrier, over irregular routes, transporting: *Aircraft engines*, between Brookley Field, near Mobile, Ala., on the one hand, and, on the other, Air Force Installations and contractors' and interchange points located in Texas, Oklahoma, Arkansas, Louisiana, Mississippi, Kentucky, Tennessee, Georgia, North Carolina, South Carolina, and Florida.

NOTE: Applicant has authority to transport "Machinery" between points in Alabama, on the one hand, and, on the other, points in Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. Applicant states, however, that a question has arisen as to whether or not airplane engines are included in the "machinery" authorization. This application is filed as a precaution in the event aircraft engines are not included and also to seek new territorial authority consisting of points in Arkansas, Oklahoma, and Texas. Applicant has authority to conduct operations in Alabama, Florida, Georgia, Louisiana,

Mississippi, North Carolina, South Carolina, and Tennessee.

No. MC 14978 Sub 3, filed September 26, 1955, JOHN GRASS COMPANY, a corporation, Dunbar, Pa. Applicant's attorney: Herbert Baker, 50 West Broad Street, Columbus 15, Ohio. For authority to operate as a contract carrier, over irregular routes, transporting: *Explosives and blasting supplies*, between Mount Braddock, Pa., and points in Fayette County, Pa., within ten miles of Mount Braddock, on the one hand, and on the other, points in Tennessee. Applicant is authorized to conduct operations in Illinois, Indiana, Kentucky, Maryland, Missouri, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

No. MC 16650 Sub 6, filed August 22, 1955, DODSON S. WAUGH, doing business as WAUGH TRUCKING COMPANY, 312 Fairfax St., Berkeley Springs, W. Va. For authority to operate as a common carrier, over irregular routes, transporting: (1) *Empty tin cans and can lids*, from Baltimore, Md., to Amaranth, Pa., and (2) *tomatoes*, in cans, from Amaranth, Pa., to points in Virginia, points in that part of Ohio on and east of U. S. Highway 21, and those points in Maryland, Pennsylvania, West Virginia, and the District of Columbia. Applicant is authorized to conduct operations in Maryland, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

No. MC 17593 Sub 21, filed September 8, 1955, PIERCE AUTO FREIGHT LINES, INC., 2825 N. W. Yeon Ave., Portland 10, Ore. Applicant's attorney: Wm. P. Ellis, 1102 Equitable Building, Portland 4, Ore. For authority to operate as a common carrier, over regular routes, transporting: *General commodities*, including those of *unusual value*, *Class A and B explosives*, *household goods* as defined by the Commission, and *those requiring special equipment*, but excluding commodities in bulk, (1) between Portland, Ore., and Hubbard, Ore., over U. S. Highway 99W from Portland to junction Oregon Highway 57, thence over Oregon Highway 57 to junction Oregon Highway 51, thence over Oregon Highway 51 to junction U. S. Highway 99E, thence over U. S. Highway 99E to Hubbard, and return over the same route, serving all intermediate points, (2) between North Junction Salem, Ore. By-Pass and U. S. Highway 99E, and South Junction Salem, Ore. By-Pass and U. S. Highway 99E, over Salem, Ore. By-Pass, serving no intermediate points, (3) between North Junction unnumbered highway and U. S. Highway 99E, and South Junction unnumbered highway and U. S. Highway 99E, over said unnumbered highway through Jefferson, Ore., serving the intermediate point of Jefferson, Ore., (4) between Eugene, Ore., and junction U. S. Highway 99 and Oregon Highway 225 at or near Goshen, Ore., over U. S. Highway 126 from Eugene to junction Oregon Highway 225, thence over Oregon Highway 225 to junction U. S. Highway 99, and return over the same route, serving all intermediate points, (5) between

Anlauf, Ore., and Rice Hill, Ore., over Oregon Highway 45 through Drain, Ore., serving all intermediate points, (6) between Oakland, Ore., and Shady Point, Ore., over Oregon Highway 234, serving all intermediate points, and (7) between Sweet Home, Ore., and Foster, Ore., over U. S. Highway 20, serving all intermediate points. Applicant is authorized to conduct operations in California and Oregon.

NOTE: This application with the exception of the route specified under item (7) is in effect a request to have present authority amended because of relocation of portions of U. S. Highway 99E and 99W so that carrier may use the new highways recently constructed in connection with operations over the older more circuitous highways.

No. MC 23942 Sub 5, filed August 15, 1955, ATLANTIC COAST LINE RAILROAD COMPANY, A Corporation, Box 461, Wilmington, N. C. Applicant's attorney: U. B. Ellis, Law Department, Atlantic Coast Line Railroad Company (same address as applicant). For authority to operate as a common carrier, over regular routes, transporting: *General commodities, including express and mail*, (1) between junction U. S. Highway 301 and North Carolina Highway 481 near Enfield, N. C., and junction North Carolina Highways 481 and 125, over North Carolina Highway 481, serving no intermediate points, as an alternate or connecting route, for operating convenience only, in connection with carrier's regular route operations between (a) Richmond, Va., and Wilmington, N. C., (b) Richmond, Va., and Watha, N. C., (c) Richmond, Va., and Dunn, N. C., (d) Richmond, Va., and Clinton, N. C., (e) Richmond, Va., and Robersonville, N. C., and (f) Richmond, Va., and Williamston, N. C., (2) between junction North Carolina Highways 11 and 33 near Bethel, N. C., and Washington, N. C., over North Carolina Highway 33, serving the intermediate points of Stokes and Pactolus, N. C., (3) between Faison, N. C., and Clinton, N. C., over North Carolina Highway serving no intermediate points, as an alternate or connecting route, for operating convenience only, in connection with carrier's regular route operations between (a) Richmond, Va., and Wilmington, N. C., (b) Richmond, Va., and Watha, N. C., (c) Richmond, Va., and Dunn, N. C., and (d) Richmond, Va., and Clinton, N. C., and (4) between junction North Carolina Highway 410 and U. S. Highway 701 near Tabor City, N. C., and Whiteville, N. C., over U. S. Highway 701, serving no intermediate points, as an alternate or connecting route, for operating convenience only, in connection with carrier's regular route operations between (a) New Bern, N. C., and Waycross, Ga., and (b) Rowland, N. C., and Myrtle Beach, S. C.; subject to the same restrictive conditions imposed in applicant's Certificates Nos. MC 23942 Subs 1, 3, and 4. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina, South Carolina and Virginia.

No. MC 25643 Sub 36, filed September 19, 1955, EVERTS' COMMERCIAL

TRANSPORT, INC., 815 Garfield Street, Eugene, Ore. Applicant's attorney: Earle V. White, 1401 Northwest 19th Avenue, Portland 9, Ore. For authority to operate as a *common carrier*, over irregular routes, transporting: *Phenol*, in bulk, in tank vehicles, from points in Contra Costa County, Calif., to Springfield and Portland, Ore., and Seattle, Wash. Applicant is authorized to conduct operations in California, Oregon, and Washington.

No. MC 25869 Sub 2, filed September 26, 1955, MYRON R. NOLTE AND MAURICE D. NOLTE, doing business as NOLTE BROS., Farnhamville, Iowa, Applicant's representative: William A. Landau, 1307 E. Walnut St., Des Moines 16, Iowa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, in bulk and in bags, from Omaha, Nebr., to Lohrville, Iowa, and points within 25 miles of Lohrville, and Auburn, Iowa, and points within 15 miles of Auburn. Any duplicating authority will be eliminated.

No. MC 26907 Sub 9, filed September 29, 1955, RYON TRUCKING CO., A Corporation, Oshkosh Street, Ripon, Wis. Applicant's attorney: Edward A. Solie, 715 First National Bank Bldg., Madison 3, Wis. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Cookies*, in containers, from Ripon, Wis., to points in Kentucky and Tennessee. Applicant is authorized to conduct operations in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, Pennsylvania, South Dakota and Wisconsin.

No. MC 30657 Sub 7, filed September 26, 1955, DIXIE HAULING COMPANY, 717 Memorial Drive, S. E., Atlanta, Ga. Applicant's attorney: R. J. Reynolds, Jr., 1403 Citizens & Southern National Bank Bldg., Atlanta 3, Ga. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Garbage cans, tubs, pails, and empty oil containers*, galvanized, from Atlanta, Ga., to points in Oklahoma and Texas; and *damaged shipments* of the above-described commodities on return. Applicant is authorized to conduct irregular route operations in Alabama, Florida, Georgia, Mississippi, Tennessee, Louisiana, Arkansas, North Carolina and South Carolina.

No. MC 30837 Sub 194, filed September 28, 1955, KENOSHA AUTO TRANSPORT CORPORATION, 4519-76th Street, Kenosha, Wisc. Applicant's attorney: Louis E. Smith, Suite 503, 1800 No. Meridian St., Indianapolis 2, Ind. For authority to operate as a *common carrier*, over irregular routes, transporting: *Automobiles*, in initial movements, in truckaway service, from Kenosha, Wisc., to points in Arizona, California, Nevada, Oregon and Washington. Applicant is authorized to conduct irregular route operations to all points in the United States.

No. MC 36473 Sub 60, filed September 8, 1955, amended September 29, 1955, CENTRAL TRUCK LINES, INC., 1000 Jackson St., Tampa, Fla. For authority to operate as a *common carrier*, over irregular routes, transporting: *Paper and*

paper products, from Palatka and Yulee, Fla., to New Orleans, La., and points within 7 miles thereof, and Mobile, Ala., and points within 7 miles thereof, and to points on U. S. Highway 90 between Mobile, Ala., and New Orleans, La. Applicant is authorized to conduct operations in Georgia, Florida, and Alabama.

No. MC 41349 Sub 1, filed September 26, 1955, NELSON W. DEWEY, doing business as DEWEY'S VAN SERVICE, 476 Glen Street, Glens Falls, N. Y. Applicant's attorney: John J. Brady, Jr., 75 State Street, Albany 7, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Warren, Saratoga, Washington, and Essex Counties, N. Y., on the one hand, and, on the other, points in Virginia, New York, Connecticut, Massachusetts, Maryland, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. Applicant is authorized to conduct operations in New York, Connecticut, Massachusetts, Maryland, New Jersey, Pennsylvania, Rhode Island, Vermont, and the District of Columbia.

No. MC 49304 Sub 2, filed September 16, 1955, JAMES LEONARD BOWMAN, doing business as JAMES L. BOWMAN, P. O. Box 6, Stephens City, Va. Applicant's attorney: Betty Winn, 1500 Massachusetts Ave., N. W., Washington, D. C. For authority to operate as a *common carrier*, over irregular routes, transporting: (1) *Lime*, and *limestone products*, from Middletown, Va., and points within six (6) miles thereof, to points in Maryland, and points in Allegheny, Washington, Greene, Fayette, Somerset, Bedford, Fulton, Franklin, Adams, York, Lancaster, Chester, Delaware, and Dauphin Counties, Pa., and Jefferson, Berkeley, Morgan, Hampshire, Hardy, Grant, Mineral, Pendleton, Randolph, Tucker, Upshur, Barbour, Preston, Monongalia, Marion, Taylor, Harrison, and Lewis Counties, W. Va., (2) *firebrick and clay*, from Baltimore, Md., and points in Clearfield, and Center Counties, Pa., to Middletown, Va., and points within six (6) miles thereof, (3) *fertilizer*, in bags and in bulk, from Baltimore, Md., to points in Fauquier, Clarke, Frederick, and Shenandoah Counties, Va., and those in Jefferson County, W. Va., and (4) *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities, from above specified destination points and points in above specified destination territories, to above specified origin points and points in above specified origin territories. Applicant is authorized to conduct operations in Maryland, Virginia, West Virginia, and the District of Columbia.

No. MC 52460 Sub 31, filed September 21, 1955, HUGH BREEDING, INC., 1420 West 35th Street, P. O. Box 9515, Tulsa, Okla. Applicant's attorney: James W. Wrape, Sterick Building, Memphis 3, Tenn. For authority to operate as a *common carrier*, over irregular routes, transporting: *Lubricating oil*, in bulk, in tank vehicles, from Tulsa, Okla., to all points in Louisiana, and *refused ship-*

ments of lubricating oil on return. Applicant is authorized to conduct operations in Arkansas, Kansas, Missouri, Oklahoma, and Texas.

No. MC 52460 Sub 32, filed September 21, 1955, HUGH BREEDING, INC., 1420 West 35th Street, P. O. Box 9515, Tulsa, Okla. Applicant's attorney: James W. Wrape, Sterick Building, Memphis 3, Tenn. For authority to operate as a *common carrier*, over irregular routes, transporting: *Creosote oil and coal tar*, in straight or mixed loads, in bulk, in tank vehicles, from Waterloo, Iowa, and Granite City, Ill., to St. Joe, Ark., and *refused shipments* of the above-specified commodities on return.

No. MC 52565 Sub 6, filed July 26, 1955, (Amended), MYERS TRANSFER & STORAGE, INC., 418 Third Avenue, Huntington, W. Va. For authority to operate as a *common carrier*, over irregular routes, transporting: *New furniture*, uncrated, from Huntington, W. Va., to points in Illinois, New Jersey, Indiana, Kentucky, Maryland, the southern Peninsula of Michigan, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, Georgia, South Carolina, Florida, West Virginia, and the District of Columbia. Applicant is authorized to conduct operations in Illinois, Indiana, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, Kentucky, and West Virginia.

No. MC 52579 Sub 27, filed August 17, 1955, GILBERT CARRIER CORP., 645 W. 40th St., New York, N. Y. Applicant's attorney: Harris J. Klein, 280 Broadway, New York 7, N. Y. For authority to operate as a *common carrier*, transporting: *Garments and wearing apparel on hangers, and hangers*, serving Kearny, N. J., as an off-route point, solely for the purpose of picking up and delivering laden semitrailers at the yards of the Pennsylvania Railroad in substituted service in connection with applicant's authorized regular route operations between Chicago, Ill., on the one hand, and, on the other, New York, N. Y., Philadelphia, Pa., and Vineland, N. J. Applicant is authorized to conduct operations from and to Chicago, Ill., Philadelphia, Pa., Vineland, N. J., and New York, N. Y., and to points in the United States except those in Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Maine, and Vermont.

No. MC 54855 Sub 1, filed September 26, 1955, LOUISVILLE, NEW ALBANY AND CORYDON RAILROAD COMPANY, a corporation, Corydon, Ind. Applicant's attorney: James R. Regester, 100 1/2 West Sixth Street, Bloomington, Ind. For authority to operate as a *common carrier*, over regular and irregular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, IRREGULAR ROUTES: Between points in Harrison and Floyd Counties, Ind., on and east of Indiana Highway 135, on and south of unnumbered County Highway extending between Central, Ind., and New Amsterdam, Ind., south of U. S. Highway 460

(formerly Indiana Highway 62) and west and north of the Ohio River; and **REGULAR ROUTES:** (1) Between Corydon Junction, Ind., and Central Barren, Ind., over County Pike and Indiana Highway 135, and (2) Between Corydon Junction, Ind., and Crandall, Ind., over County Pike, and Indiana Highways 135 and 335, and return over routes (1) and (2) above, serving no intermediate points.

NOTE: Applicant states that any duplication of authority granted under this application shall be construed as a single right. Applicant is authorized to conduct operations in Indiana and Kentucky.

No. MC 55811 Sub 27, filed October 3, 1955, **CRAIG TRUCKING, INC.**, Albany, Indiana. Applicant's attorney: Howell Ellis, 520 Illinois Building, Indianapolis, Ind. For authority to operate as a *common carrier*, over irregular routes, transporting: *Pulpboard* (consisting of not less than 80% wood pulp), *scrap paper*, *straw*, and *mixtures of scrap paper and straw*, from Federal, Ill., to Battle Creek, Mich., and *damaged shipments of pulpboard*, on return. Applicant is authorized to conduct operations in Illinois, Indiana, and Ohio.

No. MC 64994 Sub 18, filed September 26, 1955, **HENNIS FREIGHT LINES, INC.**, P. O. Box 612, Winston-Salem, N. C. Applicant's attorney: York & Boyd, 201-204 Jefferson Bldg., Greensboro, N. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Liquors*, alcoholic, from Lawrenceburg, Ind., to Raleigh, N. C., Columbia and Charleston, S. C., Augusta and Savannah, Ga., and Richmond, Va. Applicant is authorized to conduct regular route operations in Ohio, Virginia, North Carolina and West Virginia, and irregular route operations in Ohio, West Virginia, Virginia, Indiana, Michigan, Illinois, South Carolina, Maryland, Pennsylvania and North Carolina.

No. MC 66562 Sub 1249, filed September 6, 1955, published September 21, 1955, page 7088, amended September 22, 1955, and further amended October 3, 1955, published October 5, 1955. The restrictive amendment of October 3, 1955, is included in this republication. **RAILWAY EXPRESS AGENCY, INCORPORATED**, 219 East 42nd Street, New York, N. Y. Applicant's attorneys: Alston, Sibley, Miller, Spann & Shackelford, 1220 Citizens and Southern National Bank Bldg., Atlanta, Ga. For authority to operate as a *common carrier*, over a regular route, transporting: *General commodities*, including *Class A and B explosives*, moving in express service, between Nashville, Tenn., and Crossville, Tenn., from Nashville over U. S. Highway 31-E to Madison, Tenn., thence over Tennessee Highway 45 via Old Hickory to junction U. S. Highway 70-N, thence over U. S. Highway 70-N to Crossville, and return over the same route, serving the intermediate points of Old Hickory, Lebanon, Cathage, Double Springs, Cookeville and Monterey, Tenn., and the off-route points of Watertown, Baxter and Algood, Tenn. Applicant is authorized to conduct operations throughout the United States. **RESTRICTION:** Proposed service shall be

limited to service which is auxiliary to or supplemental of express service and shipments proposed to be transported shall be limited to those moving on a through bill of lading or an express receipt covering, in addition to a motor carrier movement, an immediately prior or immediately subsequent movement by rail or air.

No. MC 72300 Sub 27, filed September 1, 1955, **AMERICAN CARLOADING CORPORATION**, 261 Hastings Street, Detroit, Mich. For authority to operate as a *common carrier*, transporting: *General commodities*, except those of unusual value, *Class A and B explosives*, *livestock*, *household goods* as defined by the Commission, *commodities in bulk*, and those requiring special equipment, serving the site of the Ford Motor Company plant near Seventeen Mile Road and Mound Road in Sterling Township, Macomb County, Mich., as an off-route point in connection with carrier's regular route operations to and from Detroit, Mich., and Pontiac, Mich., over U. S. Highways 12, 16, 24, 25, and 112 and Michigan Highways 53 and 112. Applicant is authorized to conduct operations in Illinois, Indiana, Michigan, and Ohio.

No. MC 89684 Sub 16, filed August 8, 1955, **WYCOFF COMPANY, INCORPORATED**, 346 West 6th South, P. O. Box 366, Salt Lake City, Utah. Applicant's attorney: Harry D. Pugsley, 721 Continental Bank Building, Salt Lake City, Utah. For authority to operate as a *common carrier*, over regular and irregular routes, transporting:

(A) **REGULAR ROUTES:** *Motion picture films*, *motion picture supplies* and *motion picture advertising matter*, as defined by the Commission; *newspapers*, *magazines*, *periodicals* and *books*, (1) serving Kemmerer, Wyo., as an off-route point in connection with carrier's regular route operations between Salt Lake City, Utah, and Rock Springs, Wyo., over U. S. Highway 30, (2) between Twin Falls, Idaho, and Sun Valley, Idaho, over U. S. Highway 93, serving no intermediate points, and the off-route point of Cary, Idaho, (3) between Salt Lake City, Utah, and Preston, Idaho, over U. S. Highway 91, serving no intermediate points, and the off-route points of Lewiston and Hyrum, Utah, (4) between Ashton, Idaho, and West Yellowstone, Mont., over U. S. Highway 191, serving no intermediate points, between May 1st and September 15th of each year, (5) between Sugar City, Idaho, and Victor, Idaho, over Alternate U. S. Highway 20, serving all intermediate points, (6) between Dillon, Mont., and Butte, Mont., from Dillon over Montana Highway 41 to junction U. S. Highway 10-S, thence over U. S. Highway 10-S to Butte, and return over the same route, serving the intermediate point of Twin Bridges, Mont., and the off-route point of Sheridan, Mont., (7) between Elsinore, Utah, and Kanab, Utah, over U. S. Highway 89, serving all intermediate points, and the off-route points of Escalante and Tropic, Utah, (8) between Nephi, Utah, and St. George, Utah, over U. S. Highway 91, serving all intermediate points, and the off-route points of Hurricane and Springdale,

Utah, (9) serving Adrian, Oreg., as an off-route point in connection with carrier's regular route operations between Ontario, Oreg., and Weiser, Idaho, over U. S. Highway 95, (10) see route numbered 10 in this application under irregular routes, below, (11) between Green River, Utah, and Monticello, Utah, from Green River over U. S. Highway 50 to Crescent Junction, Utah, thence over U. S. Highway 160 to Monticello, and return over the same route, serving all intermediate points, and the off-route points of Blanding, Utah, Dover Creek, Dolores and Durango, Colo., and Shiprock, N. Mex., and (12) serving the off-route points of Thayne and Afton, Wyo., in connection with carrier's regular route operations between St. Anthony, Idaho, and Ashton, Idaho, over U. S. Highway 191.

IRREGULAR ROUTES: The following route is numbered 10 in this application. Between Salt Lake City, Utah, on the one hand, and, on the other, points in Tooele County, Utah. Applicant states he seeks clarification as to his present rights in Tooele County.

(B) **REGULAR ROUTES:** *Magazines*, *periodicals*, and *books*, over all regular routes authorized to applicant in Certificate No. MC 89684, from, to, and/or between points in Idaho, Montana, Nevada, Oregon, Utah and Wyoming. Applicant is authorized in Certificate No. MC 89684 to transport films and articles associated with the exhibition of motion pictures as described by the Commission, and newspapers. Applicant is authorized to conduct operations in Idaho, Montana, Nevada, Oregon, Utah and Wyoming.

No. MC 95749 Sub 12, filed September 12, 1955, **F. O. STROMBERG**, doing business as **UNITED TRANSFER & STORAGE CO.**, 2 Fifth Avenue, Havre, Mont. Applicant's attorney: Max P. Kuhr, Citizens Bank Building, Havre, Mont. For authority to operate as a *common carrier*, over a regular route, transporting: *General commodities*, except *commodities of unusual value*, *Class A and B explosives*, *household goods* as defined by the Commission, *commodities in bulk*, and those requiring special equipment, between Glasgow, Mont., and the U. S. A. C. Airbase, approximately 19 miles north of Glasgow, Mont., over unnumbered highway. Applicant is authorized to conduct operations in Montana.

No. MC 97357 Sub 5, filed October 3, 1955, **ALLYN TANK LINE, INC.**, 14011 South Central Avenue, Los Angeles 59, Calif. Applicant's attorney: Bailey & Poe, 639 South Spring Street, Los Angeles 14, Calif. For authority to operate as a *common carrier*, over irregular routes, transporting: *Liquid fertilizers*, in bulk, in tank vehicles, between points in Orange and Los Angeles Counties, Calif., and the port of entry to the Republic of Mexico near Calexico, Calif. Applicant conducts operations under Section 206 (a) (1) of the Interstate Commerce Act pursuant to filing in Docket No. MC 97357 Sub 4.

No. MC 101075 Sub 34, filed July 22, 1955, **TRANSPORT, INC.**, 1213 Center, Moorhead, Minn. Applicant's attorney: Donald A. Morken, 1100 First National-Soo Line Building, Minneapolis 2, Minn.

For authority to operate as a *common carrier*, over irregular routes, transporting: *Petroleum*, and *petroleum products*, in bulk, in tank vehicles, (1) from Columbus, Nebr. and points within ten miles thereof, to points in South Dakota, (2) from Rock Rapids, Iowa and points within ten miles thereof, to points in South Dakota, and (3) from points in Pennington and Meade Counties, S. Dak., to points in Nebraska, Wyoming, and North Dakota. Applicant is authorized to conduct operations in Iowa, Minnesota, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

No. MC 102616 Sub 615, filed September 27, 1955, COASTAL TANK LINES, INC., Grantley Road, York, Pa. Applicant's attorney: Harold G. Hernly, 1624 Eye Street, N. W., Washington 6, D. C. For authority to operate as a *common carrier* over irregular routes, transporting: *Flammable lacquer*, in bulk, in tank trucks, from Reading, Pa., to Stamford, Conn. Applicant is authorized to conduct operations in Maryland, West Virginia, Pennsylvania, Virginia, New Jersey, Ohio, New York, Illinois, Indiana, Kentucky, Connecticut, Massachusetts, Rhode Island, North Carolina, South Carolina, Michigan, Tennessee, Wisconsin, Delaware, and the District of Columbia.

No. MC 103993 Sub 58, filed September 28, 1955, MORGAN DRIVE-AWAY, INC., 509 Equity Building, Elkhart, Ind. Applicant's attorney: John E. Lesow, 632 Illinois Building, 17 W. Market Street, Indianapolis 4, Ind. For authority to operate as a *common carrier*, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, by truckaway method, from points in Kentucky, (except Louisville), to all points in the United States, and *damaged shipments* of the commodity specified in this application on return. Applicant is authorized to conduct operations throughout the United States.

No. MC 106398 Sub 47, filed September 28, 1955, NATIONAL TRAILER CONVOY, INC., 1916 N. Sheridan Road, P. O. Box 896 Dawson Station, Tulsa 15, Okla. Applicant's attorney: John E. Lesow, 632 Illinois Building, 17 W. Market Street, Indianapolis 4, Ind. For authority to operate as a *common carrier*, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, by the truckaway method, from all points in Kentucky, except Louisville, to all points in the United States. *Damaged shipments of trailers*, from all points in the United States to all points in Kentucky, except Louisville. Applicant is authorized to conduct operations throughout the United States.

No. MC 106644 Sub 30, filed September 30, 1955, SUPERIOR TRUCKING COMPANY, INC., 520 Bedford Place, N. E., Atlanta, Ga. Applicant's attorney: Reuben G. Grimm, 805 Peachtree Bldg., Atlanta 5, Ga. For authority to operate as a *common carrier*, over irregular routes, transporting: *Paper*, *pulp* and *textile mill rolls*, *aircraft assemblies*, and *commodities requiring special equipment*, between points in Texas and Arkansas, on the one hand, and, on the other,

points in Georgia. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee.

No. MC 106977 Sub 12, filed September 6, 1955, and amended September 26, 1955, T. S. C. MOTOR FREIGHT LINES, INC., P. O. Box 2625, 400 Pinckney Street, Houston 1, Tex. Applicant's attorney: Reagan Sayers, Century Life Bldg., Fort Worth, Tex. For authority to operate as a *common carrier*, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Baton Rouge, La., and Poplarville, Miss., from Baton Rouge over U. S. Highway 190 to Hammond, La., thence over Louisiana Highway 36 to Covington, La., thence over Louisiana Highway 21 to Bogalusa, La., thence over Louisiana Highway 10 to the Mississippi-Louisiana State line, thence over Mississippi Highway 26 to Poplarville, Miss., and return over the same route, serving no intermediate points, as an alternate route, for operating convenience only, and serving Hammond, La., for joinder purposes only.

No. MC 107107 Sub 71, filed September 15, 1955 (Amended), published page 7241 issue of September 28, 1955, ALTERMAN TRANSPORT LINES, INC., 2424 Northwest 46th St., Miami, Fla. Applicant's attorney: Frank B. Hand, Jr., Transportation Bldg., Washington 6, D. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Meats*, *meat products*, *meat by-products*; *dairy products*; *frozen foods*; *fresh and processed fruits*, *vegetables*, *fish*, *seafood*, and *nuts*; *condiments*; *spices*; *bakery supplies*, *materials*, and *products*; *candy*; *confectionery*; *salad dressings*; *cocoa*; *coffee*; *pie filler*; *mince meat*; *cereals*; *olives*; *flavoring compounds*, *syrups*, and *extracts*; *edible and cooking oils*; *macaroni*; *spaghetti*; and *rice*, (1) from the New York, N. Y., Commercial Zone, as defined by the Commission, and points in Nassau, Suffolk, Rockland, and Westchester Counties, N. Y., and those in Bergen, Passaic, Union, Essex, Middlesex, Somerset, and Morris Counties, N. J., to Atlanta, Ga., and Savannah, Ga., and points in Florida; (2) from points in the Philadelphia, Pa., Commercial Zone, as defined by the Commission, to Atlanta, Ga., and Savannah, Ga.; *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application on return.

NOTE: Applicant will surrender any duplicating authority now held. Applicant is authorized to conduct operations in Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Wisconsin, and the District of Columbia.

No. MC 106836 Sub 8, filed September 28, 1955, COATES-NORRELL MOTOR

EXPRESS, INCORPORATED, 614 West Holmes Street, Huntsville, Ala. Applicant's attorney: Blaine Buchanan, 1024 James Building, Chattanooga 2, Tenn. For authority to operate as a *common carrier*, over irregular routes, transporting: *General commodities*, including *Class A and B explosives*, but excluding commodities of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Huntsville, Ala., and Hobbs Island, Ala. Applicant is authorized to conduct operations in Alabama and Tennessee.

No. MC 109132 Sub 9, filed October 1, 1955, FREIGHTWAYS, INC., 1309 North Mosley Street, Wichita, Kans. Applicant's attorney: Wentworth E. Griffin, 1012 Baltimore Avenue, Suite 1010, Kansas City 5, Mo. For authority to operate as a *common carrier*, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those injurious or contaminating to other lading, (a) between Garden City, Kans., and Tulsa, Okla., (1) from Garden City over U. S. Highway 83 to junction U. S. Highway 64, thence over U. S. Highway 64 to Tulsa, and return over the same route, serving the intermediate points of Liberal, Kans., and Enid and Perry, Okla.; (2) from Garden City over U. S. Highway 83 to junction U. S. Highway 64, thence over U. S. Highway 64 to junction U. S. Highway 183, thence over U. S. Highway 183 to junction U. S. Highway 270, thence over U. S. Highway 270 to junction Oklahoma Highway 3, thence over Oklahoma Highway 3 to junction U. S. Highway 66 at Oklahoma City, and thence over U. S. Highway 66 to Tulsa, and return over the same route, serving the intermediate points of Liberal, Kans., and Oklahoma City and Sapulpa, Okla.; (3) from Garden City over U. S. Highway 50-S to junction U. S. Highway 283, thence over U. S. Highway 283 to junction U. S. Highway 64, thence over the routes specified in (1) and (2) above, to Tulsa, and return over the same routes, serving the intermediate points of Dodge City, Kans., and Enid, Perry, Oklahoma City and Sapulpa, Okla.; (4) from Garden City over U. S. Highway 50-S to junction U. S. Highway 154, thence over U. S. Highway 154 to junction U. S. Highway 54, thence over U. S. Highway 54 to junction U. S. Highway 281, thence over U. S. Highway 281 to junction U. S. Highway 64, and thence over U. S. Highway 64 to Tulsa, and return over the same routes, serving the intermediate points of Dodge City and Pratt, Kans., and Enid and Perry, Okla.; (5) from Garden City, Kans., to Enid, Okla., as specified in routes (1) and (4) above, thence over U. S. Highway 81 to junction Oklahoma Highway 3, thence over the routes specified in (2) above, to Tulsa, and return over the same routes, serving the intermediate points specified in (1), (2) and (4) above; and (6) from Garden City over U. S. Highway 50-S to junction U. S. Highway 154, thence over U. S. Highway 154 to junction U. S.

Highway 54, thence over U. S. Highway 54 to junction U. S. Highway 77, thence over U. S. Highway 77 to junction U. S. Highway 60, thence over U. S. Highway 60 to junction Oklahoma Highway 11, and thence over Oklahoma Highway 11 to Tulsa, and return over the same route, serving the intermediate points of Dodge City, Pratt, and Wichita, Kans.; (b) between Wichita, Kans., and Liberal, Kans., from Wichita over U. S. Highway 54 to Liberal, and return over the same route, serving the intermediate point of Pratt, Kans.; (c) between Wichita, Kans., and Garden City, Kans., from Wichita over U. S. Highway 54 to junction U. S. Highway 154, thence over U. S. Highway 154 to Dodge City, thence over U. S. Highway 50-S to Garden City, and return over the same route, serving the intermediate point of Dodge City, Kans., and serving the junction of Kansas Highway 45 and U. S. Highway 154 for purpose of joinder only; (d) between Garden City, Kans., and Liberal, Kans., from Garden City over U. S. Highway 83 to Liberal, and return over the same route, serving no intermediate points except the junction of U. S. Highway 83 and Kansas Highway 45 at or near Sublette, Kans.; (e) between Liberal, Kans., and St. Louis, Mo., from Liberal over U. S. Highway 54 to Wichita, thence over U. S. Highway 81 to Newton, Kans., thence over U. S. Highway 50-S to Emporia, Kans., thence over Kansas Highway 99 to junction U. S. Highway 50-N, thence over U. S. Highway 50-N to junction U. S. Highway 75, thence over U. S. Highway 75 to Topeka, and thence over U. S. Highway 40 to St. Louis, and return over the same route, serving the intermediate points in Kansas, except Kansas City, Kans.; and (f) between Garden City, Kans., and St. Louis, Mo., from Garden City over U. S. Highway 50-S to Dodge City, thence over U. S. Highway 154 to junction U. S. Highway 54, thence over U. S. Highway 54 to Wichita, thence over the routes described immediately above to St. Louis, and return over the same route, serving the intermediate point of Dodge City, Kans.

NOTE: By this application applicant proposes to convert certain of its irregular routes to regular routes. No new points are to be served and no duplication of routes is sought. Applicant is authorized to conduct operations in Illinois, Kansas, Missouri and Oklahoma.

No. MC 109382 Sub 12, filed August 22, 1955, JONAS P. DONMOYER, Uno, Pa. Applicant's representative: John W. Frame, 603 North Front St., Harrisburg, Pa. For authority to operate as a common carrier, over irregular routes, transporting: *Brick and clay products*, from New Oxford (Adams County), Pa., to points in New York, New Jersey, Maryland, Delaware, Virginia, West Virginia, and the District of Columbia. Applicant is authorized to conduct operations in New York and Pennsylvania.

No. MC 109761 Sub 4, filed September 19, 1955, CARL SUBLER TRUCKING, INC., 906 Magnolia Avenue, Auburndale, Fla. Applicant's attorney: Benjamin J. Brooks, Washington Loan and Trust Bldg., Washington 4, D. C. For authority to operate as a contract carrier, over irregular routes, transporting: *Fruits*

and fruit juices, and vegetables and vegetable juices, (not frozen), canned or in packages, (including containers), from points in Florida to points in Connecticut, Illinois, Indiana, Massachusetts, Minnesota, Ohio, Rhode Island, and Wisconsin, and empty containers or other such incidental facilities (not specified) used in transporting the above-described commodities on return movements. Applicant is authorized to conduct operations in Florida, Illinois, Indiana, Michigan, Minnesota, and Wisconsin.

No. MC 110478 Sub 4, filed September 23, 1955, WATKINS TRUCKING, INC., 818 Gorley Street, Uhrichsville, Ohio. Applicant's attorney: Ralph W. Sanborn, Hartman Bldg., Columbus, Ohio. For authority to operate as a contract carrier, over irregular routes, transporting: *Clay products and fire clay*, palletized and non-palletized, from points in Tuscarawas County, Jefferson County, and Palmyra Township, Portage County, Ohio, to points in Wisconsin, and *Empty containers, pallets, corrugated sheeting, cardboard, lumber, machinery, machinery parts and supplies* used in the manufacture, packing or shipping of clay products and fire clay, on return. Applicant is authorized to conduct irregular route operations in Delaware, Kentucky, Illinois, Indiana, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, West Virginia and the District of Columbia.

No. MC 110525 Sub 282, filed September 23, 1955, CHEMICAL TANK LINES, INC., 520 E. Lancaster Avenue, Downingtown, Pa. Applicant's attorney: GERALD L. PHELPS, JR., Munsey Building, Washington 4, D. C. For authority to operate as a common carrier, over irregular routes, transporting: *Acids and chemicals*, (including but not restricted to those defined by the Commission), in bulk, in tank vehicles, from (1) Mogadore, Ohio, to Milwaukee, Wis., and (2) from Ashland, Ohio, to Monticello, Ark. Applicant is authorized to conduct operations in New Jersey, Illinois, Indiana, Michigan, New York, Massachusetts, North Carolina, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, Kentucky, Delaware, Connecticut, Alabama, Tennessee, Missouri, Minnesota and the District of Columbia.

No. MC 110525 SUB 283, filed September 27, 1955, CHEMICAL TANK LINES, INC., 520 E. Lancaster Avenue, Downingtown, Pa. Applicant's attorney: Gerald L. Phelps, Munsey Building, Washington 4, D. C. For authority to operate as a common carrier, over irregular routes, transporting: *Coal tar products, acids and chemicals*, in bulk, in tank vehicles, from points in Burlington County, N. J., to points in Montgomery County, Pa. Applicant is authorized to conduct operations in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and the District of Columbia.

No. MC 110779 Sub 7, filed September 15, 1955. Published September 28, 1955 issue on page 7242. LEWIS TRANS-

PORT, INC., Columbia, Ky. Applicant's attorney: Ollie L. Merchant, 712 Louisville Trust Building, Louisville 2, Ky. For authority to operate as a contract carrier, over irregular routes, transporting: *Petroleum and petroleum products*, such as lubricating oils and greases, in containers, (1) from Cincinnati, Ohio, to Brookville, Butlerville, Corydon, Greensburg, Mitchell, Orleans, Salem, Scottsburg and Seymour, Ind., and (2) from Cincinnati, Ohio, to points in Kentucky. Applicant is authorized to conduct operations in Kentucky, Ohio, Tennessee, Virginia, and Indiana.

No. MC 111472 Sub 31, filed August 22, 1955, DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Ave., Racine, Wis. Applicant's attorney: Glenn W. Stephens, 121 W. Doty St., Madison 3, Wis. For authority to operate as contract carrier, over irregular routes, transporting: *Agricultural machinery, implements and parts*, as defined by the Commission, from (1) Appleton and Racine, Wis., on the one hand, to points in Montana and Colorado, on the other; (2) from West Bend, Wis., on the one hand, to points in Montana, on the other. Applicant is authorized to conduct operations in Iowa, North Dakota, South Dakota, Illinois, Indiana, Minnesota, Missouri, Nebraska, Wisconsin, Ohio, Michigan.

NOTE: In conducting the proposed operations, applicant will traverse all intervening states.

No. MC 112584 Sub 11, filed September 28, 1955, FRED A. SHELTON, McCaysville, Ga. Applicant's attorney: Blaine Buchanan, 1024 James Building, Chattanooga 2, Tenn. For authority to operate as a contract carrier, over irregular routes, transporting: *Sulphur dioxide*, in bulk, in tank vehicles, from Copperhill, Tenn., to Canton, N. C., and empty containers or other such incidental facilities (not specified) used in transporting the above-described commodity on return.

NOTE: Applicant states that irregular routes are requested in order to select, from time to time, best route to avoid winter weather and tourist traffic. Applicant is authorized to conduct operations in Alabama, Georgia, Mississippi, North Carolina, and Tennessee.

No. MC 112584 Sub 12, filed September 28, 1955, FRED A. SHELTON, McCaysville, Ga. Applicant's attorney: Blaine Buchanan, 1024 James Building, Chattanooga 2, Tenn. For authority to operate as a contract carrier, over irregular routes, transporting: *Sulphur dioxide*, in bulk, in tank vehicles, from Copperhill, Tenn., to Foley, Fla., and empty containers or other such incidental facilities (not specified) used in transporting the above-described commodity. Applicant is authorized to conduct operations in Alabama, Georgia, Mississippi, North Carolina, and Tennessee.

No. MC 113192 Sub 6, filed September 8, 1955, amended September 19, 1955, A. E. SCHUELKE, doing business as SCHUELKE TRUCKING, 213 State St., New London, Wis. For authority to operate as a common carrier, over irregular routes, transporting: *Fresh and processed butter, milk, eggs, sugar, empty*

barrels and containers, and miscellaneous supplies used in connection therewith, for A. Sturn and Sons, from points in Michigan, Indiana, Illinois, Minnesota, and Iowa, to Manawa, Wis.

No. MC 113482 Sub 3, filed September 26, 1955, G. F. ARDERY, doing business as G. F. ARDERY OIL TRANSPORT, 1107 Rockford Road, Charles City, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, in bulk and in bags, (1) from Charles City, Iowa, to points in Minnesota, South Dakota and Wisconsin, (2) from Sioux City, Iowa, to points in Minnesota, Nebraska and South Dakota.

No. MC 114045 Sub 14, filed September 29, 1955, R. L. MOORE and JAMES T. MOORE, doing business as TRANSCOLD EXPRESS, P. O. Box 5082, Dallas 22, Tex. Applicant's attorney: Ralph W. Pulley, Jr., First National Bank Building, Dallas 2, Tex. For authority to operate as a *common carrier*, over irregular routes, transporting: *Frozen fruits and frozen vegetables, puree and concentrates*, from Laredo, Tex., to points in New York, New Jersey, Pennsylvania, and Massachusetts. Applicant does not presently hold a certificate from this Commission but report and order was issued on March 22, 1955 in Docket No. MC 114045 Sub 1 granting authority to conduct operations in Arkansas, Connecticut, Kentucky, Louisiana, Maryland, Massachusetts, New Jersey, New York, Oklahoma, Pennsylvania, Texas, Virginia, West Virginia, and the District of Columbia.

No. MC 114569 Sub 4, filed August 29, 1955, SHAFFER TRUCKING, INC., Elizabethville, Pa. Applicant's attorney: James W. Hagar, Commerce Building, P. O. Box 432, Harrisburg, Pa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Uncrated cabinets, and component parts thereof and accessories* when moving in connection therewith, from Shamokin, Pa. and points in Delaware Township, Juniata County, Pa., to points in Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Maine, Maryland, Michigan, Missouri, New York, New Jersey, New Hampshire, North Carolina, Ohio, Pennsylvania, Massachusetts, Rhode Island, South Carolina, Vermont and Virginia; and *materials and accessories* used in the manufacture of cabinets and *refused and damaged uncrated cabinets, and component parts thereof and accessories* when moving in connection therewith, on return movements. Applicant is not now authorized to transport the commodities specified herein.

No. MC 114569 Sub 5, filed September 30, 1955, SHAFFER TRUCKING, INC., Elizabethville, Pa. Applicant's attorney: James W. Hagar, Commerce Building, Harrisburg, Pa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Products, by-products, and parts of dead or slaughtered animals unfit for human consumption*, between points in Washington Township, Dauphin County, Pa., and

Franconia Township, Montgomery County, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Rhode Island and Vermont.

No. MC 114834 Sub 3, filed September 28, 1955, PAUL K. BUSS AND BERNICE A. BUSS, doing business as BUSSIE'S LANDING, Hewitt, N. J. Applicant's representative: Bert Collins, 140 Cedar St., New York 6, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Boats, outboard, uncrated, not exceeding 6,000 pounds in weight, requiring the use of special equipment, from the plant site of Lyman Boat Works at Sandusky, Ohio, to Howard Beach, N. Y., and New York, N. Y., and points in Orange County, N. Y., and Rahway, N. J., and Hewitt, N. J.*

No. MC 115504, filed August 8, 1955, KENISON TRUCKING, INC., 413 S. Second West, Salt Lake City, Utah. Applicant's attorney: Harold N. Wilkinson, Inland Bldg., 240 S. Second East, Salt Lake City 1, Utah. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Fertilizer*, between Garfield, Utah, and Midvale, Utah, on the one hand, and, on the other, points in Idaho, Nevada, California, Montana, and Oregon; *exempt commodities* when transported on a vehicle on which non-exempt commodities are also transported at the same time for compensation, on return.

No. MC 115510, filed September 23, 1955, HARRY D. STRUNK, doing business as MCCOOK DAILY GAZETTE, 422 Norris Ave., McCook, Nebr. Applicant's attorney: William W. Lyons, Reed Bldg., McCook, Nebr. For authority to operate as a *common carrier*, over regular routes, transporting: *Newspapers, and general commodities* not to exceed 50 pounds in weight, excepting those of unusual value, Class A and B explosives, and household goods as defined by the Commission, between McCook, Nebr., and McCook, Nebr., from McCook south over U. S. Highway 83 to junction with Nebraska Highway 89, thence east on Nebraska Highway 89 to Marion, Nebr., and Danbury, Nebr., thence west on Nebraska Highway 89 to junction with U. S. Highway 83, thence south on U. S. Highway 83 to Oberlin, Kans., thence west on U. S. Highway 36 to junction with Kansas Highway 117, thence north on Kansas Highway 117 to Herndon, Kans., thence south on Kansas Highway 117 to junction with U. S. Highway 36, thence west on U. S. Highway 36 to Atwood, Kans., thence north on Kansas Highway 25 and Nebraska Highway 25 to Trenton, Nebr., thence west on U. S. Highway 34 to Stratton, Max, and Benkelman, Nebr., and thence east on U. S. Highway 34 to McCook, Nebr., serving all intermediate points.

No. MC 115564, filed September 12, 1955, FRANCIS J. BALTHAZOR, Willow Street, Bear Creek, Outagamie County, Wis. For authority to operate as a *contract carrier*, over irregular routes, transporting: (1) *Purina feeds*, from Minneapolis, Minn., to Marion, Clintonville, Embarrass, Bear Creek, Symco, and New London, Wis., and (2) *canned foods, industrial products and wood products*,

and *canned food products*, from the above destination points to Minneapolis on return movements.

No. MC 115567, filed August 29, 1955, MAURICE PAQUETTE, Lac-des-Ecorces, Labelle County, Province of Quebec, Canada. Applicant's attorney: Henri Courtemanche, Rue De La Madone, Case Postale 499, Mont-Laurier, Quebec, Canada. For authority to operate as a *contract carrier*, over a regular route, transporting: *Granite*, from the International Boundary Line between the United States and Canada at port of entry near Highgate Springs, Vt., to Barre, Vt., from said International Boundary Line over U. S. Highway 7 to Burlington, thence over U. S. Highway 2 to Montpelier, and thence over U. S. Highway 302 to Barre, serving no intermediate points.

No. MC 115568, filed September 12, 1955, OMER BEAUBIEN, Lac-des-Ecorces, Labelle County, Province of Quebec, Canada. Applicant's attorney: Henri Courtemanche, Attorney, Rue De La Madone, Case Postale 499, Mont-Laurier, Quebec, Canada. For authority to operate as a *contract carrier*, over a regular route, transporting: *Granite*, from the International Boundary Line between the United States and Canada at port of entry near Highgate Springs, Vt., to Barre, Vt., from said International Boundary Line over U. S. Highway 7 to Burlington, thence over U. S. Highway 2 to Montpelier, and thence over U. S. Highway 302 to Barre, serving no intermediate points.

No. MC 115569, filed August 29, 1955, M. HONORE BRUNET, Lac-des-Ecorces, Co. Labelle, Province of Quebec, Canada. Applicant's attorney: Henri Courtemanche, Rue De La Madone, Case Postale 499, Mont-Laurier, Quebec, Canada. For authority to operate as a *contract carrier*, over a regular route, transporting: *Granite*, from the International Boundary Line between the United States and Canada at port of entry near Highgate Springs, Vt., to Barre, Vt., from said International Boundary Line over U. S. Highway 7 to Burlington, thence over U. S. Highway 2 to Montpelier, and thence over U. S. Highway 302 to Barre, serving no intermediate points.

No. MC 115590, filed September 27, 1955, CLIFTON MOODY McCLURE, III, doing business as SERVICE ROLLAWAY, 121 Sharpe Street Building, Anderson, S. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Mobile homes*, between all points in the States of South Carolina, North Carolina, and Georgia on the one hand, and, on the other, all points in the United States, and the District of Columbia.

No. MC 115592, filed September 29, 1955, ELIZABETH JENNIGES, doing business as JENNIGES TRANSFER, Springfield, Minn. Applicant's attorney: A. R. Fowler, Agent, Associated Motor Carriers Tariff Bureau, 2288 University Avenue, Saint Paul 14, Minn. For authority to operate as a *common carrier*, over irregular routes, transporting: *Clay products*, from Springfield, Minn., to points in Iowa, North Dakota, South Dakota and Wisconsin; and com-

modities specified above from Ft. Dodge, Iowa to Springfield, Minn., on return.

No. MC 115593, filed September 29, 1955, W. H. FRADY and J. C. FRADY, doing business as FRADY'S SERVICE, Main Street, Walhalla, S. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Household goods*, as defined by the Commission, and *general commodities*, except those of unusual value, Class A and B explosives, petroleum products, in bulk, and commodities requiring special equipment, between points in Oconee County, S. C., on the one hand, and, on the other, points in Georgia.

APPLICATIONS OF MOTOR CARRIERS OF PASSENGERS

No. MC 228 Sub 16, filed June 22, 1955, published in the August 10, and September 21, 1955, issues, on pages 5800 and 7092, respectively, and amended October 5, 1955, HUDSON TRANSIT LINES, INC., Franklin Turnpike, Mahwah, N. J. Applicant's attorney: James F. X. O'Brien, 17 Academy Street, Newark 2, N. J. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special round trip operations, during the racing seasons of the following Race Tracks: Beginning and ending in Suffern, Goshen, Middletown, Wurtsboro, Monticello, Liberty, Binghamton, Endicott, Port Jervis, and Newburgh, N. Y., Milford and Carbondale, Pa., and Mahwah, N. J., and extending to Saratoga Race Track, Saratoga Springs, N. Y., Roosevelt Raceway, Westbury, Long Island, N. Y., and Yonkers Raceway, Yonkers, N. Y., Monmouth Park Race Track, Oceanport, N. J., Garden State Race Track, Delaware, N. J., Freehold Trotting Track, Freehold, N. J., and Atlantic City Race Track, Hamilton Township, N. J., Delaware Park Race Track, Wilmington, Del., Pimlico Race Track, Baltimore, Md., Bowie Race Track, Bowie, Md., and Laurel Race Track, Laurel, Md., and Lincoln Downs Race Track, Lincoln, R. I. Applicant is authorized to conduct regular route operations in New Jersey, New York and Pennsylvania. Note: Applicant states all of the above places of origin are points presently served by applicant on applicant's presently authorized regular routes.

No. MC 228 Sub 17, filed October 3, 1955, HUDSON TRANSIT LINES, INC., doing business as SHORT LINE SYSTEM, Franklin Turnpike, Mahwah, N. J. Applicant's attorney: James F. X. O'Brien, 17 Academy Street, Newark 2, N. J. For authority to operate as a *common carrier*, over regular routes, transporting: *Passengers and their baggage*, and *express, mail, and newspapers*, in the same vehicle with passengers, during the period extending from June 20 to September 15, both inclusive, of each year, (1) between Barryville, N. Y., and junction U. S. Highways 106 and 6, in Wayne County, Pa., from Barryville over New York Highway 97 to junction U. S. Highway 106 in Narrowsburg, N. Y., thence over U. S. Highway 106 to junction U. S. Highway 6, in Wayne County, and (2) between junction New York Highways 97 and 52, in the Town of

Tusten, N. Y., and junction New York Highway 52 and unnumbered New York Highway leading to Lake Huntington in the Town of Cocheton, N. Y., over New York Highway 52, and return over the above routes, serving all intermediate points. Applicant is authorized to conduct operations in New Jersey, New York, and Pennsylvania.

No. MC 599 Sub 2, filed September 21, 1955, BINGLER VACATION TOURS, INC., 140 Market Street, Paterson, N. J. Applicant's attorney: Edward G. Weiss, Citizens Trust Building, 140 Market Street, Paterson 1, N. J. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in special round-trip operations during the racing seasons, beginning and ending at New York, N. Y., and extending to Monmouth Park Race Track, Oceanport, N. J., Garden State Race Track, Delaware Township, N. J., Freehold Trotting Track, Freehold, N. J., and Atlantic City Race Track, Hamilton Township, N. J. Applicant is authorized to conduct operations in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia and the District of Columbia.

No. MC 1504 Sub 124, filed October 3, 1955, ATLANTIC GREYHOUND CORPORATION, 1100 Kanawha Valley Building, Charleston, W. Va. Applicant's attorney: L. C. Major, Jr., 2001 Massachusetts Ave., N. W., Washington 6, D. C. For authority to operate as a *common carrier*, over regular routes, transporting: *Passengers, express, mail, newspapers, and baggage* in the same vehicle with passengers, between the junction of Old U. S. Highway 220 and Relocated U. S. Highway 220 south of Boones Mill, Va., and the junction of Old U. S. Highway 220 and Relocated U. S. Highway 220, north of Rocky Mount, Va., from the junction of Old U. S. Highway 220 and Relocated U. S. Highway 220 south of Boones Mill over Relocated U. S. Highway 220 to its junction with Old U. S. Highway 220 north of Rocky Mount, and return over the same route, serving all intermediate points. Applicant is authorized to conduct operations in Ohio, West Virginia, Virginia, Pennsylvania, South Carolina, North Carolina, Tennessee, Georgia, Florida, and the District of Columbia.

No. MC 3647 Sub 189, filed September 20, 1955, PUBLIC SERVICE COORDINATED TRANSPORT, 80 Park Place, Newark, N. J. Applicant's attorney: Winslow B. Ingham, Public Service Terminal, Newark 1, N. J. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in special operations, during the authorized racing seasons of each year, from Newark, N. J., and Paterson, N. J. to Yonkers Raceway, Yonkers, N. Y., and return. Applicant is authorized to conduct operations in New Jersey and New York, and to Philadelphia, Pa.

No. MC 3647 Sub 191, filed September 23, 1955, PUBLIC SERVICE COORDINATED TRANSPORT, 80 Park Place,

Newark, N. J. Applicant's attorney: Winslow B. Ingham, Public Service Terminal, Newark 1, N. J. For authority to operate as a *common carrier*, over regular routes, transporting: *Passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, from junction of the New Jersey Turnpike at Newark Airport Interchange No. 14 in Newark, N. J. over New Jersey Turnpike Extension (Newark Bay-Hudson County Section) and ramps and access roads to junction with highways leading to Holland Tunnel (12th Street) in Jersey City, N. J.; return from Holland Tunnel in Jersey City (14th Street-Boyle Plaza) over ramps and access roads to New Jersey Turnpike Extension (Newark Bay-Hudson County Section) thence over New Jersey Turnpike Extension to junction with New Jersey Turnpike at Newark Airport Interchange No. 14. Applicant is authorized to conduct operations in New Jersey and New York, and to Philadelphia, Pa.

No. MC 10922 Sub. 3, filed September 22, 1955, V-K BUS LINES, INC., 150 Laredo Avenue, Lemay, Mo. Applicant's attorney: Harry B. La Tourette, Jr., Suite 1230 Boatmen's Bank Building, St. Louis 2, Mo. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers and their baggage*, and *express, mail and newspapers* in the same vehicle with passengers, between Vienna, Mo., and Nevada, Mo., from Vienna over Missouri Highway 42 to junction U. S. Highway 54, thence over U. S. Highway 54 to Nevada, and return over the same route, serving all intermediate points. Applicant is authorized to conduct operations in Illinois and Missouri.

No. MC 29889 Sub 3, filed August 22, 1955, amended September 29, 1955, published September 8, 1955 issue, page 6598, ROCKLAND TRANSIT CORPORATION, 126 North Washington Ave., Bergenfield, N. J. Applicant's attorney: S. S. Eisen, 140 Cedar Street, New York 6, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round-trip special operations, during the authorized racing seasons, beginning and ending at the following points in Rockland County, N. Y.: Tallman, Monsey, Spring Valley, Nanuet, Pearl River, New City, Orangeburg, Tappan, Sparkill, Piermont, Grand View, South Nyack, Nyack, Upper Nyack, West Nyack, Rockland Lake, Valley Cottage, Congers, Haverstraw, West Haverstraw and Stony Point, N. Y., and extending to the Monmouth Park Jockey Club Race Track, Oceanport, N. J., Garden State Race Track, Delaware Township, N. J., Freehold Trotting Track, Freehold, N. J., Atlantic City Race Track, Hamilton Township, N. J., Aqueduct Race Track and Jamaica Race Track, New York City, N. Y., Belmont Race Track, Nassau County, N. Y., Roosevelt Raceway, Westbury, Long Island, N. Y., Delaware Park Race Track, Wilmington, Del., Pimlico Race Track, Baltimore, Md., Bowie Race Track, Bowie, Md., Laurel Park Race Track, Laurel, Md., and Lincoln Downs Race

Track, Lincoln, R. I. Applicant is authorized to conduct operations in New York and New Jersey.

No. MC 58915 Sub 29, filed September 29, 1955, LINCOLN TRANSIT CO., INC., U. S. 46, East Paterson, N. J. Applicant's attorney: Robert E. Goldstein, 24 West 40th Street, New York 18, N. Y. For authority to operate as a *common carrier*, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, in a seasonal operation during the racing seasons of each year (1) between Cologne, N. J., and McKee City, N. J., from junction U. S. Highway 30 and Atlantic County Road 50 at Cologne, over Atlantic County Road 50 to junction Atlantic County Road 70, thence over Atlantic County Road 70 to the Atlantic City Race Track at McKee City, and return over the same route, serving no intermediate points, (2) between Port Republic City, N. J., and McKee City, N. J., from junction Garden State Parkway and Atlantic County Road 45 in Port Republic City, over Garden State Parkway Interchange Road 44 to junction Atlantic County Road 45, thence over Atlantic County Road 45 to junction Atlantic County Road 83 at Pomona, N. J., thence over Atlantic County Road 83 to junction U. S. Highway 40, thence over U. S. Highway 40 to the Atlantic City Race Track at McKee City, and return over the same route, serving no intermediate points, and (3) between Pleasantville, N. J., and McKee City, N. J., from junction U. S. Highway 9 (Shore Road) and U. S. Highway 40 in Pleasantville, over U. S. Highway 40 to the Atlantic City Race Track at McKee City, and return over the same route, serving no intermediate points. Applicant is authorized to conduct operations in New Jersey and New York.

No. MC 61616 Sub 58, filed September 30, 1955, MISSOURI PACIFIC TRANSPORTATION COMPANY, a corporation, 1601 Missouri Pacific Bldg., St. Louis 3, Mo. For authority to operate as a *common carrier*, over regular routes, transporting: *Passengers and their baggage, and newspapers and light express packages*, in the same vehicle with passengers, (1) between junction of 75th Street and Nall Avenue and junction of 79th Street and Tomahawk Road, Kansas City, Mo., from junction of 75th Street and Nall Avenue south over Nall Avenue to junction 83rd Street and Nall Avenue; thence west over 83rd Street to junction 83rd Street and Tomahawk Road, thence north over Tomahawk Road to junction Tomahawk Road and 79th Street, and return over the same route, serving all intermediate points; and (2) between junction of U. S. Highway 50 and Antioch Road and junction of 75th Street and U. S. Highway 50, Kansas City, Mo., from junction U. S. Highway 50 and Antioch Road south over Antioch Road to junction 75th Street and Antioch Road, thence west over 75th Street to junction of 75th Street and U. S. Highway 50, and return over the same route, serving all intermediate points. Applicant is authorized to conduct operations in Kansas and Missouri.

No. MC 107583 Sub 6, filed August 1, 1955, SALEM TRANSPORTATION CO.,

INC., doing business as ATLANTIC CITY TRIPS, 291 Broadway, New York 7, N. Y. Applicant's attorney: George H. Rosen, 291 Broadway, New York 7, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passengers, and their baggage* in the same vehicle with passengers, in special operations, in non-scheduled door-to-door service, limited to the transportation of not more than six passengers in any one vehicle, not including the driver thereof, and not including children under ten years of age who do not occupy a seat or seats, (1) between points in Westchester County, N. Y., on the one hand, and, on the other, Atlantic City, Brigantine, Ventnor, Margate and Longport, N. J.; (2) between points in New York, N. Y., on the one hand, and, on the other, Brigantine, Ventnor, Margate, and Longport, N. J.; (3) between points in the Philadelphia, Pa. Commercial Zone, as defined by the Commission, Wilmington, Del., Baltimore, Md., and Washington, D. C., on the one hand, and, on the other, Brigantine, Ventnor, Margate, and Longport, N. J.; (4) between points in the Philadelphia, Pa. Commercial Zone, as defined by the Commission, on the one hand, and, on the other, Atlantic City, N. J.

NOTE: Applicant requests elimination of duplicating authority, if any. Applicant is authorized to conduct the above-described operations between New York, N. Y., and Philadelphia, Pa., on the one hand, and, on the other, Atlantic City, N. J.; and between Atlantic City, N. J., on the one hand, and, on the other, Wilmington, Del., Baltimore, Md., and Washington, D. C.

No. MC 107583 Sub 7, filed August 1, 1955, SALEM TRANSPORTATION CO., INC., doing business as ATLANTIC CITY TRIPS, 291 Broadway, New York 7, N. Y. Applicant's attorney: George H. Rosen, 291 Broadway, New York 7, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in non-scheduled door-to-door service, limited to the transportation of not more than six passengers in any one vehicle, not including the driver thereof, and not including children under ten years of age who do not occupy a seat or seats, between Fort Dix, McGuire Air Force Base, Wrightstown, and points within the townships of New Hanover, North Hanover, Chesterfield, Bordentown, Mansfield, Springfield, and Pemberton, in Burlington County, N. J., on the one hand, and, on the other, points in the Philadelphia, Pa. Commercial Zone as defined by the Commission, Westchester County, N. Y., and New York, N. Y. Applicant is authorized to conduct operations between New York, N. Y., and Philadelphia, Pa., on the one hand, and, on the other, Atlantic City, N. J., and between Atlantic City, on the one hand, and, on the other, Wilmington, Del., Baltimore, Md., and Washington, D. C.

CORRECTION

No. MC 108449 Sub 36 (amended), filed August 8, 1955, published on page 7241 in issue of September 28, 1955. INDIAN-HEAD TRUCK LINE, INC., 1947 W.

County Road C, St. Paul 13, Minn. Applicant's attorney: Glenn W. Stephens, 121 W. Doty St., Madison 3, Wis. Now corrected to reflect (1) substitution of a comma in lieu of the semicolon shown after the word containers in line 17 thereof, and (2) deletion of the commas shown after (a) the word Minnesota in line 25 thereof, (b) the word Canada in line 29 thereof, and (c) the word Minnesota in line 30 thereof.

APPLICATIONS UNDER SECTION 5 AND 210a (b)

CORRECTION

No. MC-F 6076, published in the September 28, 1955, issue of the FEDERAL REGISTER on page 7244. The name of Harry C. Ames, Jr., 227 Transportation Bldg., Washington 6, D. C., was inadvertently omitted as applicants' attorney.

No. MC-F 6089. Authority sought for control by GEORGE M. HUGHES, P. O. Box 851, Charleston, S. C., of the operating rights and property of M. P. & ST. L. EXPRESS, INC., 800 Jones St., Paducah, Ky. Applicant's attorney: Frank B. Hand, Jr., Transportation Bldg., Washington 6, D. C. Operating rights sought to be controlled: *General commodities*, with certain exceptions including household goods, as a *common carrier* over irregular routes, between points within one mile of Paducah, Ky., not including Paducah, on the one hand, and, on the other, points in Kentucky on Kentucky Highway 286, not including Wickliffe, Ky., between St. Louis, Mo., on the one hand, and, on the other, points in Ballard County, Ky., between Paducah, Ky., and certain points in Illinois and Tennessee, on the one hand, and, on the other, certain points in Kentucky near but not including La Center, between points in a certain area in Illinois, including East St. Louis, on the one hand, and, on the other, points in a certain area in Kentucky including La Center; *cheese, feed, roofing materials, wire-fencing, lard cans, and packing-house products and by-products*, including fresh meats, from East St. Louis, Ill., to points in Ballard and McCracken Counties, Ky.; *livestock*, between points in Ballard and McCracken Counties, Ky., on the one hand, and, on the other, East St. Louis, Ill. Applicant holds no authority from the Commission, but is affiliated with Hughes Transportation, Inc., which is authorized to operate in South Carolina, North Carolina, Georgia, Kentucky, Indiana, Louisiana, Delaware, Florida, Maryland, Mississippi, Tennessee, Virginia, and West Virginia. Application has been filed for temporary authority under Section 210a (b).

No. MC-F 6090. Authority sought for control and merger by E. & L. TRANSPORT COMPANY, 14201 Schaden Ave., Dearborn, Mich., of the operating rights and property of E. & L. TRANSPORT, INC. OF INDIANA, 14201 Schaden Ave., Dearborn, Mich., and for acquisition by ANTHONY J. D'ANNA, EFFIE M. LAWSON, and LLOYD LAWSON, all of Dearborn, of control of the operating rights and property through the transaction. Applicant's attorney: George S. Dixon, 2150 Guardian Bldg., Detroit 26, Mich. Operating rights sought to be controlled and merged: *New automobiles, new*

trucks, new tractors, new bodies, and new chassis, restricted to initial movements, in truckaway service, from Detroit and Dearborn, Mich., Cincinnati, Ohio, Indianapolis, Ind., and Chicago and Hegewisch, Ill., to Louisville, Ky., points in Indiana, and certain points in Illinois: automobiles, trucks, tractors, bodies, and chassis, new, used, unfinished, and/or wrecked, restricted to secondary movements, in truckaway service, between all points described above: new automobiles, new trucks, new tractors, and new chassis, restricted to initial movements, in driveway service, from Dearborn, Mich., to points in Indiana, and certain points in Illinois; new automobiles, automobile bodies, automobile chassis, and automobile parts and accessories moving in connection therewith, automobile show equipment and paraphernalia, and farm and garden tractors and parts, and accessories thereof moving in connection therewith, restricted to initial movements, in truckaway service, from Willow Run, Mich., to Louisville, Ky., points in Indiana, and certain points in Illinois; commercial automotive vehicles, new trucks, new bodies, new cabs, new buses, new trailers, new chassis, and parts thereof, restricted to initial movements, in driveway service, from points in Wayne County, Mich., to points in the United States, except those in Maine, Oregon, and Washington. E. & L. Transport Company is authorized to operate in Michigan, Ohio, West Virginia, Pennsylvania, Virginia, Kentucky, New York, Indiana, Illinois, Wisconsin, Missouri, North Carolina, Tennessee, Iowa, Alabama, Louisiana, Mississippi, Texas, Maryland, Delaware, Georgia, Florida, Oklahoma, and New Jersey. Application has not been filed for temporary authority under Section 210a (b).

No. MC-F 6091. Authority sought for control and merger by SPECTOR FREIGHT SYSTEM, INC., 3100 S. Wolcott St., Chicago, Ill., of the operating rights and property of SCHUMACHER MOTOR EXPRESS, INC., 715 N. Oxford Ave., Eau Claire, Wis. Applicant's attorneys: Axelrod, Goodman & Steiner, 39 S. LaSalle St., Chicago 2, Ill. Operating rights sought to be controlled and merged: General commodities, with certain exceptions including household goods, as a common carrier over regular routes, including routes between Chicago, Ill., and Minneapolis, Minn., between Eau Claire, Wis., and Chippewa Falls, Wis., and between Northfield, Wis., and Eau Claire, Wis., serving certain intermediate and off-route points; authority to use two regular routes for operating convenience only; dry rendered tankage, in bulk, from Chippewa Falls, Wis., to Chicago, Ill.; eggs, poultry, machinery, and twine, between River Falls, Wis., and Chicago, Ill., serving certain intermediate and off-route points; general commodities, with certain exceptions including household goods, over irregular routes, between Minneapolis, St. Paul, South St. Paul, Invergrove, West St. Paul, Newport, North St. Paul, Columbia Heights, Robbinsdale, St. Louis Park, Hopkins, Edina, Richfield, Red Rock, McCarron Lake, Fort Snelling,

and State Fair Grounds, Minn., between Minneapolis and St. Paul, Minn., on the one hand, and, on the other, Twin City Ordnance Plant in Mounds View Township, Ramsey County, Minn.; General commodities, with certain exceptions not including household goods, as defined by the Commission, between Eau Claire, Wis., on the one hand, and, on the other, points in Minnesota. Spector Freight System, Inc., is authorized to operate in Missouri, Massachusetts, Indiana, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Illinois, Maryland, Ohio, Wisconsin, Virginia, and the District of Columbia. Application has been filed for temporary authority under Section 210a (b).

No. MC-F 6092. Authority sought for purchase by PRATHER TRUCK LINE, INC., 2034 Maxwell Lane, Houston, Texas, of the operating rights of J. L. (ROY) NEWLIN, INC., Industrial Blvd., (P. O. Box 5236), Houston, Texas, and for acquisition by JAMES E. PRATHER, also of Houston, of control of the operating rights through the purchase. Applicant's attorney: John C. Ridley, 2606 Niels Esperson Bldg., Houston 2, Texas. Operating rights sought to be transferred: Oil field commodities, as a common carrier over irregular routes, between points in Louisiana, Oklahoma, and Texas. Vendee is authorized to operate in Texas under the Second Proviso of Section 206 (a) (1) of the Interstate Commerce Act. Application has not been filed for temporary authority under Section 210a (b).

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 55-8230; Filed, Oct. 11, 1955;
8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3419]

CONSOLIDATED NATURAL GAS CO. AND EAST OHIO GAS CO.

NOTICE OF FILING REGARDING PROPOSED INCREASE IN NUMBER OF AUTHORIZED SHARES AND REDUCTION OF PAR VALUE OF COMMON STOCK BY PUBLIC UTILITY COMPANY AND ISSUANCE OF NEW SHARES FOR OLD SHARES HELD BY PARENT HOLDING COMPANY

OCTOBER 5, 1955.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and The East Ohio Gas Company ("East Ohio"), a wholly owned gas utility subsidiary of Consolidated, have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), and have designated sections 6 (a), 7, 9, 10 and 12 of said Act as applicable to the proposed transactions which are summarized as follows:

East Ohio proposes to increase the number of its presently authorized shares from 750,000 shares of capital stock of the par value of \$100 each, of which 697,129 shares are issued and outstanding, to 2,500,000 shares of the par

value of \$50 each, of which 2,091,387 shares, having an aggregate par value of \$104,569,350, will be issued.

The new shares will be substituted for the 697,129 shares of the presently issued and outstanding \$100 par value shares which have an aggregate par value of \$69,712,900 and the sum of \$34,856,450 will be transferred from the earned surplus account to the capital stock account of East Ohio, thus making the capital stock account total \$104,569,350.

The transactions proposed by East Ohio have been approved by The Public Utilities Commission of Ohio.

It is estimated that the expenses to be incurred in connection with the issuance of the new shares will be \$44,000 of which \$38,500 represents Federal stamp tax.

It is requested that the Commission's order herein be issued to become effective by October 25, 1955.

Notice is further given that any interested person may, not later than October 21, 1955, at 5:30 p. m., request the Commission in writing that a hearing be held on this matter, stating the nature of his interest, the reason for such request, and the issues of fact or law, if any, raised by such filing which he proposes to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application-declaration, as filed or as it may hereafter be amended, may be granted and permitted to become effective as provided in Rule U-23 of the Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules U-20 (a) and U-100 or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-8253; Filed, Oct. 11, 1955;
8:53 a. m.]

[File Nos. 7-1701-7-1735]

AMERICAN & FOREIGN POWER CO., INC.,
ET AL.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

OCTOBER 5, 1955.

The San Francisco Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privilege in the 35 stocks itemized below. All of these stocks are listed and registered on the New York Stock Exchange. All are listed or admitted to unlisted trading on the Los Angeles Stock Exchange, the purpose of this application being substantially to enhance the usefulness of the direct wire recently installed between the San Francisco and Los Angeles Stock Exchanges. Four of the stocks are listed on the Midwest Stock Exchange, and one on the Pittsburgh Stock Exchange.

Upon receipt of a request prior to October 17, 1955, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take thereat. If no one requests a hearing, the application will

be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

EXHIBIT

Name of issuer, title of security	Public distribution in vicinity of exchange ¹				Volume public trading, Northern California ²	
	California ³		Northern California ³		Number of transactions	Shares
	Holders	Shares	Accounts	Shares		
American & Foreign Power Co., Inc., Com. no p. v.			278	17,505	384	41,004
Asphalt Oil & Refining Co., Com., \$1 p. v.			127	16,371	728	69,825
Barker Bros. Corp., Com., \$10 p. v.	3,070	622,091	40	4,594	218	18,976
Bond Stores, Inc., Com., \$1 p. v.	1,037	143,308	97	12,730	277	29,424
Burlington Industries, Inc., Com. \$1 p. v.			109	13,985	521	52,672
Capital Airlines, Inc., Com., \$1 p. v.			23	2,985	120	11,518
Carrier Corp., Com., \$10 p. v.			82	7,007	267	26,458
Chicago Corp., Com., \$1 p. v.	886	131,202	139	18,006	391	50,636
Cudahy Packing Co., Com., \$5 p. v.	290	48,189	71	13,988	238	31,846
Decca Records Inc., Cap. 50 cents p. v.	830	173,930	71	14,179	452	53,588
Deere & Co., Com., \$10 p. v.			550	31,317	916	59,270
Douglas Aircraft Co., Inc., Cap. no p. v.			194	26,275	1,022	87,142
Dresser Industries, Inc., Com., 50 cents p. v.	3,100	480,000	151	16,909	619	48,245
Erie Railroad Co., Com., no p. v.	770	65,123	117	16,308	573	72,808
Flintkote Co., Com., \$5 p. v.			208	10,384	709	35,710
Garrett Corp., Com., \$2 p. v.			37	5,970	210	21,899
General Public Service Corp., Com., 10 cents p. v.	833	273,500	87	22,615	297	50,067
Grumman Aircraft Engineering Corp., Com., \$1 p. v.			114	14,934	588	58,767
Gulf Oil Corp., Cap \$25 p. v.			253	18,152	397	29,166
Hoffman Electronics Corp., Com., 50 cents p. v.	1,772	411,392	62	4,553	434	42,477
Liggett & Myers Tobacco Co., Com., \$25 p. v.	1,683	129,773	167	14,926	661	56,295
Lorillard (P) Co., Com., \$10 p. v.	1,613		61	4,954	279	25,610
Mission Development Co., Cap., \$5 p. v.	978	55,829	62	7,770	241	19,735
Morris (Philip) Inc., Com., \$5 p. v.			154	13,774	1,045	93,267
Republic Pictures Corp., Com., 50 cents p. v.			52	9,255	606	88,392
Rexall Drug, Inc., Cap., \$2.50 p. v.			68	26,465	607	84,129
Rohr Aircraft Corp., Com., \$1 p. v.	981	484,986	58	7,158	503	52,204
St. Louis-San Francisco Ry. Co., Com., no p. v.			1,158	53,153	961	84,811
Seaboard Finance Co., Com., \$1 p. v.	3,048	741,646	125	9,722	259	19,775
Standard Oil Co., (Ohio) Com., \$10 p. v.			89	7,197	390	26,758
Twentieth Century-Fox Film Corp., Com., \$1 p. v.			162	25,074	558	60,258
Vanadium Corporation of America, Cap., \$1 p. v.	152	16,508	79	9,887	364	38,719
Westinghouse Air Brake Co., Com., \$10 p. v.	3,022	295,728	208	14,695	771	64,009
Wheeling Steel Corp., Com., \$10 p. v.			75	9,901	615	34,143
Youngstown Sheet & Tube Co., Com., no p. v.	1,197	116,965	95	10,510	446	37,363

¹ Vicinity of exchange: The statement in previous applications under section 12 (f) clause 2, the most recent of which was dated Aug. 31, 1954, is hereby incorporated by reference thereto.

² Supplied by issuer.

³ As of Aug. 31, 1955, from reports of member firms.

⁴ For the 12 months period ended Aug. 31, 1955, from reports of member firms.

"Com"—Indicates common stock.

"Cap"—Indicates capital stock.

"p. v."—Indicates par value per share.

[F. R. Doc. 55-8254; Filed, Oct. 11, 1955; 8:53 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

HILDE FISCHER ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Hilde Fischer, nee Klinke, Claim No. 44721; \$2,572.79 in the Treasury of the United States. Ida Klinke, Rudolf Klinke, Jr., Irma Kindermann and Anna Klinke, Claim No. 44965; \$5,028.84 in the Treasury of the United States; \$1,571.51 thereof to Ida

Klinke, \$1,414.36 each thereof to Rudolf Klinke, Jr., and Irma Kindermann and \$628.61 thereof to Anna Klinke. All of Vienna, Austria, Vesting Order No. 1852.

Executed at Washington, D. C., on October 5, 1955.

For the Attorney General.

[SEAL]

DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 55-8258; Filed, Oct. 11, 1955; 8:53 a. m.]

FILIPPO FRANGIALLI

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days

from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Filippo Frangialli, Paris, France, Claim No. 41404; property described in Vesting Order No. 293 (7 F. R. 9836, November 26, 1942) relating to Patent Application Ser. No. 305,040 (now U. S. Letters Patent No. 2,313,288).

Executed at Washington, D. C., on October 5, 1955.

For the Attorney General.

[SEAL]

DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 55-8259; Filed, Oct. 11, 1955; 8:53 a. m.]

ERNESTO GENTILI ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Ernesto Gentili, La Spezia, Italy, Claim No. 44040; Giuseppe Gentili, Tresano, Italy, Claim No. 44041; Achille Gentili, La Spezia, Italy, Claim No. 44042; Vittorio Gentili, La Spezia, Italy, Claim No. 44043; Giulia Cufini, La Spezia, Italy, Claim No. 44044; Palmiro Gentili, a/k/a Domenica Gentili, Tresana, Italy, Claims Nos. 44045 and 59738; \$772.42 in the Treasury of the United States, 1/6th thereof to each of the claimants; and all right, title and interest of the Attorney General of the United States in and to a graveholding evidenced by Deed No. 887, dated November 3, 1942, from the Trustees of St. Patrick's Cathedral in the City of New York to Alfonso Poppalredo, Executor of the Estate of Emilio Gentili, deceased, for the privilege of burial in one grave No. 18 in Plot 41, Section 17, in Calvary Cemetery, New York; and all right, title, and interest of the Attorney General of the United States in and to a deposit of \$100.00 made by Alfonso Poppalredo, Executor, to the Calvary Cemetery Plot Improvement Fund for the permanent care of the above described graveholding, all of the above described interests having been assigned by Alfonso Poppalredo, Executor, to the Estate of Emilio Gentili by an instrument dated February 29, 1948, which instrument, together with Deed No. 887 and a receipt for the \$100.00 deposit referred to above, was transmitted to the Office of Alien Property, Washington, D. C.

Executed at Washington, D. C., on October 4, 1955.

For the Attorney General.

[SEAL]

DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 55-8260; Filed, Oct. 11, 1955; 8:54 a. m.]

LEOPOLD GOTTWALD

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property and Location

Leopold Gottwald, Bavaria, Germany, Claim No. 63308, Vesting Order No. 11986; \$173.86 in the Treasury of the United States.

Executed at Washington, D. C., on October 4, 1955.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 55-8261; Filed, Oct. 11, 1955; 8:54 a. m.]

L. LUENGAS

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Mr. L. Luengas, Bilbao, Espartero 6, Spain. Claim No. 43084, Vesting Order No. 5905; \$94.95 in the Treasury of the United States.

Executed at Washington, D. C., on October 4, 1955.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 55-8262; Filed, Oct. 11, 1955; 8:54 a. m.]

MAGNESIUM PRODUCTION CO. LTD.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Magnesium Production Company, Ltd., Paris, France, Claim No. 42628; property described in Vesting Order No. 293 (7 F. R. 9836, November 26, 1942), relating to United States Patent Application Serial No. 326,724 (now United States Letters Patent No. 2,384,370).

Executed at Washington, D. C., on October 4, 1955.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 55-8263; Filed, Oct. 11, 1955; 8:54 a. m.]

